



# **A New Tax System (Family Assistance) Act 1999**

**No. 80, 1999**

## **Compilation No. 109**

<b>Compilation date:</b>	1 January 2022
<b>Includes amendments up to:</b>	Act No. 142, 2021
<b>Registered:</b>	4 February 2022

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *A New Tax System (Family Assistance) Act 1999* that shows the text of the law as amended and in force on 1 January 2022 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to implement A New Tax System by providing assistance to families, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *A New Tax System (Family Assistance) Act 1999*.

### **2 Commencement**

- (1) This Act commences, or is taken to have commenced:
  - (a) after all the provisions listed in subsection (2) have commenced; and
  - (b) on the last day on which any of those provisions commenced.
- (2) These are the provisions:
  - (a) section 1-2 of the *A New Tax System (Goods and Services Tax) Act 1999*;
  - (b) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;
  - (c) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;
  - (d) section 2 of the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*;
  - (e) section 2 of the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

### **2A Norfolk Island**

This Act extends to Norfolk Island.

## Part 2—Interpretation

### Division 1—Definitions

#### 3 Definitions

(1) In this Act, unless the contrary intention appears:

**2020 economic support payment** means:

- (a) a first 2020 economic support payment; or
- (b) a second 2020 economic support payment.

**ACCS**: see *additional child care subsidy*.

**ACCS (child wellbeing)**: see *additional child care subsidy*.

**ACCS (grandparent)**: see *additional child care subsidy*.

**ACCS hourly rate cap** has the meaning given by subclause 6(2) of Schedule 2.

**ACCS (temporary financial hardship)**: see *additional child care subsidy*.

**ACCS (transition to work)**: see *additional child care subsidy*.

**activity test result** has the meaning given by clause 11 of Schedule 2.

**additional child care subsidy** or **ACCS** means additional child care subsidy for which:

- (a) an individual or an approved provider may become eligible under section 85CA (**ACCS (child wellbeing)**); or
- (b) an individual may become eligible under section 85CG (**ACCS (temporary financial hardship)**); or
- (c) an individual may become eligible under section 85CJ (**ACCS (grandparent)**); or

(d) an individual may become eligible under section 85CK  
(*ACCS (transition to work)*).

***additional economic support payment 2020*** means a payment to which an individual is entitled under Division 1 of Part 10.

***additional economic support payment 2021*** means a payment to which an individual is entitled under Division 2 of Part 10.

***adjusted taxable income*** has the meaning given by Schedule 3.

***aged care resident*** has the same meaning as in the *Social Security Act 1991*.

***amount of rent paid or payable*** has the same meaning as in the *Social Security Act 1991*.

***applicable percentage*** has the meaning given by clause 3 of Schedule 2.

***application day*** has the meaning given by subsections 35K(2) and (3).

***approved care organisation*** means an organisation approved by the Secretary under section 20.

***approved course of education or study*** has the meaning given by subsection 541B(5) of the *Social Security Act 1991* for the purposes of paragraph (1)(c) of that section.

***Australia***, when used in a geographical sense, includes Norfolk Island, the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

Note: In Division 5 of Part 4 of the Family Assistance Administration Act (about departure prohibition orders), ***Australia*** has an extended meaning.

***Australian Immunisation Handbook*** means the latest edition of the Australian Immunisation Handbook published by the Australian Government Publishing Service.

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**Australian resident** has the same meaning as in the *Social Security Act 1991*.

**Australian travel document** has the same meaning as in the *Australian Passports Act 2005*.

**authorised party**, in relation to the adoption of a child, means a person or agency that, under the law of the State, Territory or foreign country whose courts have jurisdiction in respect of the adoption, is authorised to conduct negotiations or arrangements for the adoption of children.

**back to school bonus** means a payment to which an individual is entitled under section 95 or 98.

**base FTB child rate**, in relation to an FTB child of an individual whose Part A rate of family tax benefit is being worked out using Part 2 of Schedule 1, has the meaning given by clause 8 of that Schedule.

**base rate**, in relation to an individual whose Part A rate of family tax benefit is being worked out using Part 2 of Schedule 1, has the meaning given by clause 4 of that Schedule.

**becomes entrusted**: a child **becomes entrusted** to the care of an individual at a time if:

- (a) any person entrusts the child to the individual's care; and
- (b) as a result, the child is in the individual's care at that time; and
- (c) the child was not in the individual's care at any earlier time.

**benefit received by an individual** has a meaning affected by paragraph 19(2)(b).

**capitalised maintenance income**, in relation to an individual, means maintenance income (other than child maintenance to which clause 20B, 20C or 20D of Schedule 1 applies) of the individual:

- (a) that is neither a periodic amount nor a benefit provided on a periodic basis; and
- (b) the amount or value of which exceeds \$1,500.

Note: *Periodic amount* is defined in section 19.

***care arrangement*** in relation to a child means:

- (a) a written agreement between the parents of the child, or between a parent of the child and another person who cares for the child, that relates to the care of the child; or
- (b) a parenting plan for the child; or
- (c) any of the following orders relating to the child:
  - (i) a family violence order within the meaning of section 4 of the *Family Law Act 1975*;
  - (ii) a parenting order within the meaning of section 64B of that Act;
  - (iii) a State child order registered in accordance with section 70D of that Act;
  - (iv) an overseas child order registered in accordance with section 70G of that Act.

***care period*** has the meaning given by subparagraph 35A(1)(a)(ii) or (2)(b)(ii) or paragraph 35B(1)(a) or (2)(b).

***CCS***: see ***child care subsidy***.

***CCS fortnight*** means a period of 2 weeks beginning on:

- (a) Monday 2 July 2018; or
- (b) every second Monday after that Monday.

***CCS hourly rate cap*** has the meaning given by subclause 2(3) of Schedule 2.

***change of care day*** for an individual who cares for a child means:

- (a) if a determination of the individual's percentage of care for the child has been revoked under Subdivision E of Division 1 of Part 3—the first day on which the care of the child that was actually taking place ceased to correspond with the individual's percentage of care for the child under the determination; or
- (b) if a determination of the individual's percentage of care for the child has been suspended under Subdivision E of

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Division 1 of Part 3—the first day on which the care of the child that was actually taking place ceased to correspond with the individual’s percentage of care for the child determined for the purposes of subsection 35C(4) under the determination; or

- (c) otherwise—the first day on which the care of the child that was actually taking place did not correspond with the individual’s extent of care under a care arrangement that applies in relation to the child (which might be the first day the care arrangement begins to apply in relation to the child).

***child care subsidy*** or ***CCS*** means child care subsidy for which an individual may become eligible under section 85BA.

***child support*** means financial support under the *Child Support (Assessment) Act 1989* and includes financial support:

- (a) by way of lump sum payment; or  
(b) by way of transfer or settlement of property.

***child support agreement*** has the meaning given by section 81 of the *Child Support (Assessment) Act 1989*.

***child support care determination*** has the meaning given by paragraph 35T(1)(b).

***child wellbeing result*** has the meaning given by clause 15 of Schedule 2.

***clean energy advance*** means an advance to which an individual is entitled under Division 1 or 3 of Part 8.

***compliance penalty period*** has the same meaning as in the *Social Security Act 1991*.

***continuous flexible period*** has the same meaning as in the *Paid Parental Leave Act 2010*.



**current figure**, as at a particular time and in relation to an amount that is to be indexed or adjusted under Schedule 4, means:

- (a) if the amount has not yet been indexed or adjusted under Schedule 4 before that time—the amount; and
- (b) if the amount has been indexed or adjusted under Schedule 4 before that time—the amount most recently substituted for the amount under Schedule 4 before that time.

**deemed activity test result** has the meaning given by clause 16 of Schedule 2.

**disability expenses maintenance** has the meaning given by subsection 19(3).

**disabled person** means a person who is:

- (a) receiving a disability support pension under Part 2.3 of the *Social Security Act 1991*; or
- (b) receiving an invalidity pension under Division 4 of Part III of the *Veterans' Entitlements Act 1986*; or
- (c) participating in an independent living program provided by CRS Australia or such other body determined by the Minister, by legislative instrument, for the purposes of this paragraph; or
- (d) diagnosed by a medical practitioner or a psychologist (see subsection 3(3)) as a person who is impaired to a degree that significantly incapacitates him or her; or
- (e) included in a class of persons determined by the Minister, by legislative instrument, to be a disabled person for the purposes of this paragraph.

**economic security strategy payment to families** means a payment to which an individual is entitled under section 89 or 93.

**ETR payment** (short for Education Tax Refund payment) means a payment to which an individual is entitled under Part 7A.

**extended child wellbeing period** has the meaning given by subclause 15(3) of Schedule 2.

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**family assistance** means:

- (a) family tax benefit; or
- (b) stillborn baby payment; or
- (d) child care subsidy; or
- (da) additional child care subsidy; or
- (e) family tax benefit advance; or
- (f) single income family supplement.

**family dispute resolution** has the meaning given by section 10F of the *Family Law Act 1975*.

**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.

**family tax benefit** means the benefit for which a person is eligible under Division 1 of Part 3 (and includes any amount under section 58AA).

**first 2020 economic support payment** means a payment to which an individual is entitled under Division 1 of Part 9.

**Foreign Affairs Minister** means the Minister administering the *Australian Passports Act 2005*.

**fourth income threshold** has the meaning given by subclause 3(4) of Schedule 2.

**FTB child:**

- (a) in relation to family tax benefit—has the meaning given in Subdivision A of Division 1 of Part 3; and

- (b) in relation to child care subsidy and additional child care subsidy—has the meaning given in Subdivision A of Division 1 of Part 3 (except for section 24), but in applying Subdivision D of that Division to CCS or ACCS, a reference in Subdivision D to a claim for payment of family tax benefit is taken to be a reference to a claim for CCS; and
- (c) in relation to stillborn baby payment—has the meaning given in Subdivision A of Division 1 of Part 3; and
- (e) in relation to single income family supplement—has the meaning given in Subdivision A of Division 1 of Part 3 but, in applying Subdivision D of that Division to that supplement in a case where a claim for that supplement is required for there to be an entitlement to be paid that supplement, a reference in Subdivision D of that Division to a claim for payment of family tax benefit is to be read as a reference to a claim for payment of that supplement.

***FTB child rate reduction period*** has the meaning given by subsection 61A(2) or 61B(2).

Note: The FTB child rate reduction period relates to a child who does not meet the health check or immunisation requirements under section 61A or 61B.

***general practitioner*** has the same meaning as in the *Health Insurance Act 1973*.

***has a continuous PPL period*** has the same meaning as in the *Paid Parental Leave Act 2010*.

***holder***, in relation to a visa, has the same meaning as in the *Migration Act 1958*.

***Home Affairs Minister*** means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

***hourly rate of ACCS:***

- (b) for an individual—has the meaning given by subclause 6(1) of Schedule 2; or

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- (c) for an approved provider—has the meaning given by subclause 9(1) of Schedule 2.

**hourly rate of CCS** has the meaning given by subclause 2(1) of Schedule 2.

**hourly session fee:**

- (a) for an individual—has the meaning given by subclause 2(2) of Schedule 2; and  
(b) for an approved provider—has the meaning given by subclause 9(2) of Schedule 2.

**Human Services Secretary** means the Chief Executive Officer of Services Australia.

**illness separated couple** has the same meaning as in the *Social Security Act 1991*.

**immunised**, in relation to a child, means the child is immunised in accordance with:

- (a) a standard vaccination schedule determined under section 4;  
or  
(b) a catch up vaccination schedule determined under section 4.

**income support supplement** has the same meaning as in the *Social Security Act 1991*.

**Income Tax Assessment Act** means the *Income Tax Assessment Act 1997*.

**income year** has the same meaning as in the Income Tax Assessment Act.

**increased care of a child** has the meaning given by section 35GA.

**index number** has the same meaning as in the *Social Security Act 1991*.

**ineligible homeowner** has the same meaning as in the *Social Security Act 1991*.

***interim period*** has the meaning given by section 35FA.

***lower income threshold*** has the meaning given by subclause 3(4) of Schedule 2.

***low income result*** has the meaning given by clause 13 of Schedule 2.

***maintenance*** includes child support.

***maintenance agreement*** means a written agreement (whether made within or outside Australia) that provides for the maintenance of a person (whether or not it also makes provision in relation to other matters), and includes such an agreement that varies an earlier maintenance agreement.

***maintenance income***, in relation to an individual, means:

- (a) child maintenance—any one or more of the following amounts:
  - (i) if clause 20B of Schedule 1 applies (notional assessments for child support agreements)—the amount worked out under that clause;
  - (ii) if clause 20C of Schedule 1 applies (lump sum payments)—the amount worked out under that clause;
  - (ia) if clause 20D of Schedule 1 applies (deemed receipt for administrative assessments privately collected)—the amount worked out under that clause;
  - (iii) otherwise—the amount of a payment or the value of a benefit that is received by the individual for the maintenance of an FTB child of the individual and is received from a parent or relationship parent of the child, or the former partner of a parent or relationship parent of the child; or
- (b) partner maintenance—that is, the amount of a payment or the value of a benefit that is received by the individual for the individual's own maintenance and is received from the individual's former partner; or

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(c) direct child maintenance—that is, the amount of a payment or the value of a benefit that is received by an FTB child of the individual for the child’s own maintenance and is received from:

- (i) a parent or relationship parent of the child; or
- (ii) the former partner of a parent or relationship parent of the child;

but does not include disability expenses maintenance.

Note: This definition is affected by section 19.

***maintenance income credit balance*** has the meaning given by clause 24A of Schedule 1.

***maximum interim period*** for a determination under section 35A or 35B of an individual’s percentage of care for a child is the period beginning on the change of care day for the individual and ending at:

- (a) for a determination relating to a court order—the later of:
  - (i) the end of the period of 52 weeks starting on the day the court order first takes effect; or
  - (ii) the end of the period of 26 weeks starting on the change of care day; or
- (b) for a determination relating to a written agreement or parenting plan—the end of the period of 14 weeks starting on the change of care day.

***medical practitioner*** means a person registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners.

***meets the immunisation requirements*** has the meaning given by section 6.

***member of a couple*** has the same meaning as in the *Social Security Act 1991*.

***member of the same couple*** has the same meaning as ***member of a couple*** has.

***Military Rehabilitation and Compensation Act Education and Training Scheme*** means the scheme determined under section 258 of the *Military Rehabilitation and Compensation Act 2004* (as the scheme is in force at the commencement of this definition).

***Minister's rules*** has the meaning given by subsection 85GB(1).

***Minister's rules result*** has the meaning given by clause 14 of Schedule 2.

***notional assessment*** has the meaning given by section 146E of the *Child Support (Assessment) Act 1989*.

***one-off payment to families*** means a payment to which an individual is entitled under section 86.

***paid work*** (other than in paragraph 12(2)(a) of Schedule 2) has the meaning given by section 3B.

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

***partner*** has the same meaning as in the *Social Security Act 1991*.

***partnered (partner in gaol)*** has the same meaning as in the *Social Security Act 1991*.

***passive employment income*** of an individual, in respect of a period, means:

- (a) income that is earned by the individual in respect of the period as a result of the individual being on paid leave for the period; or
- (b) a payment of compensation, or a payment under an insurance scheme, in respect of the individual's inability to earn, derive or receive income from paid work during the period; or
- (c) if the individual stops paid work as a self-employed individual—income that is derived by the individual in respect of the period from an interest, or from investments, held in connection with the individual's previous self-employment.

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**payment or benefit received from an individual** has a meaning affected by paragraph 19(2)(c).

**percentage of care**, in relation to an individual who cares for a child, means the individual's percentage of care for the child that is determined by the Secretary under Subdivision D of Division 1 of Part 3.

**percentage range**: each of the following is a **percentage range**:

- (a) 0% to less than 14%;
- (b) 14% to less than 35%;
- (c) 48% to 52%;
- (d) more than 65% to 86%;
- (e) more than 86% to 100%.

**percentage range** has the meaning given by subsection 35P(2).

**permanent visa** has the same meaning as in the *Migration Act 1958*.

**PPL period** has the same meaning as in the *Paid Parental Leave Act 2010*.

**prescribed educational scheme** has the same meaning as in the *Social Security Act 1991*.

**principal home** has the same meaning as in the *Social Security Act 1991*.

**provide**, in relation to a session of care, has the meaning given by section 10.

**received from** has a meaning affected by paragraph 19(2)(a).

**receiving**:

- (a) in relation to a social security payment—has the same meaning as in subsections 23(1D), 23(2) and (4) of the *Social Security Act 1991*; and
- (b) for the purposes of a reference in section 85CJ of this Act or clause 1, 28B or 38L of Schedule 1 to this Act, or in



section 32AI of the Family Assistance Administration Act, to a person receiving a social security pension or social security benefit:

- (i) except in relation to clauses 1 and 38L of Schedule 1 to this Act—is taken to include the meaning provided in subsection 23(4A) of the *Social Security Act 1991* as if those sections and clauses were specified in provisions of that Act referred to in subsection 23(4AA) of that Act; and
- (ii) subject to subsection (8) of this section, is taken to include a reference to a person being prevented from receiving a social security pension or social security benefit because of the application of a compliance penalty period; and
- (c) in relation to a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment—has a meaning affected by section 3AA (which deals with the suspension of payments under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*).

**recognised activity** has the meaning given by subclause 12(2) of Schedule 2.

**recognised activity result** has the meaning given by subclause 12(1) of Schedule 2.

**recognised immunisation provider** has the same meaning as **recognised vaccination provider** in the *Australian Immunisation Register Act 2015*.

**reduced care of a child** has the meaning given by section 35H.

**registered entitlement**, of an individual, means the individual's entitlement to receive maintenance income from a particular payer, if the payer's liability to pay that maintenance income is an enforceable maintenance liability within the meaning of the *Child Support (Registration and Collection) Act 1988*.

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**registered parenting plan** means a parenting plan registered under section 63E of the *Family Law Act 1975*.

**regular care child**, of an individual (the **adult**), means an individual:

- (a) who would be an FTB child of the adult but for the operation of section 25 (adult's percentage of care for the child during a care period is less than 35%); and
- (b) for whom the adult has a percentage of care during a care period that is at least 14%.

Note: See also section 25A.

**reimbursement fringe benefit** has the meaning given by subclause 2(5) of Schedule 2.

**relationship child** has the same meaning as in the *Social Security Act 1991*.

**relationship parent** has the same meaning as in the *Social Security Act 1991*.

**relevant shared carer** means an individual who has a shared care percentage for each of his or her FTB children.

**rent** has the same meaning as in the *Social Security Act 1991*.

**rent assistance child** has the meaning given by clause 38B of Schedule 1.

**repayment period**, in relation to a family tax benefit advance that is paid to an individual, has the meaning given by subclause 40(3) of Schedule 1.

**resides in Australia** has the same meaning as in the *Social Security Act 1991*.

**respite care couple** has the same meaning as in the *Social Security Act 1991*.

**returns to paid work** has the meaning given by section 3B.

***second 2020 economic support payment*** means a payment to which an individual is entitled under Division 2 of Part 9.

***secondary earner*** of a couple, in respect of an income year, means:

- (a) unless paragraph (b) applies:
  - (i) the member of the couple who has the lower adjusted taxable income for the year; or
  - (ii) if both members of the couple have the same adjusted taxable income for the year—the member of the couple who returns to paid work first during the year; or
- (b) if the rate of family tax benefit for a member of the couple is determined on the basis of an estimate of adjusted taxable income for the year, and only one member of the couple returns to paid work during the year—the member of the couple whose original estimate of adjusted taxable income is the lower estimate for the couple for the year (disregarding subclause 3(2) of Schedule 3).

***second income threshold*** has the meaning given by subclause 3(4) of Schedule 2.

***Secretary's rules*** has the meaning given by subsection 85GB(2).

***security notice*** means a notice under section 57GJ.

***senior secondary school child*** has the meaning given by section 22B.

***service pension*** has the same meaning as in the *Social Security Act 1991*.

***session of care*** has the meaning given by Minister's rules made for the purposes of section 9.

***shared care percentage*** for an individual for an FTB child has the meaning given by section 59.

***single income family bonus*** means a payment to which an individual is entitled under section 101.

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**single income family supplement** means the supplement for which an individual is eligible under Division 6 of Part 3.

**social security benefit** has the same meaning as in the *Social Security Act 1991*.

**social security payment** has the same meaning as in the *Social Security Act 1991*.

**social security pension** has the same meaning as in the *Social Security Act 1991*.

**special category visa** has the same meaning as in the *Migration Act 1958*.

**standard reduction**, in relation to a family tax benefit advance, has the meaning given by clause 41 of Schedule 1.

**State/Territory child welfare law** has the meaning given by subsection 85ED(2).

**stillborn baby payment** means the payment for which an individual is eligible under Division 2 of Part 3.

**stillborn child** means a child:

- (a) who weighs at least 400 grams at delivery or whose period of gestation was at least 20 weeks; and
- (b) who has not breathed since delivery; and
- (c) whose heart has not beaten since delivery.

**studying overseas full-time**: see section 3C.

**takes reasonable action to participate in family dispute resolution** has the meaning given by subsection 35FA(3).

**taxable income** has the same meaning as in the Income Tax Assessment Act.

**temporarily separated couple** has the same meaning as in the *Social Security Act 1991*.

**third income threshold** has the meaning given by subclause 3(4) of Schedule 2.

**transition to work payment** has the meaning given by subsection 85CK(3).

**undertaking full-time study** has the same meaning as in the *Social Security Act 1991*.

**upper income threshold** has the meaning given by subclause 3(4) of Schedule 2.

**veteran payment** means a veteran payment made under an instrument made under section 45SB of the *Veterans' Entitlements Act 1986*.

**Veterans' Children Education Scheme** means the scheme prepared under section 117 of the *Veterans' Entitlements Act 1986* (as the scheme is in force at the commencement of this definition).

**week**, in relation to child care subsidy and additional child care subsidy, has the meaning given in subsection (6).

**youth allowance** means a payment under Part 2.11 of the *Social Security Act 1991*.

- (2) Expressions used in this Act that are defined in the *A New Tax System (Family Assistance) (Administration) Act 1999* have the same meaning as in that Act.
- (3) For the purposes of paragraph (d) of the definition of **disabled person**, the reference to a psychologist is a reference to a psychologist who:
- (a) is registered with a Board established under a law of a State or Territory that registers psychologists in that State or Territory; and
  - (b) has qualifications or experience in assessing impairment in adults.
- (6) A **week**, for the purposes of child care subsidy and additional child care subsidy, begins on a Monday.

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- (8) Subparagraph (b)(ii) of the definition of *receiving* in subsection (1) does not apply in relation to a compliance penalty period if:
- (a) the duration of the period is more than 8 weeks; or
  - (b) in a case where the compliance penalty period immediately succeeded another compliance penalty period—it has been more than 8 weeks since any compliance penalty period did not apply to the person.
- (9) However, if:
- (a) the compliance penalty period; or
  - (b) in a case where the compliance penalty period immediately succeeded another compliance penalty period—the period since any compliance penalty period did not apply to the person;
- started in the income year preceding the income year in which the 8 weeks referred to in subsection (8) elapsed, that subsection does not apply in relation to the compliance penalty period until the start of the later income year.

**3AA Meaning of *receiving* affected by suspension of certain schooling requirement payments**

*Scope*

- (1) This section applies for the purposes of a reference in section 85CJ or 85CK of this Act, or clause 1, 28B or 38L of Schedule 1 to this Act, to a person receiving payments (*affected schooling requirement payments*) covered by subsection (2).
- (2) The affected schooling requirement payments are the following:
- (a) a social security pension;
  - (b) a social security benefit;
  - (c) a service pension;
  - (d) income support supplement;
  - (e) a veteran payment.

Note: These payments are *schooling requirement payments* within the meaning of the *Social Security (Administration) Act 1999* (see section 124D of that Act).

*General rule—person taken to receive payment during suspension*

(3) In this Act, subject to subsections (4) and (5):

*receiving* is taken to include a reference to a person being prevented from receiving an affected schooling requirement payment because the payment is suspended under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*.

Note: See also the definition of *receiving* in subsection 3(1), and subsections 3(8) and (9).

*Exception—more than 13 weeks continuous suspension*

- (4) Subsection (3) does not apply in relation to the suspension of an affected schooling requirement payment if the payment has been suspended for a continuous period of more than 13 weeks.
- (5) However, if the period of suspension referred to in subsection (4) started in the income year preceding the income year in which the 13 weeks referred to in that subsection elapsed, that subsection does not apply in relation to the suspension until the start of the later income year.

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**3A An individual may be in the care of 2 or more other individuals at the same time**

For the avoidance of doubt, except where express provision is made to the contrary, an individual may be taken, for the purposes of this Act, to be in the care of 2 or more other individuals at the same time.

**3B Meaning of *paid work* and *returns to paid work***

*Meaning of paid work*

- (1) ***Paid work*** (other than in paragraph 12(2)(a) of Schedule 2) means any work for financial gain or any other reward (whether as an employee, a self-employed individual or otherwise) that involves a substantial degree of personal exertion on the part of the individual concerned.

Note: The ordinary meaning of ***paid work*** applies to paragraph 12(2)(a) of Schedule 2.

*Meaning of returns to paid work*

- (2) An individual ***returns to paid work*** during an income year if:
- (a) the individual is not engaging in paid work during that year; and
  - (b) the individual later engages in paid work for an average of at least 10 hours per week for 4 consecutive weeks that start during that year.
- (3) An individual ***returns to paid work*** during an income year if:
- (a) the individual is not engaging in paid work during that year; and
  - (b) the individual later engages in paid work during that year, but not for an average of at least 10 hours per week for 4 consecutive weeks that start during that year; and
  - (c) the Secretary is notified in writing that the individual returned to paid work during that year:



- (i) during the income year following that year and in accordance with subsection (4); or
  - (ii) if a claim is made under the Family Assistance Administration Act for payment of family tax benefit for a past period that occurs in that year and the claim is made during the second income year following that year—in accordance with subsection (5).
- (4) For the purposes of subparagraph (3)(c)(i), if the individual is a member of a couple at any time, during the income year, before the individual engages in paid work as mentioned in paragraph (3)(b), the Secretary is notified in accordance with this subsection if the Secretary is notified by:
- (a) if:
    - (i) both members of the couple are eligible for family tax benefit at any time, during that income year, before the individual engages in paid work (whether the members of the couple are eligible at the same time or at different times); and
    - (ii) the individual is a member of the same couple at the time of the notification;both members of the couple; and
  - (b) if:
    - (i) both members of the couple are eligible for family tax benefit at any time, during that income year, before the individual engages in paid work (whether the members of the couple are eligible at the same time or at different times); and
    - (ii) the individual is no longer a member of the same couple at the time of the notification;the individual who engages in the paid work; and
  - (c) if at all times, during that income year, before the individual engages in paid work, only one member of the couple is eligible for family tax benefit—the member of the couple who is eligible for family tax benefit.

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- (5) For the purposes of subparagraph (3)(c)(ii), the Secretary is notified in accordance with this subsection if the Secretary is notified in the claim that the individual returned to paid work during that year.

**3C Meaning of *studying overseas full-time***

For the purposes of this Act, *studying overseas full-time* has the meaning given by a legislative instrument made by the Minister for the purposes of this section.

## **Division 2—Immunisation rules**

### **4 Minister’s power to make determinations for the purposes of the definition of *immunised***

- (1) The Minister must, for the purpose of the definition of *immunised* in section 3, by legislative instrument, determine:
  - (a) one or more standard vaccination schedules for the immunisation of children; and
  - (b) one or more catch up vaccination schedules for the immunisation of children who have not been immunised in accordance with a standard vaccination schedule.
- (2) Despite subsection 14(2) of the *Legislation Act 2003*, a determination made for the purposes of subsection (1) of this section may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

### **6 Immunisation requirements**

- (1) This section states when the child of an individual (the *adult*) meets the immunisation requirements for the purposes of determining:
  - (a) whether the adult is eligible for child care subsidy under Division 2 of Part 4A; or
  - (b) whether an approved provider is eligible for ACCS (child wellbeing) for sessions of care provided to the child; or
  - (c) whether the adult’s FTB child rate in relation to the child is reduced under subclause 7(2) or (3) or 26(3) or (4) of Schedule 1 (see sections 61A and 61B).

#### *Child immunised*

- (2) The child meets the immunisation requirements if the child has been immunised.

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*Medical contraindication, natural immunity and vaccine study*

- (3) The child meets the immunisation requirements if:
- (a) a general practitioner, a paediatrician, a public health physician, an infectious diseases physician or a clinical immunologist has certified in writing that the immunisation of the child would be medically contraindicated under the specifications set out in the Australian Immunisation Handbook; or
  - (b) a general practitioner, a paediatrician, a public health physician, an infectious diseases physician or a clinical immunologist has certified in writing that the child does not require immunisation because the child has contracted a disease or diseases and as a result has developed a natural immunity; or
  - (c) the child is a participant in a vaccine study approved by a Human Research Ethics Committee registered with the National Health and Medical Research Council.

*Temporary unavailability of vaccine*

- (4) The child meets the immunisation requirements if:
- (a) the child has not received a vaccination at a particular age; and
  - (b) the person who occupies, or is acting in, the position of Commonwealth Chief Medical Officer has certified in writing that the vaccine for that vaccination is, or all of the vaccines for that vaccination are, temporarily unavailable; and
  - (c) if that vaccine, or one of those vaccines, had been available, the Secretary is satisfied that the child would have been immunised; and
  - (d) that vaccine has not, or none of those vaccines have, become available.

*Child vaccinated overseas*

- (5) The child meets the immunisation requirements if:
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- (a) the child has received one or more vaccinations while outside Australia; and
- (b) a recognised immunisation provider has certified in writing that those vaccinations have provided the child with the same level of immunisation that the child would have acquired if the child had been vaccinated in accordance with a standard vaccination schedule, or a catch up vaccination schedule, determined under section 4; and
- (c) the child has received, whether in or outside Australia, all the other vaccinations in accordance with a standard vaccination schedule, or a catch up vaccination schedule, determined under section 4.

*Secretary's decision*

- (6) The child meets the immunisation requirements if the Secretary determines in writing that the child meets the immunisation requirements.
- (7) In making a determination under subsection (6), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

*Requirements for certifications and applications for determinations*

- (8) The following must be made in the form and manner, contain any information, and be accompanied by any documents, required by the Secretary:
  - (a) a certification under paragraph (3)(a) or (b), (4)(b) or (5)(b);
  - (b) an application for a determination under subsection (6).

## Division 3—Various interpretative provisions

### 8 Extended meaning of *Australian resident*—hardship and special circumstances

- (1) The Secretary may, in accordance with the Minister's rules, determine:
  - (a) that an individual who is not an Australian resident is taken to be an *Australian resident* for the purposes of Division 2 of Part 4A (eligibility for CCS); and
  - (b) if the determination is for a period—the period in respect of which the person is taken to be an Australian resident.
- (2) The Secretary may make a determination under subsection (1) if the Secretary is satisfied that:
  - (a) hardship would be caused to the individual if the individual were not treated as an Australian resident for a period or indefinitely; or
  - (b) because of the special circumstances of the particular case, the individual should be treated as an Australian resident for a period or indefinitely.
- (3) Minister's rules made for the purposes of subsection (1) may prescribe matters to which the Secretary must have regard in making determinations under subsection (1), including time limits for periods referred to in paragraph (1)(b).

### 9 Session of care

- (1) The Minister's rules must prescribe what constitutes a *session of care* for the purposes of this Act.
- (2) Minister's rules made for the purposes of subsection (1) may also deal with how a session of care that starts on one day and ends on another day is to be treated for the purposes of this Act.

## 10 When a session of care is provided

### *Basic rule about when a session of care is provided*

- (1) For the purposes of this Act and the Family Assistance Administration Act, a child care service **provides** a session of care to a child if:
- (a) the child is enrolled for care by the service and the child attends the session of care or any part of it; or
  - (b) if the child does not attend any part of the session of care—the service is taken to have provided the session of care to the child under subsection (2) or (3).

Note: **Enrolled** is defined in section 200B of the Family Assistance Administration Act.

### *Allowable absences*

- (2) A child care service is taken to have provided a session of care to a child on a day in a financial year if:
- (a) had the child attended the session of care, one or more of the hours in the session would have been taken into account in accordance with paragraph 4(1)(a) of Schedule 2; and
  - (b) the day is:
    - (i) a day on which the child is enrolled for care by the service; and
    - (ii) after the day the child first attended a session of care provided by the service; and
    - (iii) not after the last day the child attended a session of care provided by the service before the child ceased to be enrolled for care by the service; and
    - (iv) not a day prescribed by the Minister's rules; and
  - (c) either:
    - (i) there have been no more than 41 days in the financial year on which an approved child care service is taken to have provided a session of care to the child under this subsection as a result of this subparagraph; or

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- (ii) if the Minister's rules prescribe a particular event or circumstance—the conditions referred to in subsection (2AA) are met.

Note: *Ceases to be enrolled* is defined in section 200B of the Family Assistance Administration Act.

(2AA) For the purposes of subparagraph (2)(c)(ii), the conditions are that:

- (a) any conditions prescribed by the Minister's rules for the prescribed event or circumstance are met; and
  - (b) if the Minister's rules prescribe a number of days for the event or circumstance for all or part of the financial year—there have been no more than that number of days, in the financial year or the part of the financial year, on which an approved child care service is taken to have provided a session of care to the child under subsection (2) as a result of subparagraph (2)(c)(ii) in relation to that event or circumstance.
- (2A) The Minister's rules may prescribe circumstances in which subparagraph (2)(b)(ii) or (iii) does not apply.

*More than the number of allowable absences*

- (3) A child care service is taken to have provided a session of care to a child on a day in a financial year if:
  - (a) the service is not taken to have provided the session of care to the child on the day under subsection (2); and
  - (b) had the child attended the session of care, one or more of the hours in the session would have been taken into account in accordance with paragraph 4(1)(a) of Schedule 2; and
  - (c) the day is:
    - (i) a day on which the child is enrolled for care by the service; and
    - (ii) after the day the child first attended a session of care provided by the service; and
    - (iii) not after the last day the child attended a session of care provided by the service before the child ceased to be enrolled for care by the service; and



- (iv) not a day prescribed by the Minister's rules; and
- (d) the absence is for a reason specified in subsection (4); and
- (e) if the absence is for an illness referred to in paragraph (4)(a) or (b)—the service has been given a certificate that was issued by a medical practitioner in relation to the illness.

Note: *Ceases to be enrolled* is defined in section 200B of the Family Assistance Administration Act.

- (3A) The Minister's rules may prescribe circumstances in which subparagraph (3)(c)(ii) or (iii) or paragraph (3)(e) does not apply.
- (4) For the purposes of paragraph (3)(d), the reasons are the following:
  - (a) the child is ill;
  - (b) any of the following persons is ill:
    - (i) the individual in whose care the child is;
    - (ii) the partner of the individual in whose care the child is;
    - (iii) an individual with whom the child lives;
  - (c) the child is attending preschool;
  - (d) alternative care arrangements have been made for the child on a pupil-free day;
  - (e) a reason prescribed by the Minister's rules.

## 19 Maintenance income

- (1) For the purposes of the definition of *capitalised maintenance income* in section 3, an amount is a *periodic amount* if it is:
  - (a) the amount of one payment in a series of related payments, even if the payments are irregular in time and amount; or
  - (b) the amount of a payment making up for arrears in such a series.
- (2) For the purposes of the definitions of *maintenance income* and *disability expenses maintenance* in section 3:
  - (a) a payment received under subsection 76(1) of the *Child Support (Registration and Collection) Act 1988* in relation to a registered maintenance liability (within the meaning of that Act) is taken to be *received from* the individual who is the

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- payer (within the meaning of that Act) in relation to the liability; and
- (b) a reference to a **benefit received by an individual** includes a reference to a benefit received by the individual because of a payment made to, or a benefit conferred on, another individual (including a payment made or benefit conferred under a liability owed to the other individual); and
  - (c) a reference to a **payment or benefit received from an individual** includes a reference to a payment or benefit received:
    - (i) directly or indirectly from the individual; and
    - (ii) out of any assets of, under the control of, or held for the benefit of, the individual; and
    - (iii) from the individual under or as a result of a court order, a court registered or approved maintenance agreement, a financial agreement (within the meaning of the *Family Law Act 1975*), a Part VIIIAB financial agreement (within the meaning of that Act) or otherwise.
- (3) A payment or benefit is **disability expenses maintenance** of an individual if:
- (a) the payment or benefit is provided for expenses arising directly from:
    - (i) a physical, intellectual or psychiatric disability; or
    - (ii) a learning difficulty;of an FTB child of the individual; and
  - (b) the disability or difficulty is likely to be permanent or to last for an extended period; and
  - (c) the payment or benefit is received:
    - (i) by the individual for the maintenance of the FTB child; or
    - (ii) by the FTB child for the child's own maintenance; and
  - (d) the payment or benefit is received from:
    - (i) a parent or relationship parent of the child; or
    - (ii) the former partner of a parent or relationship parent of the child.

## **Division 4—Approved care organisations**

### **20 Approval of organisations providing residential care services to young people**

- (1) The Secretary may approve an organisation that co-ordinates or provides residential care services to young people in Australia as an approved care organisation for the purposes of this Act.

*Revocation*

- (2) The Secretary may revoke an approval under subsection (1).

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## **Part 3—Eligibility for family assistance (other than child care subsidy and additional child care subsidy)**

### **Division 1—Eligibility for family tax benefit**

#### **Subdivision A—Eligibility of individuals for family tax benefit in normal circumstances**

#### **21 When an individual is eligible for family tax benefit in normal circumstances**

- (1) An individual is eligible for family tax benefit if:
- (a) the individual:
    - (i) has at least one FTB child; or
    - (ii) has at least one regular care child who is also a rent assistance child; and
  - (b) the individual:
    - (i) is an Australian resident; or
    - (ia) is a special category visa holder residing in Australia; or
    - (ii) satisfies subsection (1A); and
  - (c) the individual's rate of family tax benefit, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 and disregarding section 58A and subclauses 31B(3), 38AA(3) and 38AF(3) of Schedule 1, is greater than nil.

*When individual satisfies this subsection*

- (1A) An individual satisfies this subsection if:
- (a) the individual is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; and
  - (b) either:

- (i) the individual is in Australia; or
- (ii) the individual is temporarily absent from Australia for a period not exceeding 6 weeks and the absence is an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

*Exception*

- (2) However, the individual is not eligible for family tax benefit if another provision of this Subdivision so provides.

**22 When an individual is an FTB child of another individual**

- (1) An individual is an **FTB child** of another individual (the **adult**) in any of the cases set out in this section.

*Individual aged under 16*

- (2) An individual is an **FTB child** of the adult if:
  - (a) the individual is aged under 16; and
  - (b) the individual is in the adult's care; and
  - (c) the individual is an Australian resident, is a special category visa holder residing in Australia or is living with the adult; and
  - (d) the circumstances surrounding legal responsibility for the care of the individual are those mentioned in paragraph (5)(a), (b) or (c).

*Individual aged 16-17*

- (3) An individual is an **FTB child** of the adult if:
  - (a) the individual has turned 16 but is aged under 18; and
  - (b) the individual is in the adult's care; and
  - (c) the individual is an Australian resident, is a special category visa holder residing in Australia or is living with the adult; and

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- (d) the circumstances surrounding legal responsibility for the care of the individual are those mentioned in paragraph (5)(a), (b) or (c); and
- (e) the individual is a senior secondary school child.

*Individual aged 18-19*

- (4) An individual is an **FTB child** of the adult if:
  - (a) the individual is aged 18 or is aged 19 and the calendar year in which the individual turned 19 has not ended; and
  - (b) the individual is in the adult's care; and
  - (c) the individual is an Australian resident, is a special category visa holder residing in Australia or is living with the adult; and
  - (d) the individual is a senior secondary school child.

*Legal responsibility for the individual*

- (5) The circumstances surrounding legal responsibility for the care of the individual are:
  - (a) the adult is legally responsible (whether alone or jointly with someone else) for the day-to-day care, welfare and development of the individual; or
  - (b) under a family law order, registered parenting plan or parenting plan in force in relation to the individual, the adult is someone with whom the individual is supposed to live or spend time; or
  - (c) the individual is not in the care of anyone with the legal responsibility for the day-to-day care, welfare and development of the individual.

*Percentage of care at least 35%*

- (7) If an individual's percentage of care for a child during a care period is at least 35%, the child is taken to be an FTB child of that individual for the purposes of this section on each day in that

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period, whether or not the child was in that individual's care on that day.

Note: If an individual's percentage of care for a child during a care period is less than 35%, the child is taken not to be an FTB child (see section 25).

**22A Exceptions to the operation of section 22**

*Exceptions*

- (1) Despite section 22, an individual cannot be an FTB child of another individual (an **adult**) in the cases set out in this table:

<b>When the individual is not an FTB child of the adult at a particular time</b>		
	<b>If the individual is aged:</b>	<b>then the individual cannot be an FTB child of the adult if:</b>
1	5 or more and less than 16	the adult is the individual's partner, or would be if the individual were over the age of consent applicable in the State or Territory in which the individual lives.
2	16 or more	(b) the adult is the individual's partner; or (c) the individual, or someone on behalf of the individual, is, at the particular time, receiving payments under a prescribed educational scheme, unless subsection (2) applies to the individual.
3	any age	the individual, or someone on behalf of the individual, is, at the particular time, receiving: (a) a social security pension; or (b) a social security benefit; or (c) payments under a program included in the programs known as Labour Market Programs.

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### *Interaction with ABSTUDY*

- (2) This subsection applies to an individual if:
- (a) the individual, or someone on behalf of the individual, is, at the particular time, receiving payments under the ABSTUDY scheme; and
  - (b) the payments are being paid on the basis that the individual:
    - (i) is undertaking full-time study at a secondary school (within the meaning of the *Student Assistance Act 1973*); and
    - (ii) is, in accordance with the ABSTUDY scheme, a student approved to live away from home; and
    - (iii) is boarding away from home for the purposes of attending the school.

Note: For *undertaking full-time study*, see subsection 3(1).

## **22B Meaning of *senior secondary school child***

- (1) An individual is a ***senior secondary school child*** if:
- (a) the following requirement is satisfied:
    - (i) for the purposes of subclause 29(3) or 36(2) of Schedule 1—the individual is aged 16 or 17 or is aged 18 and the calendar year in which the individual turned 18 has not ended;
    - (ii) for the purposes of any other provision of this Act—the individual is aged 16, 17 or 18 or is aged 19 and the calendar year in which the individual turned 19 has not ended; and
  - (b) one of the following applies:
    - (i) the individual is undertaking full-time study in an approved course of education or study that would, in the Secretary's opinion, assist or allow the individual to complete the final year of secondary school or an equivalent level of education;
    - (ia) the individual is studying overseas full-time in a way that would, in the Secretary's opinion, assist or allow



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the individual to complete the final year of secondary school or an equivalent level of education;

- (ii) subsection (2) applies in relation to the individual.

*Exemption from full-time study requirement*

- (2) This subsection applies in relation to the individual if:
- (a) there is no locally accessible approved course of education or study (including any such course available by distance education); or
  - (b) where there is such a course:
    - (i) there is no place available on the course for the individual; or
    - (ii) the individual is not qualified to undertake the course; or
    - (iii) the individual lacks capacity to undertake the course because the individual has a physical, psychiatric or intellectual disability or a learning disability such as attention deficit disorder; or
  - (c) in the Secretary's opinion, special circumstances exist that make it unreasonable to require the individual to undertake an approved course of education or study.

*Determination of full-time study hours*

- (2A) For the purposes of subparagraph (1)(b)(i) or (ia), if the Secretary determines that it is appropriate to do so having regard to an individual's circumstances, the Secretary may determine that the normal amount of full-time study for the individual in respect of a course is to be a number of hours per week specified in the determination, averaged over the duration of the period for which the individual is enrolled in the course.

*Continued status of senior secondary school child*

- (3) If, apart from this subsection, an individual would cease to be a senior secondary school child because the individual completes the final year of secondary school or an equivalent level of education,

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then the individual is taken to be a senior secondary school child until the end of:

- (a) if the day the individual completes that final year of secondary school or equivalent level of education is in November or December in a calendar year—31 December of that year; or
- (b) if the day the individual completes that final year of secondary school or equivalent level of education is before November—the period of 28 days beginning on the day after that day.

*Interpretation*

- (4) An individual **completes** the final year of secondary school or an equivalent level of education on the day worked out in accordance with the following table:

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<b>Completion day</b>		
<b>Item</b>	<b>In this situation:</b>	<b>The day is:</b>
1	The individual was not required to sit an examination in relation to that final year or that equivalent level of education	The day determined by the secondary school to be the last day of classes for that year or by the provider of that education to be the last day of classes for that level of education (as the case may be)

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**Completion day**

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<b>Item</b>	<b>In this situation:</b>	<b>The day is:</b>
2	The individual was required to sit an examination in relation to that final year or that equivalent level of education	The later of: (a) the day determined by the secondary school to be the last day of the period of examinations for that final year or by the provider of that education to be the last day of the period of examinations for that level of education (as the case may be); and (b) the day determined by the secondary school to be the last day of classes for that final year or by the provider of that education to be the last day of classes for that level of education (as the case may be)

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- (5) To avoid doubt, if an individual ceases to be a senior secondary school child, nothing in this section prevents the individual again becoming a senior secondary school child.

**23 Effect of FTB child ceasing to be in individual's care without consent**

- (1) This section applies if:
- (a) an individual is an FTB child of another individual (the **adult**) under subsection 22(2) or (3); and
  - (aa) the circumstances surrounding legal responsibility for the care of the individual are those mentioned in paragraph 22(5)(a) or (b); and
  - (b) an event occurs in relation to the child without the adult's consent that prevents the child being in the adult's care; and
  - (c) the adult takes reasonable steps to have the child again in the adult's care.

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### *When the child remains an FTB child of the adult*

- (2) Subject to subsection (4A), the child is an FTB child of the adult for that part of the qualifying period (see subsection (5)) for which:
- (a) the child would have been an FTB child of the adult under subsection 22(2) or (3) if the child had not ceased to be in the adult's care; and
  - (b) the circumstances surrounding legal responsibility for the care of the child are those mentioned in paragraph 22(5)(a) or (b).
- (3) The reference, in paragraphs (1)(a) and (2)(a), to an FTB child of an individual or adult under subsection 22(2) or (3) includes a reference to:
- (a) a child who is an FTB child under subsection 22(2) or (3) in its application by virtue of subsection 22(7); and
  - (b) a child who is an FTB child under subsection 22(2) or (3), but who is taken not to be an FTB child under section 25.

Note: As a result of subsection (2) of this section, a child who is taken not to be an FTB child under section 25, but who is a regular care child, will remain a regular care child for the part of the qualifying period referred to in subsection (2) of this section.

- (4) Except as provided in subsection (2), the child cannot (in spite of section 22) be an FTB child of any individual during the qualifying period.

### *When subsection (2) does not apply*

- (4A) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may determine that subsection (2) does not apply in relation to the child and the adult.

### *Definition of parent and qualifying period*

- (5) In this section:

**parent** includes a relationship parent.

***qualifying period*** means the period beginning when the child ceases to be in the adult's care and ending at the earliest of the following times:

- (a) if the child again comes into the adult's care at a later time—  
that later time;
- (b) either:
  - (i) after 14 weeks pass since the child ceased to be in the adult's care; or
  - (ii) if the Secretary specifies, under subsection (5A), a day that is earlier than the last day in that 14-week period—the end of that earlier day;
- (c) if:
  - (i) the adult is a parent of the child; and
  - (ii) no family law order, registered parenting plan or parenting plan is in force in relation to the child; and
  - (iii) the child comes into the care of the other parent at a later time;that later time.

*Shorter qualifying period*

- (5A) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may specify a day for the purposes of subparagraph (b)(ii) of the definition of ***qualifying period*** in subsection (5).

*Parents of relationship children*

- (6) If a child (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the child's only parents for the purposes of paragraph (c) of the definition of ***qualifying period*** in subsection (5).

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**24 Effect of certain absences of FTB child etc. from Australia**

*Absence from Australia of FTB or regular care child*

- (1) If:
- (a) any of the following applies:
    - (i) an FTB child leaves Australia;
    - (ii) a child born outside Australia is an FTB child at birth;
    - (iii) a regular care child leaves Australia;
    - (iv) a child born outside Australia is a regular care child at birth; and
  - (b) the child continues to be absent from Australia for more than 6 weeks;
- during that absence from Australia, the child is neither an FTB child, nor a regular care child, at any time after the period of 6 weeks beginning on the first day of the child's absence from Australia.

- (3) If:
- (a) a child is neither an FTB child nor a regular care child because of the application of subsection (1) or a previous application of this subsection; and
  - (b) the child comes to Australia; and
  - (c) the child leaves Australia less than 6 weeks after coming to Australia;
- the child is neither an FTB child nor a regular care child at any time during the absence from Australia referred to in paragraph (c).

*Maximum period of eligibility for family tax benefit while individual overseas*

- (4) If an individual leaves Australia, the maximum period for which the individual can be eligible for family tax benefit during that absence from Australia is the period of 6 weeks beginning on the first day of that absence.

- (6) If:
- (a) an individual is eligible for family tax benefit while the individual is absent from Australia; and
  - (b) the individual then ceases to be eligible for family tax benefit because of the application of subsection (4) or a previous application of this subsection; and
  - (c) the individual returns to Australia; and
  - (d) the individual leaves Australia again less than 6 weeks after returning to Australia;
- the individual is not eligible for family tax benefit at any time during the absence from Australia referred to in paragraph (d).

*Extension of 6-week period in certain circumstances*

- (7) The Secretary may extend the 6-week period (the **initial period**) referred to in subsection (1) or (4), to a period of no more than 3 years, if the Secretary is satisfied that the child mentioned in subsection (1), or the individual mentioned in subsection (4), (in each case, the **person**) is unable to return to Australia within the initial period because of any of the following events:
- (a) a serious accident involving the person or a family member of the person;
  - (b) a serious illness of the person or a family member of the person;
  - (c) the hospitalisation of the person or a family member of the person;
  - (d) the death of a family member of the person;
  - (e) the person's involvement in custody proceedings in the country in which the person is located;
  - (f) a legal requirement for the person to remain outside Australia in connection with criminal proceedings (other than criminal proceedings in respect of a crime alleged to have been committed by the person);
  - (g) robbery or serious crime committed against the person or a family member of the person;

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- (h) a natural disaster in the country in which the person is located;
  - (i) political or social unrest in the country in which the person is located;
  - (j) industrial action in the country in which the person is located;
  - (k) a war in the country in which the person is located.
- (8) The Secretary must not extend the initial period under subsection (7) unless:
- (a) the event occurred or began during the initial period; and
  - (b) if the event is political or social unrest, industrial action or war—the person is not willingly involved in, or willingly participating in the event.
- (9) The Secretary may extend the 6-week period referred to in subsection (1) or (4), to a period of no more than 3 years, if the Secretary is satisfied that, under the Medical Treatment Overseas Program administered by the Minister who administers the *National Health Act 1953*, financial assistance is payable in respect of the absence from Australia of the child mentioned in subsection (1) or the individual mentioned in subsection (4).
- (10) The Secretary may extend the 6-week period referred to in subsection (4), to a period of no more than 3 years, if the Secretary is satisfied that the individual mentioned in subsection (4) is unable to return to Australia within the 6-week period because the individual is:
- (a) deployed outside Australia as a member of the Defence Force, under conditions specified in a determination made under the *Defence Act 1903* that relates to such deployment; or
  - (b) deployed outside Australia, for the purpose of capacity-building or peacekeeping functions, as:
    - (i) a member or a special member of the Australian Federal Police; or
    - (ii) a protective service officer within the meaning of the *Australian Federal Police Act 1979*.



**25 Effect of an individual's percentage of care for a child being less than 35%**

If an individual's percentage of care for a child during a care period is less than 35%, the child is taken, despite section 22, not to be an FTB child of that individual for any part of the period.

**25A Regular care child for each day in care period**

If an individual's percentage of care for a child during a care period is at least 14% but less than 35%, the child is taken to be a regular care child of that individual for the purposes of this Act on each day in that period, whether or not the child was in that individual's care on that day.

**26 Only 1 member of a couple eligible for family tax benefit**

- (1) For any period when 2 individuals who are members of a couple would otherwise be eligible at the same time for family tax benefit in respect of one or more FTB children or regular care children, only one member is eligible.
- (2) The member who is eligible is the one determined by the Secretary to be eligible, having regard to:
  - (a) whether one member of the couple is the primary carer for the child or children; and
  - (b) whether the members have made a written agreement nominating one of them as the member who can make a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* for payment of family tax benefit in respect of the child or children.

**27 Extension of meaning of FTB or regular care child in a blended family case**

- (1) This section applies if:
  - (a) 2 individuals are members of the same couple; and

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- (b) either or both of the individuals have a child (the *qualifying child*) from another relationship (whether before or after the 2 individuals became members of that couple).
- (2) While the 2 individuals are members of that couple:
  - (a) each qualifying child that is an FTB child, or regular care child, of one member of the couple is taken also to be an FTB child, or regular care child, (as the case requires) of the other member of the couple; and
  - (b) if the Secretary has determined, under section 35A or 35B, one individual's percentage of care for the qualifying child during a care period (whether before or after the 2 individuals became members of that couple)—the Secretary is taken to have determined the same percentage to be the other individual's percentage of care for the child during that period.

### **28 Eligibility for family tax benefit of members of a couple in a blended family**

- (1) If the Secretary is satisfied that:
  - (a) 2 individuals who are members of the same couple (*person A* and *person B*) would each be eligible for family tax benefit for 2 or more FTB children during a period but for subsection 26(1); and
  - (b) at least one of the children is a child of a previous relationship of person A; and
  - (c) at least one of the other children is:
    - (i) a child of the relationship between person A and person B; or
    - (ii) a child of a previous relationship of person B;

the Secretary may:

- (d) determine that person A and person B are both eligible for family tax benefit for the children for the period; and
- (e) determine person A's and person B's percentage of the family tax benefit for the children.

- (2) The Secretary cannot make a determination under subsection (1) for a past period if person A or person B has been paid family tax benefit for the period.
- (3) For the purposes of this section:
- (a) an FTB child of an individual is a ***child of a previous relationship*** of an individual who is a member of a couple if the child is an immediate child of that individual but not of the individual's partner; and
  - (b) a child is a ***child of the relationship of 2 individuals*** who are members of a couple if the child is an immediate child of both members of the couple; and
  - (c) an FTB child of an individual is an ***immediate child*** of the individual if:
    - (i) the child is the natural child, adopted child or relationship child of the individual; or
    - (ii) the individual is legally responsible for the child.

## **29 Eligibility for family tax benefit of separated members of a couple for period before separation**

If the Secretary is satisfied that:

- (a) 2 individuals are not members of the same couple (***person A*** and ***person B***); and
- (b) during a period in the past when person A and person B were members of the same couple, they had an FTB child or children; and
- (c) but for subsection 26(1), person A and person B would both be eligible for family tax benefit for the FTB child or children for that period;

the Secretary may:

- (d) determine that person A and person B are both eligible for family tax benefit for the child or children for that period; and
- (e) determine person A's and person B's percentage of the family tax benefit for the child or children for that period.

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**Subdivision B—Eligibility of individuals for family tax benefit where death occurs**

**31 Continued eligibility for family tax benefit if an FTB or regular care child dies**

- (1) This section applies if:
- (a) an individual is eligible for family tax benefit (except under section 33) in respect of one or more FTB children or regular care children; and
  - (b) one of the children dies; and
  - (c) in a case where the individual is eligible for family tax benefit in respect of more than one child immediately before the child mentioned in paragraph (1)(b) died—the individual’s rate of family tax benefit would decrease as a result of the child’s death.

*Individual remains eligible for family tax benefit for 14 weeks after the death of the child*

- (2) The individual is eligible for family tax benefit, at a rate worked out under section 64, for each day in the period of 14 weeks beginning on the day the child died. This subsection has effect subject to subsection (3) of this section and to section 32.

*14 weeks reduced in certain circumstances*

- (3) The period for which the individual is eligible for family tax benefit under subsection (2) does not include:
- (a) if the child had turned 16 when the child died—any day on which the Secretary is satisfied the child would not have been a senior secondary school child if the child had not died; or
  - (b) if the child had not turned 16 when the child died—any day on which the child would have been aged 16, and on which the Secretary is satisfied the child would not have been a senior secondary school child, if the child had not died.

*Eligibility during the period to which subsection (2) applies is sole eligibility*

- (4) Except as mentioned in subsection (2), the individual is not eligible for family tax benefit in respect of any FTB children, or regular care children, of the individual during the period to which subsection (2) applies.

### **32 Eligibility for a single amount of family tax benefit if an FTB or regular care child dies**

*Instalment case*

- (1) If:
- (a) the individual to whom section 31 applies was, immediately before the child concerned died, entitled to be paid family tax benefit by instalment; and
  - (b) the individual, on any day (the **request day**) during the period (the **section 31 accrual period**) for which the individual is eligible for family tax benefit under that section, makes a claim, under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*, for payment of family tax benefit because of the death of a person, stating that the individual wishes to become eligible for a single amount of family tax benefit under this subsection;
- then:
- (c) the individual is eligible for a single amount of family tax benefit worked out under subsection 65(1); and
  - (d) the period for which the individual is eligible for family tax benefit under subsection 31(2) does not include the lump sum period mentioned in subsection 65(1).

*Other cases*

- (2) If:

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- (a) the individual to whom section 31 applies was, immediately before the child concerned died, not entitled to be paid family tax benefit by instalment; and
  - (b) apart from this subsection, the period for which the individual is eligible for family tax benefit under subsection 31(2) extends over 2 income years;
- then:
- (c) the individual is eligible for a single amount of family tax benefit for the period falling in the second of those income years worked out under subsection 65(3); and
  - (d) the period for which the individual is eligible for family tax benefit under subsection 31(2) does not include the period falling in the second of those income years.

### **33 Eligibility for family tax benefit if an eligible individual dies**

*Eligibility other than because of the death of an FTB or regular care child*

- (1) If:
  - (a) an individual is eligible for an amount (the **subject amount**) of family tax benefit (except because of section 31 or 32 applying in relation to the death of an FTB child or a regular care child); and
  - (b) the individual dies; and
  - (c) before the individual died, the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); and
  - (d) another individual makes a claim under that Part for payment of family tax benefit because of the death of a person, stating that he or she wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and

(e) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;  
the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

*Eligibility because of the death of an FTB or regular care child*

(2) If:

(a) an individual dies; and

(b) either:

(i) before the individual's death, the individual was eligible for an amount (the **subject amount**) of family tax benefit under section 31 or 32 in relation to the death of an FTB child or regular care child, and the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); or

(ii) the individual died at the same time as the FTB child or regular care child, and would have been so eligible for the subject amount if the individual had not died; and

(c) another individual makes a claim under that Part for payment of family tax benefit because of the death of a person, stating that the individual wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and

(d) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;

the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

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**Subdivision C—Eligibility of approved care organisations for family tax benefit**

**34 When an approved care organisation is eligible for family tax benefit**

- (1) An approved care organisation is eligible for family tax benefit in respect of an individual if:
  - (a) the individual:
    - (i) is aged under 16; or
    - (ii) has turned 16 and is a senior secondary school child;  
and
  - (b) the individual is a client of the organisation; and
  - (c) the individual is an Australian resident.
- (2) However, an approved care organisation is not eligible for family tax benefit in respect of an individual in the cases set out in section 35.

*Expanded meaning of client of an organisation*

- (3) For the purposes of paragraph (1)(b), if:
  - (a) an organisation that is not an approved care organisation is providing residential care services to young people in Australia; and
  - (b) an approved care organisation is co-ordinating the provision of those services;the young people are taken to be clients of the approved care organisation.

**35 When an approved care organisation is not eligible for family tax benefit**

- (1) An approved care organisation is not eligible for family tax benefit in respect of an individual in the cases set out in this table:



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**When an approved care organisation is not eligible for family tax benefit at a particular time**

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	<b>If the individual is aged:</b>	<b>then the approved care organisation is not eligible for family tax benefit in respect of the individual if:</b>
2	16 or more	the individual, or someone on behalf of the individual, is, at the particular time, receiving payments under a prescribed educational scheme, unless subsection (1A) applies to the individual.
3	any age	the individual, or someone on behalf of the individual, is, at the particular time, receiving: <ul style="list-style-type: none"> <li>(a) a social security pension; or</li> <li>(b) a social security benefit; or</li> <li>(c) payments under a program included in the programs known as Labour Market Programs.</li> </ul>

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(1A) This subsection applies to an individual if:

- (a) the individual, or someone on behalf of the individual, is, at the particular time, receiving payments under the ABSTUDY scheme; and
- (b) the payments are being paid on the basis that the individual:
  - (i) is undertaking full-time study at a secondary school (within the meaning of the *Student Assistance Act 1973*); and
  - (ii) is, in accordance with the ABSTUDY scheme, a student approved to live away from home; and
  - (iii) is boarding away from home for the purposes of attending the school.

Note: For *undertaking full-time study*, see subsection 3(1).

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- (2) An approved care organisation is also not eligible for family tax benefit in respect of an individual if anyone else is eligible for family tax benefit in respect of the individual.

**Subdivision D—Determination of percentage of care**

**35A Determination of percentage of care—child is not in the adult’s care**

*Initial determination*

- (1) If:
- (a) the Secretary is satisfied that an individual (the **adult**) has no care of a child but that:
    - (i) the child is an FTB child of the adult under section 23; or
    - (ii) the child would, under subsection 22(2), (3) or (4), be an FTB child of the adult if there had been, or were to be, a pattern of care for the child over a period (the **care period**) under a care arrangement relating to the child; and
  - (b) the adult, or the partner of the adult, makes or has made a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* for payment of family tax benefit in respect of the child for some or all of the days in the care period; and
  - (c) the adult is not a partner of at least one other individual who has a pattern of care for the child such that the child was or will be, under subsection 22(2), (3) or (4), an FTB child of the other individual or individuals; and
  - (d) section 35C or 35G applies in relation to the adult;
- the Secretary must determine the adult’s percentage of care for the child during the care period in accordance with that section.

*Determination after revocation*

- (2) If:
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- (a) the Secretary revokes or suspends, under Subdivision E of this Division (except under paragraph 35PA(3)(b) or 35QA(3)(b)), a determination of an individual's (the **adult**) percentage of care for a child that was made under this section or section 35B; and
  - (b) the Secretary is satisfied that the adult has no care of the child but that:
    - (i) the child is an FTB child of the adult under section 23; or
    - (ii) the child would, under subsection 22(2), (3) or (4), be an FTB child of the adult if there had been, or were to be, a pattern of care for the child over a period (the **care period**) under a care arrangement relating to the child; and
  - (c) the adult is not a partner of at least one other individual who has a pattern of care for the child such that the child was or will be, under subsection 22(2), (3) or (4), an FTB child of the other individual or individuals; and
  - (d) section 35C or 35G applies in relation to the adult;
- the Secretary must determine the adult's percentage of care for the child during the care period in accordance with that section.

**35B Determination of percentage of care—child is in the adult's care**

*Initial determination*

- (1) If:
  - (a) the Secretary is satisfied that there has been, or will be, a pattern of care for a child over a period (the **care period**) such that, for the whole, or for parts (including different parts), of the care period, the child was or will be, under subsection 22(2), (3) or (4), an FTB child of more than one individual; and
  - (b) one of those individuals (the **adult**), or the partner of the adult, makes or has made a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*

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for payment of family tax benefit in respect of the child for some or all of the days in the care period; and

- (c) the adult is not a partner of at least one of the other individuals referred to in paragraph (a);

the Secretary must determine the adult's percentage of care for the child during the care period.

#### *Determination after revocation*

(2) If:

- (a) the Secretary revokes or suspends, under Subdivision E of this Division (except under paragraph 35PA(3)(b) or 35QA(3)(b)), a determination of an individual's (the **adult**) percentage of care for a child that was made under section 35A or this section; and
- (b) the Secretary is satisfied that there has been, or will be, a pattern of care for the child over a period (the **care period**) such that, for the whole, or for parts (including different parts), of the care period, the child was or will be, under subsection 22(2), (3) or (4), an FTB child of the adult and at least one other individual; and
- (c) the adult is not a partner of at least one of those other individuals;

the Secretary must determine the adult's percentage of care for the child during the care period.

#### *Percentage of care*

- (3) The percentage determined under subsection (1) or (2) must be a percentage that corresponds with the actual care of the child that the Secretary is satisfied that the adult has had, or will have, during the care period.
- (4) Despite subsection (3), if section 35C or 35G applies in relation to the adult, the Secretary must determine the adult's percentage of care under subsection (1) or (2) in accordance with that section.

**35C Percentage of care if action taken to ensure that a care arrangement in relation to a child is complied with**

- (1) This section applies in relation to an individual (the *adult*) if:
- (a) a care arrangement applies in relation to a child; and
  - (b) the Secretary is satisfied that the actual care of the child that the adult has had, or will have, during a care period does not comply with the extent of care of the child that the adult should have had, or is to have, under the care arrangement during the care period (which may be nil); and
  - (c) an individual who has reduced care of the child is taking reasonable action to ensure that the care arrangement is complied with.

Note: This section does not apply in certain circumstances, see section 35F.

*2 percentages of care in relation to the adult*

- (2) Subject to subsection (5), the Secretary must determine, under section 35A or 35B, 2 percentages of care in relation to the adult.
- (3) The first percentage of care is to be a percentage that corresponds with the extent of care of the child that the adult should have had, or is to have, under the care arrangement during the care period (which may be nil).
- (4) The second percentage of care is to be:
- (a) if section 35A applies in relation to the adult—0%; or
  - (b) if section 35B applies in relation to the adult—a percentage that corresponds with the actual care of the child that the Secretary is satisfied that the adult would have during the care period if the action referred to in paragraph (1)(c) were not to succeed.

*Single percentage of care in relation to the adult*

- (5) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may determine, under

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section 35A or 35B, a single percentage of care in relation to the adult.

- (6) The single percentage of care is to be:
- (a) if section 35A applies in relation to the adult—0%; or
  - (b) if section 35B applies in relation to the adult—a percentage that corresponds with the actual care of the child that the Secretary is satisfied that the adult would have during the care period if the action referred to in paragraph (1)(c) were not to succeed.

### **35E Application of section 35C in relation to claims for family tax benefit for a past period**

#### *Initial determination*

- (1) If:
- (a) the Secretary is required by section 35A or 35B to determine an individual's percentage of care for a child; and
  - (b) subsection 35A(1) or 35B(1) applies; and
  - (c) the claim referred to in paragraph 35A(1)(b) or 35B(1)(b) is a claim for payment of family tax benefit for a past period;
- section 35C applies in relation to the individual as if the determination were being made on the first relevant day of the past period.

#### *Determination after revocation*

- (2) If:
- (a) the Secretary is required by section 35A or 35B to determine (the ***new determination***) an individual's percentage of care for a child; and
  - (b) subsection 35A(2) or 35B(2) applies; and
  - (c) the determination (the ***earlier determination***) referred to in paragraph 35A(2)(a) or 35B(2)(a) relates to a claim for payment of family tax benefit for a past period;

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section 35C applies in relation to the individual as if the new determination were being made on the relevant day after the revocation of the earlier determination.

**35F Section 35C does not apply in certain circumstances**

- (1) Section 35C does not apply in relation to an individual in relation to whom a determination is to be or has been made under section 35A or 35B if:
  - (a) for a claim referred to in paragraph 35A(1)(b) or 35B(1)(b) that is a claim for payment of family tax benefit for a past period—the first day of the past period is after the end of the maximum interim period for the determination; or
  - (b) the day the claim referred to in paragraph 35A(1)(b) or 35B(1)(b) is made is after the end of the maximum interim period for the determination; or
  - (c) the Secretary has revoked the determination under section 35P or 35Q.
- (2) Section 35C also does not apply in relation to an individual in relation to whom a determination (a *later determination*) has been made under section 35A or 35B if:
  - (a) an earlier determination determined the individual's percentage of care for a child under that section for the purposes of subsections 35C(3) and (4); and
  - (b) the later determination is made after the end of the maximum interim period for the earlier determination; and
  - (c) the later determination relates to the same care arrangement as the earlier determination.

**35FA Meaning of *interim period***

- (1) An *interim period* for a determination under section 35A or 35B of an individual's percentage of care for a child is (subject to subsection (4)) the period:
  - (a) beginning on:

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- (i) the individual's change of care day, unless subsection (2) applies; or
  - (ii) if subsection (2) applies—the day specified in that subsection; and
- (b) ending:
- (i) as set out in the applicable item of the following table, unless subparagraph (ii), (iii) or (iv) applies; or
  - (ii) if the individual referred to in paragraph 35C(1)(c) who has reduced care of the child ceases to take reasonable action to ensure that the care arrangement is complied with—on the day the individual so ceases; or
  - (iii) if a care arrangement in relation to the child ceases to apply on a day—on that day; or
  - (iv) if a care arrangement in relation to the child begins to apply on a day—on the day before that day.

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**Interim period**

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<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
1	(a) the care arrangement for the child is a court order; (b) the Secretary is not satisfied that special circumstances exist in relation to the child; (c) assuming table item 2 applied, the period that would apply under that item ends before the end of the period of 52 weeks starting on the day the court order first takes effect	at the end of that 52 week period.

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**Interim period**

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<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
2	<ul style="list-style-type: none"> <li>(a) the care arrangement for the child is a court order;</li> <li>(b) the Secretary is not satisfied that special circumstances exist in relation to the child;</li> <li>(c) table item 1 does not apply</li> </ul>	<p>at the end of:</p> <ul style="list-style-type: none"> <li>(a) the period of 26 weeks starting on the change of care day, unless paragraph (b) applies; or</li> <li>(b) the period of 14 weeks starting on the day the individual who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if: <ul style="list-style-type: none"> <li>(i) that 14 week period ends before the end of the 26 week period referred to in paragraph (a); and</li> <li>(ii) the individual takes that reasonable action throughout that 14 week period.</li> </ul> </li> </ul>
3	<ul style="list-style-type: none"> <li>(a) the care arrangement for the child is a written agreement or a parenting plan;</li> <li>(b) the Secretary is not satisfied that special circumstances exist in relation to the child;</li> <li>(c) the change of care day occurs before the end of the period of 38 weeks after the day the agreement or plan first takes effect</li> </ul>	<p>at the end of the period of 14 weeks starting on the change of care day.</p>

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**Interim period**

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<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
4	(a) the care arrangement for the child is a written agreement or a parenting plan; (b) the Secretary is not satisfied that special circumstances exist in relation to the child; (c) the change of care day occurs after the end of the period of 38 weeks, but before the end of the period of 48 weeks, starting on the day the agreement or plan first takes effect	at the end of: (a) the period of 14 weeks starting on the change of care day, unless paragraph (b) applies; or (b) the period of 4 weeks starting on the day the individual who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if: (i) that 4 week period began at or after the end of the period of 48 weeks starting on the day the agreement or plan first takes effect; and (ii) that 4 week period ends before the end of the 14 week period referred to in paragraph (a); and (iii) the individual takes that reasonable action throughout that 4 week period.
5	(a) the care arrangement for the child is a written agreement or a parenting plan; (b) the Secretary is not satisfied that special circumstances exist in relation to the child; (c) the change of care day occurs after the end of 48 weeks after the agreement or plan first takes effect	at the end of: (a) the period of 14 weeks starting on the change of care day, unless paragraph (b) applies; or (b) the period of 4 weeks starting on the day the individual who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if: (i) that 4 week period ends before the end of the 14 week period referred to in paragraph (a); and (ii) the individual takes that reasonable action throughout that 4 week period.

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<b>Interim period</b>		
<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
6	the Secretary is satisfied that special circumstances exist in relation to the child	on the day determined by the Secretary, being a day before the day the period would otherwise end if the special circumstances did not exist in relation to the child.

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*Beginning of later interim periods*

- (2) If:
- (a) an interim period for the determination ends under item 2, 4 or 5 of the table in subsection (1) before the end of the maximum interim period for the determination; and
  - (b) the individual referred to in paragraph 35C(1)(c) who has reduced care of the child is taking reasonable action to ensure that the care arrangement is complied with; and
  - (c) the individual (the *second carer*) who has increased care of the child ceases to take reasonable action to participate in family dispute resolution before the end of the maximum interim period;

then a further interim period for the determination begins on the day the second carer ceases to take such reasonable action.

*When an individual takes reasonable action to participate in family dispute resolution*

- (3) An individual who has increased care of a child **takes reasonable action to participate in family dispute resolution** if:
- (a) the individual:
    - (i) initiates and participates in family dispute resolution; or
    - (ii) participates in family dispute resolution that was initiated by the individual referred to in paragraph 35C(1)(c) who has reduced care of the child; and

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- (b) in relation to determining whether an interim period begins on the change of care day for the individual—the individual takes an action referred to in paragraph (a) within a reasonable period of that day.

*Determinations made before the end of a maximum interim period*

- (4) A determination under section 35A or 35B of an individual's percentage of care for a child does not have an interim period if the determination is made under that section before the end of the maximum interim period for another determination under either of those sections of the individual's percentage of care for the child (see sections 35PA and 35QA).

### **35G Percentage of care if claim is made for payment of family tax benefit because of the death of a child**

- (1) This section applies in relation to an individual (the **adult**) if:
- (a) the adult, or the partner of the adult, has made a claim for payment of family tax benefit by single payment/in substitution because of the death of another individual; and
  - (b) the claim relates to a child who has died; and
  - (c) a determination (the **earlier determination**) of the adult's percentage of care for the child applied, immediately before the child's death, in relation to a claim by the adult or the partner for payment of family tax benefit by instalment.
- (2) The Secretary must determine, under section 35A or 35B, the adult's percentage of care for the child to be the percentage of care that applied under the earlier determination immediately before the child's death.

### **35GA When an individual has increased care of a child**

An individual has **increased care of a child** if:

- (a) a care arrangement applies in relation to the child; and

- (b) the individual should have had, or is to have, an extent of care of the child under the care arrangement during a care period; and
- (c) the Secretary is satisfied that the actual care of the child that the individual has had, or is likely to have, during the care period is more than that extent of care.

### **35H When an individual has *reduced care of a child***

An individual has *reduced care of a child* if:

- (a) a care arrangement applies in relation to the child; and
- (b) the individual should have had, or is to have, an extent of care of the child under the care arrangement during a care period; and
- (c) the Secretary is satisfied that the actual care of the child that the individual has had, or will have, during the care period is less than that extent of care.

### **35J Working out actual care, and extent of care, of a child**

- (1) The actual care of a child that an individual has had, or will have, during a care period may be worked out based on the number of nights that the Secretary is satisfied that the child was, or will be, in the care of the individual during the care period.
- (2) The extent of care of a child that an individual should have had, or is to have, under a care arrangement during a care period may be worked out based on the number of nights that the child should have been, or is to be, in the care of the individual during the care period under the care arrangement.
- (3) For the purposes of this section, a child cannot be in the care of more than one individual at the same time.
- (4) This section does not limit section 35B, 35C, 35GA or 35H.

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### **35K Days to which the percentage of care applies if section 35C did not apply in relation to an individual etc.**

- (1) This section applies if a determination of an individual's percentage of care for a child during a care period is made under section 35A or 35B and:
- (a) section 35C did not apply in relation to the individual; or
  - (b) all of the following apply:
    - (i) section 35C did apply in relation to the individual;
    - (ii) the determination (the **later determination**) was made while an earlier determination of the individual's percentage of care for the child was suspended under subsection 35PA(2) or 35QA(2);
    - (iii) the earlier determination is still suspended under that subsection or the earlier determination was revoked under subsection 35PA(4) or 35QA(4);
    - (iv) the later determination has not been revoked; or
  - (c) section 35C did apply in relation to the individual but the determination made under section 35A or 35B determined a single percentage of care for the child for the purposes of subsection 35C(5); or
  - (d) section 35G applied in relation to the individual.

Note: For when section 35C does not apply, see section 35F.

- (1A) The percentage of care applies on and from the application day until the day a revocation of the determination takes effect, or the suspension of the earlier determination ceases to have effect (except because the suspension is revoked), under Subdivision E of this Division.
- (2) If subsection 35A(1) or 35B(1) applies in relation to the determination, the **application day** is:
- (a) if:
    - (i) the claim referred to in paragraph 35A(1)(b) or 35B(1)(b) is a claim for payment of family tax benefit

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- by single payment/in substitution because of the death of another individual; and
- (ii) the claim relates to a child who has died; the day on which the claim referred to in that paragraph is or was made; or
- (b) otherwise—the first day of the care period.
- (3) If subsection 35A(2) or 35B(2) applies in relation to the determination, the *application day* is the first day of the care period that begins after the revocation of the determination referred to in paragraph 35A(2)(a) or 35B(2)(a) takes effect.

**35L Days to which the percentage of care applies if 2 percentages of care apply under section 35C in relation to an individual**

- (1) This section applies if:
- (a) a determination of an individual's percentage of care for a child is made under section 35A or 35B; and
- (b) 2 percentages of care were determined for the purposes of subsection 35C(2) in relation to the individual; and
- (c) the determination is not suspended under subsection 35PA(2) or 35QA(2).
- (2) Until a revocation of the determination takes effect, or a suspension of the determination takes effect, under Subdivision E of this Division:
- (a) the percentage of care referred to in subsection 35C(3) applies to each day in a care period that occurs in the interim period for the determination; and
- (b) the percentage of care referred to in subsection 35C(4) applies to each day in a care period that does not occur in the interim period for the determination.

**35M Rounding of a percentage of care**

If an individual's percentage of care determined under this Subdivision is not a whole percentage:

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- (a) if the percentage is greater than 50%—the percentage is rounded up to the nearest whole percentage; and
- (b) if the percentage is less than 50%—the percentage is rounded down to the nearest whole percentage.

### **35N Guidelines about the making of determinations**

- (1) The Secretary may, by legislative instrument, make guidelines relating to the making of determinations under this Subdivision.
- (2) In making a determination under this Subdivision, the Secretary must have regard to any guidelines in force under subsection (1).

### **Subdivision E—Revocation and suspension of determination of percentage of care**

#### **35P Determination must be revoked if there is a change to the individual's shared care percentage**

- (1) The Secretary must revoke a determination of an individual's percentage of care (the *existing percentage of care*) for a child made under section 35A or 35B if:
  - (a) the Secretary or Child Support Registrar is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the individual's existing percentage of care for the child; and
  - (b) the Secretary is satisfied:
    - (i) that the individual's shared care percentage for the child would change if the Secretary were to determine, under section 35A or 35B, another percentage to be the individual's percentage of care for the child; or
    - (ii) that, if the Secretary were to determine under that section another percentage to be the individual's percentage of care for the child, the other percentage would not be in the same percentage range as the individual's existing percentage of care; and
  - (c) subsection (2) applies in relation to the individual.



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Note: The Secretary must make another determination under section 35A or 35B to replace the revoked determination: see subsection 35A(2) or 35B(2).

- (2) This subsection applies in relation to an individual if:
- (a) disregarding paragraph 35F(1)(c), section 35C did not apply in relation to the individual; or
  - (b) section 35C did apply in relation to the individual but the maximum interim period for the determination has ended; or
  - (c) all of the following apply:
    - (i) section 35C did apply in relation to the individual;
    - (ii) the maximum interim period for an earlier determination of the individual's percentage of care for the child has not ended;
    - (iii) an interim period for the earlier determination does not currently apply;
    - (iv) the determination referred to in subsection (1) was made while the earlier determination was suspended under this Subdivision.

Note: For when section 35C does not apply, see section 35F.

- (3) The revocation of the determination takes effect at the end of:
- (a) if the change of care day for the individual occurs during an interim period for the determination—the day on which the interim period ends; or
  - (b) otherwise—the day before the change of care day for the individual.

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**35PA Suspension of determination before the end of the maximum interim period if there is a change to the individual's shared care percentage**

- (1) This section applies if:
- (a) a determination (the *earlier determination*) of an individual's percentage of care (the *actual percentage*) for a child has been made under section 35A or 35B for the purposes of subsection 35C(4); and
  - (b) the Secretary or Child Support Registrar is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the individual's actual percentage for the child; and
  - (c) the Secretary is satisfied:
    - (i) that the individual's shared care percentage for the child would change if the Secretary were to determine, under section 35A or 35B, another percentage to be the individual's percentage of care for the child; or
    - (ii) that, if the Secretary were to determine under that section another percentage to be the individual's percentage of care for the child, the other percentage would not be in the same percentage range as the individual's existing percentage of care; and
  - (d) section 35P does not apply; and
  - (e) an interim period for the earlier determination does not currently apply; and
  - (f) the maximum interim period for the earlier determination has not ended.

*Suspending the determination*

- (2) The Secretary must suspend the earlier determination. The suspension takes effect at the end of the day before the Secretary or Child Support Registrar is so notified or otherwise becomes aware.

Note: The Secretary must make another determination under section 35A or 35B when the earlier determination is suspended: see subsection 35A(2) or 35B(2).

*Lifting of suspension of determination*

- (3) If a further interim period for the earlier determination begins before the end of the maximum interim period for the determination because the individual who has increased care of the child ceases to take reasonable action to participate in family dispute resolution, the Secretary must revoke:
- (a) the suspension of the earlier determination; and
  - (b) any determination (the *later determination*) of the individual's percentage of care for the child that was made under section 35A or 35B during the suspension.
- A revocation under this subsection takes effect at the end of the day before the individual ceases to take that reasonable action.

*Ending of maximum interim period*

- (4) When the maximum interim period for the earlier determination ends, the Secretary must revoke:
- (a) the earlier determination (and any suspension of the earlier determination); and
  - (b) any later determination that meets the following conditions:
    - (i) the later determination was made during the suspension of the earlier determination;
    - (ii) the Secretary is satisfied that the care of the child that is actually taking place does not correspond with the individual's percentage of care for the child determined under the later determination.

Note: The Secretary must make another determination under section 35A or 35B after revoking a determination under this subsection: see subsection 35A(2) or 35B(2).

**35Q Secretary may revoke a determination of an individual's percentage of care**

- (1) The Secretary may revoke a determination of an individual's percentage of care (the *existing percentage of care*) for a child made under section 35A or 35B if:

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- (a) the Secretary or Child Support Registrar is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the individual's existing percentage of care for the child; and
- (b) the Secretary is satisfied that, if the Secretary were to determine, under section 35A or 35B, another percentage to be the individual's percentage of care for the child, the other percentage would not be the same as the individual's existing percentage of care for the child; and
- (c) sections 35P and 35PA do not apply; and
- (d) subsection (2) applies in relation to the individual.

Note: If the Secretary revokes the determination, the Secretary must make a new determination under section 35A or 35B to replace the revoked determination: see subsection 35A(2) or 35B(2).

- (2) This subsection applies in relation to an individual if:
  - (a) disregarding paragraph 35F(1)(b), section 35C did not apply in relation to the individual; or
  - (b) section 35C did apply in relation to the individual but the maximum interim period for the determination has ended; or
  - (c) all of the following apply:
    - (i) section 35C did apply in relation to the individual;
    - (ii) the maximum interim period for an earlier determination of the individual's percentage of care for the child has not ended;
    - (iii) an interim period for the earlier determination does not currently apply;
    - (iv) the determination referred to in subsection (1) was made while the earlier determination was suspended under this Subdivision.

Note: For when section 35C does not apply, see section 35F.

- (3) The revocation of the determination takes effect at the end of:
  - (a) if the change of care day for the individual occurs during an interim period for the determination—the day on which the interim period ends; or

- (b) otherwise—the day before the change of care day for the individual.

**35QA Suspension of determination of an individual's percentage of care before the end of the maximum interim period**

- (1) This section applies if:
- (a) a determination (the *earlier determination*) of an individual's percentage of care (the *actual percentage*) for a child has been made under section 35A or 35B for the purposes of subsection 35C(4); and
  - (b) the Secretary or Child Support Registrar is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the individual's actual percentage for the child; and
  - (c) the Secretary is satisfied that, if the Secretary were to determine, under section 35A or 35B, another percentage to be the individual's percentage of care for the child, the other percentage would not be the same as the individual's actual percentage for the child; and
  - (d) sections 35P, 35PA and 35Q do not apply; and
  - (e) an interim period for the earlier determination does not currently apply; and
  - (f) the maximum interim period for the earlier determination has not ended.

*Suspending the determination*

- (2) The Secretary may suspend the earlier determination. The suspension takes effect at the end of the day before the Secretary or Child Support Registrar is so notified or otherwise becomes aware.

Note: The Secretary must make another determination under section 35A or 35B if the earlier determination is suspended: see subsection 35A(2) or 35B(2).

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*Lifting of suspension of determination*

- (3) If a further interim period for the earlier determination begins before the end of the maximum interim period for the determination because the individual who has increased care of the child ceases to take reasonable action to participate in family dispute resolution, the Secretary must revoke:
- (a) the suspension of the earlier determination; and
  - (b) any determination (the *later determination*) of the individual's percentage of care for the child that was made under section 35A or 35B during the suspension.

A revocation under this subsection takes effect at the end of the day before the individual ceases to take that reasonable action.

*Ending of maximum interim period*

- (4) When the maximum interim period for the earlier determination ends, the Secretary must revoke:
- (a) the earlier determination (and any suspension of the earlier determination); and
  - (b) any later determination that meets the following conditions:
    - (i) the later determination was made during the suspension of the earlier determination;
    - (ii) the Secretary is satisfied that the care of the child that is actually taking place does not correspond with the individual's percentage of care for the child determined under the later determination.

Note: The Secretary must make another determination under section 35A or 35B after revoking a determination under this subsection: see subsection 35A(2) or 35B(2).

**35R Secretary may revoke a determination relating to a claim for payment of family tax benefit for a past period**

- (1) The Secretary may revoke a determination of an individual's percentage of care for a child under section 35A or 35B if:

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- (a) the determination relates to a claim for payment of family tax benefit for a past period; and
- (b) if section 35C applied in relation to the individual—the maximum interim period for the determination has ended.

Note: If the Secretary revokes the determination, the Secretary must make a new determination under section 35A or 35B to replace the revoked determination: see subsection 35A(2) or 35B(2).

- (2) If the Secretary revokes the determination, the revocation takes effect at the end of:
  - (a) if the change of care day for the individual occurs during an interim period for the determination—the day on which the interim period ends; or
  - (b) otherwise—the day before the change of care day for the individual.

**35S Guidelines about the revocation of determinations**

- (1) The Secretary may, by legislative instrument, make guidelines relating to the revocation of determinations under this Subdivision.
- (2) In revoking a determination under this Subdivision, the Secretary must have regard to any guidelines in force under subsection (1).

**Subdivision F—Percentages of care determined under the child support law**

**35T Percentages of care determined under the child support law that apply for family assistance purposes**

- (1) If:
  - (a) the Secretary is required by a provision of Subdivision D of this Division to determine an individual's percentage of care for a child in relation to a claim for payment of family tax benefit; and
  - (b) the Child Support Registrar has determined the individual's percentage of care for the child (the *child support care*

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*determination*) under a provision of Subdivision B of Division 4 of Part 5 of the *Child Support (Assessment) Act 1989*; and

- (c) the child support care determination has not ceased to apply or been revoked;

then:

- (d) the child support care determination has effect, for the purposes of this Act as it applies to such a claim, as if it were a determination of the individual's percentage of care for the child that has been made by the Secretary under a corresponding provision of Subdivision D of this Division; and
  - (e) the individual's percentage of care for the child applies, for the purposes of this Act as it applies to such a claim, in the same way, and in the same circumstances, in which it would apply if it had been determined by the Secretary under such a provision; and
  - (f) the child support care determination may cease to apply, or be revoked, under Subdivision D or E of this Division in the same way, and in the same circumstances, in which a determination made under Subdivision D of this Division may cease to apply, or be revoked.
- (2) This section ceases to apply to the child support care determination if the determination ceases to apply, or is revoked, under Subdivision B or C of Division 4 of Part 5 of the *Child Support (Assessment) Act 1989*.

### **35U Reviews of percentages of care under child support law apply for family assistance purposes**

- (1) Subject to subsection (2), if:
  - (a) the Child Support Registrar considers an objection to a decision under Part VII of the *Child Support (Registration and Collection) Act 1988*; and
  - (b) considering the objection involves (wholly or partly) a consideration of a determination that:



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- (i) was made under a provision of Subdivision B of Division 4 of Part 5 of the *Child Support (Assessment) Act 1989*; or
- (ii) has effect, under section 54K of that Act, as if it were a determination made under such a provision; and
- (c) the Child Support Registrar's decision on the objection has the effect of varying the determination or substituting a new determination;

section 35T of this Act applies as if the determination as varied or substituted were the child support care determination referred to in that section.

(2) If:

- (a) the AAT has reviewed a decision on application referred to in section 89 or paragraph 96A(b) of the *Child Support (Registration and Collection) Act 1988*; and
- (b) the review involves (wholly or partly) a review of a determination that:
  - (i) was made under a provision of Subdivision B of Division 4 of Part 5 of the *Child Support (Assessment) Act 1989*; or
  - (ii) has effect, under section 54K of that Act, as if it were a determination made under such a provision; and
- (c) the decision on review has the effect of varying or substituting the determination;

section 35T of this Act applies as if the determination as varied or substituted were the child support care determination referred to in that section.

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**Division 2** Eligibility for stillborn baby payment

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**Division 2—Eligibility for stillborn baby payment**

**Subdivision A—Eligibility of individuals for stillborn baby payment in normal circumstances**

**36 When an individual is eligible for stillborn baby payment in normal circumstances**

- (1) Subject to this section, an individual is eligible for a stillborn baby payment in respect of a child if:
  - (a) the child is a stillborn child; and
  - (b) had the child been born alive:
    - (i) the child would have been an FTB child of the individual at birth; and
    - (ii) the individual, or the individual's partner, would have been the primary carer of the child at birth; and
  - (c) either:
    - (i) the individual would have been eligible for family tax benefit in respect of the child, at any time within the period of 26 weeks starting on the day of the child's delivery, assuming the child had not been a stillborn child; or
    - (ii) the individual would have been so eligible on the assumption described in subparagraph (i) except that the individual's rate of family tax benefit, worked out under Division 1 of Part 4, is nil; and
  - (d) the claim for payment of stillborn baby payment contains an estimate of the sum of:
    - (i) the individual's adjusted taxable income; and
    - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual's partner;for the period of 6 months beginning on the day of the child's delivery; and

- (e) that estimate is less than or equal to \$60,000 and the Secretary considers that estimate to be reasonable.
- (2) Paragraphs (1)(c) and (e) do not apply if in relation to any day during the period of 52 weeks beginning on the day of the child's delivery:
  - (a) either:
    - (i) a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the individual or the individual's partner; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual or the individual's partner because the Secretary is satisfied that the individual or the individual's partner is eligible for family tax benefit under section 32 of this Act; and
  - (b) the individual's or the individual's partner's rate of family tax benefit, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of Schedule 1, consisted of or included a Part A rate greater than nil.

*Estimate of adjusted taxable income*

- (3) For the purposes of paragraph (1)(d):
  - (a) a reference in Schedule 3 to an income year is taken to be a reference to the 6-month period mentioned in that paragraph; and
  - (b) disregard subclause 2(2) and clauses 3 and 3A of that Schedule.

*Exception*

- (4) This section does not apply, and is taken never to have applied, in relation to the individual and the child if parental leave pay is payable to the individual, or the individual's partner, for the child.

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**Division 2** Eligibility for stillborn baby payment

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**37 Only one individual eligible for stillborn baby payment in respect of a child**

If the Secretary determines that an individual who is a member of a couple is eligible for a stillborn baby payment under subsection 36(1) in respect of a child, the Secretary must not determine that the partner of the individual is eligible for a stillborn baby payment in respect of that child.

**Subdivision B—Eligibility of individuals for stillborn baby payment where death occurs**

**38 What happens if an individual eligible for stillborn baby payment dies**

If:

- (a) an individual is eligible for a stillborn baby payment (the *subject payment*) in respect of a child; and
- (b) the individual dies; and
- (c) before the individual died, the subject payment had not been paid to the individual (whether or not a claim had been made under Part 3 of the Family Assistance Administration Act); and
- (d) another individual makes a claim under that Part for payment of a stillborn baby payment because of the death of the first-mentioned individual, stating that he or she wishes to become eligible for the subject payment; and
- (e) the claim is made:
  - (i) within 52 weeks after the death; or
  - (ii) within a further period allowed by the Secretary in special circumstances; and
- (f) the Secretary considers that the other individual ought to be eligible for the subject payment;

the other individual is eligible for the subject payment. No-one else is, or can become, eligible for or entitled to be paid that payment.

## **Division 6—Eligibility for single income family supplement**

### **Subdivision A—Eligibility of individuals for single income family supplement in normal circumstances**

#### **57G When an individual is eligible for single income family supplement in normal circumstances**

- (1) An individual is eligible for single income family supplement if:
  - (a) the individual has at least one qualifying child; and
  - (b) the individual:
    - (i) is an Australian resident; or
    - (ii) is a special category visa holder residing in Australia; or
    - (iii) satisfies subsection (2); and
  - (c) the individual is not an absent overseas recipient (see subsections (4) and (5)); and
  - (d) the individual's rate of single income family supplement, worked out under Division 4B of Part 4, is greater than nil.

Note: This section does not apply to certain individuals: see section 57GDA.

*When individual satisfies this subsection*

- (2) An individual satisfies this subsection if:
  - (a) the individual is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; and
  - (b) either:
    - (i) the individual is in Australia; or
    - (ii) the individual is temporarily absent from Australia for a period not exceeding 6 weeks and the absence is an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

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*Qualifying child*

- (3) For the purposes of this Division, an individual is a **qualifying child** of another individual (the **adult**) if:
- (a) the individual is an FTB child of the adult (disregarding subsections 24(7) and (9)); or
  - (b) the following apply:
    - (i) the individual is receiving disability support pension under Part 2.3 of the *Social Security Act 1991* and the individual's maximum basic rate is worked out under item 1 or 3 of Table B in point 1066A-B1 or item 1 or 3 of Table B in point 1066B-B1 of that Act;
    - (ii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)); or
  - (c) the following apply:
    - (i) the individual is receiving youth allowance and the individual's maximum basic rate is worked out under item 1 or 2 of Table BA in point 1067G-B2 or item 1 of Table BC in point 1067G-B4 of the *Social Security Act 1991*;
    - (ii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)); or
  - (d) the following apply:
    - (i) the individual is receiving special benefit under Part 2.15 of the *Social Security Act 1991*;
    - (ii) if youth allowance were payable to the individual, the individual's maximum basic rate would be worked out under item 1 or 2 of Table BA in point 1067G-B2 or item 1 of Table BC in point 1067G-B4 of that Act;
    - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)); or
  - (e) the following apply:

- (i) the individual, or someone on behalf of the individual, is receiving instalments under the scheme known as the ABSTUDY scheme that include an amount identified as living allowance that is being paid at the standard (at home) rate;
  - (ii) the individual is a dependent student under the scheme and is aged 16 or more and under 21;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)); or
- (f) the following apply:
- (i) the individual, or someone on behalf of the individual, is receiving education allowance under section 3.3 of the Veterans' Children Education Scheme;
  - (ii) the individual is aged 16 or more;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)); or
- (g) the following apply:
- (i) the individual, or someone on behalf of the individual, is receiving education allowance under section 3.3 of the Military Rehabilitation and Compensation Act Education and Training Scheme;
  - (ii) the individual is aged 16 or more;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult (disregarding subsections 24(7) and (9)).

*Absent overseas recipient*

- (4) For the purposes of this section, if an individual leaves Australia, the individual is an **absent overseas recipient** for any period that occurs:
- (a) during that absence from Australia; and
  - (b) after the end of the period of 6 weeks beginning on the first day of that absence.

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**Division 6** Eligibility for single income family supplement

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- (5) For the purposes of this section, if:
- (a) an individual is eligible for single income family supplement while the individual is absent from Australia; and
  - (b) the individual then becomes an absent overseas recipient because of the application of subsection (4) or a previous application of this subsection; and
  - (c) the individual returns to Australia; and
  - (d) the individual leaves Australia again less than 6 weeks after returning to Australia;
- the individual is an *absent overseas recipient* for any period that occurs during the absence from Australia referred to in paragraph (d).

**57GA Only one member of a couple eligible for single income family supplement**

- (1) Subject to this Division, for any period when 2 individuals who are members of a couple would otherwise be eligible at the same time for single income family supplement in respect of one or more qualifying children, only one member is eligible.
- (2) The member who is eligible is the one determined by the Secretary to be eligible.

**57GB Extension of meaning of qualifying child in a blended family case**

- (1) This section applies if:
  - (a) 2 individuals are members of the same couple; and
  - (b) either or both of the individuals have a child from another relationship (whether before or after the 2 individuals became members of that couple).
- (2) While the 2 individuals are members of that couple, each child who is a qualifying child of one member of the couple is taken also to be a qualifying child of the other member of the couple.



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**57GC Eligibility for single income family supplement of members of  
a couple in a blended family**

- (1) If the Secretary is satisfied that:
- (a) 2 individuals who are members of the same couple (*person A* and *person B*) would each be eligible for single income family supplement in respect of 2 or more qualifying children during a period but for subsection 57GA(1); and
  - (b) at least one of the children is a child of a previous relationship of person A; and
  - (c) at least one of the other children is:
    - (i) a child of the relationship between person A and person B; or
    - (ii) a child of a previous relationship of person B;
- the Secretary may:
- (d) determine that person A and person B are both eligible for single income family supplement for the children for the period; and
  - (e) determine person A's and person B's percentage of the single income family supplement for the children.
- (2) The Secretary cannot make a determination under subsection (1) for a past period if person A or person B has been paid single income family supplement for the period.
- (3) For the purposes of this section:
- (a) a qualifying child of an individual is a *child of a previous relationship* of an individual who is a member of a couple if the child is an immediate child of that individual but not of the individual's partner; and
  - (b) a child is a *child of the relationship of 2 individuals* who are members of a couple if the child is an immediate child of both members of the couple; and
  - (c) a qualifying child of an individual is an *immediate child* of the individual if:

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- (i) the child is the natural child, adopted child or relationship child of the individual; or
- (ii) the individual is legally responsible for the child.

**57GD Eligibility for single income family supplement of separated members of a couple for period before separation**

If the Secretary is satisfied that:

- (a) 2 individuals are not members of the same couple (*person A* and *person B*); and
- (b) during a period in the past when person A and person B were members of the same couple, they had a qualifying child or children; and
- (c) but for subsection 57GA(1), person A and person B would both be eligible for single income family supplement for the qualifying child or children for that period;

the Secretary may:

- (d) determine that person A and person B are both eligible for single income family supplement for the child or children for that period; and
- (e) determine person A's and person B's percentage of the single income family supplement for the child or children for that period.

**57GDA Cessation of eligibility**

- (1) Section 57G does not apply to an individual on or after the commencement of this section unless the individual was eligible for single income family supplement in respect of the day before that commencement.
- (2) Section 57G does not apply, and never again applies, to the individual from the start of the first day on or after the commencement of this section on which the individual ceases to be eligible for single income family supplement.
- (3) If:

- (a) an individual is eligible for single income family supplement in respect of a period falling within the income year (the *relevant income year*) ending on the day before the commencement of this section or within a later income year (also the *relevant income year*); and
  - (b) in order to become entitled to be paid single income family supplement in respect of that period, the individual is required to make a claim for payment of single income family supplement for a past period; and
  - (c) the individual does not make the claim in accordance with section 65KD of the Family Assistance Administration Act;
- then section 57G of this Act does not apply, and never again applies, to the individual from the start of the first income year after the relevant income year.

### **Subdivision B—Eligibility of individuals for single income family supplement where death occurs**

#### **57GE Continued eligibility for single income family supplement if a qualifying child dies**

- (1) This section applies if:
  - (a) an individual is eligible for single income family supplement (except under section 57GG) in respect of one qualifying child; and
  - (b) that child dies.

*Individual remains eligible for single income family supplement for 14 weeks after the death of the child*

- (2) The individual is eligible for single income family supplement, at a rate worked out under Division 4B of Part 4, for each day in the period of 14 weeks beginning on the day the child died. This subsection has effect subject to subsection (3) of this section and to section 57GF.

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*14 weeks reduced in certain circumstances*

- (3) The period for which the individual is eligible for single income family supplement under subsection (2) does not include:
- (a) if the child had turned 16 when the child died—any day on which the Secretary is satisfied the child would not have been a senior secondary school child if the child had not died; or
  - (b) if the child had not turned 16 when the child died—any day on which the child would have been aged 16, and on which the Secretary is satisfied the child would not have been a senior secondary school child, if the child had not died.

**57GF Eligibility for a single amount of single income family supplement if a qualifying child dies**

If, apart from this section, the period for which an individual is eligible for single income family supplement under subsection 57GE(2) extends over 2 income years:

- (a) the individual is eligible for a single amount of single income family supplement for the period falling in the second of those income years worked out under Division 4B of Part 4 on the assumption that:
  - (i) the individual's taxable income for the period falling in the second of those income years is the same as the individual's taxable income for the first of those income years; and
  - (ii) the individual's partner's taxable income for the period falling in the second of those income years is the same as the individual's partner's taxable income for the first of those income years; and
- (b) the period for which the individual is eligible for single income family supplement under subsection 57GE(2) does not include the period falling in the second of those income years.

**57GG Eligibility for single income family supplement if an eligible individual dies**

*Eligibility other than because of the death of a qualifying child*

- (1) If:
- (a) an individual is eligible for an amount (the **subject amount**) of single income family supplement (except because of section 57GE or 57GF applying in relation to the death of a qualifying child); and
  - (b) the individual dies; and
  - (c) before the individual died, the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the Family Assistance Administration Act had been made); and
  - (d) another individual makes a claim under that Part for payment of single income family supplement because of the death of a person, stating that he or she wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and
  - (e) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;
- the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

*Eligibility because of the death of a qualifying child*

- (2) If:
- (a) an individual dies; and
  - (b) either:
    - (i) before the individual's death, the individual was eligible for an amount (the **subject amount**) of single income family supplement under section 57GE or 57GF in relation to the death of a qualifying child, and the subject amount had not been paid to the individual

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**Division 6** Eligibility for single income family supplement

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(whether or not a claim under Part 3 of the Family Assistance Administration Act had been made); or

(ii) the individual died at the same time as the qualifying child, and would have been so eligible for the subject amount if the individual had not died; and

(c) another individual makes a claim under that Part for payment of single income family supplement because of the death of a person, stating that he or she wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and

(d) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;

the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

## **Division 7—Loss of family assistance for individuals on security grounds**

### **57GH Simplified outline of this Division**

Individuals who might prejudice the security of Australia or a foreign country may lose family assistance.

### **57GI Loss of family assistance for individuals on security grounds**

#### *Security notice for recipient of family assistance*

- (1) If a security notice is given to the Minister in relation to an individual, then while the notice is in force:
  - (a) no family assistance is to be paid to the individual; and
  - (b) the individual is not eligible for family assistance.

Note 1: A security notice is a notice under section 57GJ.

Note 2: This Division does not apply in relation to child care subsidy or additional child care subsidy: see section 57GQ.
- (2) If a security notice is given to the Minister in relation to an individual, then any determination that the individual is entitled to be paid family assistance, that is in force immediately before the day the notice comes into force, ceases to be in force on that day.
- (3) If a security notice given to the Minister in relation to an individual ceases to be in force, then the individual is not eligible for family assistance for any day while the notice was in force.
- (4) However, if:
  - (a) a security notice given to the Minister in relation to an individual recommends that payments of family assistance of the individual be paid to a payment nominee of the individual under Part 8B of the Family Assistance Administration Act; and

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**Division 7** Loss of family assistance for individuals on security grounds

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- (b) apart from subsections (1) to (3), the individual would be eligible for the whole or a part of that family assistance; then that whole or part may be paid to a payment nominee of the individual under that Part.
- (5) For the purposes of subsection (4), paragraph 219TD(2)(b) of the Family Assistance Administration Act does not apply.
- (6) For the purposes of subsection (4), section 219TN of the Family Assistance Administration Act does not apply. Instead, any amount paid to a payment nominee of the individual is to be applied by the nominee in accordance with a written direction given by the Secretary under this subsection.

*Security notice for individual in respect of whom family assistance payable*

- (7) If:
- (a) a security notice is given to the Minister in relation to an individual; and
  - (b) the individual is aged 19 or less on the day the notice is given;
- then, for any day while the notice is or was in force, the individual cannot be an FTB child of another individual, cannot be a regular care child of another individual and cannot be a client of an approved care organisation.

*Relationship with other provisions*

- (8) Subsections (1) to (7) have effect despite any other provision of the family assistance law.

*Notification to individual*

- (9) If a determination in relation to an individual ceases to be in force because of subsection (2), the Secretary must cause reasonable steps to be taken to notify the individual of the cessation.



**57GJ Security notice from Home Affairs Minister**

- (1) The Home Affairs Minister may give the Minister a written notice requiring that this Division apply in relation to a specified individual if:
  - (a) the Foreign Affairs Minister gives the Home Affairs Minister a notice under section 57GK in relation to the individual; or
  - (b) the individual's visa is cancelled under section 116 or 128 of the *Migration Act 1958* because of an assessment by the Australian Security Intelligence Organisation that the individual is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*); or
  - (c) the individual's visa is cancelled under section 134B of the *Migration Act 1958* (emergency cancellation on security grounds) and the cancellation has not been revoked because of subsection 134C(3) of that Act; or
  - (d) the individual's visa is cancelled under section 501 of the *Migration Act 1958* and there is an assessment by the Australian Security Intelligence Organisation that the individual is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*).
- (2) A notice under this section may recommend that payments of family assistance of the individual, to the extent set out in the notice, be paid to a payment nominee of the individual under Part 8B of the Family Assistance Administration Act.
- (3) Before giving a notice under this section, the Home Affairs Minister must have regard to the following:
  - (a) the extent (if any) that any payments of family assistance of the individual are being, or may be, used for a purpose that might prejudice the security of Australia or a foreign country, if the Home Affairs Minister is aware of that extent;
  - (b) the likely effect of the operation of section 57GI on the individual's dependants, if the Home Affairs Minister is aware of those dependants.

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**Division 7** Loss of family assistance for individuals on security grounds

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- (4) The Secretary of the Department administered by the Home Affairs Minister must:
- (a) seek the advice of the Human Services Secretary in relation to paragraph (3)(b); and
  - (b) inform the Home Affairs Minister of that advice.
- (5) Subsection (3) does not limit the matters to which regard may be had.

### **57GK Notice from Foreign Affairs Minister**

If:

(a) either:

- (i) under subsection 14(2) of the *Australian Passports Act 2005*, the Foreign Affairs Minister refuses to issue an individual an Australian travel document; or
- (ii) under section 22 of that Act, the Foreign Affairs Minister cancels an individual's Australian travel document; and

(b) the refusal or cancellation was because of a refusal/cancellation request made in relation to the individual under subsection 14(1) of that Act; and

(c) the request was made on the basis of the circumstance mentioned in subparagraph 14(1)(a)(i) of that Act;

the Foreign Affairs Minister may give the Home Affairs Minister a written notice setting out those matters.

### **57GM Copy of security notice to be given to Secretaries**

The Minister must give a copy of a security notice to:

- (a) the Secretary of the Department; and
- (b) the Human Services Secretary.

### **57GN Period security notice is in force**

A security notice comes into force on the day it is given to the Minister, and remains in force until it is revoked.

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**57GNA Annual review of security notice**

Before the end of the following periods, the Home Affairs Minister must consider whether to revoke a security notice (if it has not already been revoked):

- (a) 12 months after it came into force;
- (b) 12 months after the Home Affairs Minister last considered whether to revoke it.

**57GO Revoking a security notice**

- (1) The Home Affairs Minister may, by written notice given to the Minister, revoke a security notice.
- (2) The revocation takes effect on the day it is made.
- (3) The Minister must give a copy of a notice under subsection (1) to:
  - (a) the Secretary of the Department; and
  - (b) the Human Services Secretary.
- (4) If:
  - (a) a determination in relation to an individual ceases to be in force because of subsection 57GI(2); and
  - (b) the Home Affairs Minister revokes the security notice concerned;the Secretary of the Department must cause reasonable steps to be taken to notify the individual of the revocation.

**57GP Notices may contain personal information**

A notice under this Division in relation to an individual may contain personal information about the individual.

**57GQ This Division does not apply to child care subsidy or additional child care subsidy**

This Division does not apply in relation to child care subsidy or additional child care subsidy.

**Part 3** Eligibility for family assistance (other than child care subsidy and additional child care subsidy)

**Division 7** Loss of family assistance for individuals on security grounds

## Section 57GR

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### **57GR Certain decisions not decisions of officers**

For the purposes of Part 5 of the Family Assistance Administration Act, the following decisions are taken not to be decisions of an officer under the family assistance law:

- (a) any decision under this Division;
- (b) any decision under Part 8B of that Act to pay, or not to pay, an amount of family assistance as mentioned in subsection 57GI(4) of this Act;
- (c) any decision under Part 8B of that Act that is related to a decision mentioned in paragraph (b).

### **57GS Instruments not legislative instruments**

The following are not legislative instruments:

- (a) a notice under this Division;
- (b) a direction under subsection 57GI(6).

## **Part 4—Rate of family assistance (other than child care subsidy and additional child care subsidy)**

### **Division 1—Family tax benefit**

#### **58 Rate of family tax benefit**

*Annual rate of family tax benefit for individuals*

- (1) Subject to sections 60 to 61B, an individual's annual rate of family tax benefit is to be calculated in accordance with the Rate Calculator in Schedule 1.

*Annual rate of family tax benefit to approved care organisation*

- (2) An approved care organisation's annual rate of family tax benefit for an individual is the sum of:
- (a) the organisation's standard rate under subsection (2A); and
  - (b) the organisation's energy supplement under subsection (2B).

Note: Paragraph (b) does not apply to certain approved care organisations: see subsections (2C) and (2D).

- (2A) An approved care organisation's standard rate for an individual is \$1,372.40.
- (2B) An approved care organisation's energy supplement for an individual is \$25.55.
- (2C) Paragraph (2)(b) does not apply in relation to an approved care organisation on or after the commencement of this subsection unless the organisation was entitled to be paid family tax benefit in respect of 19 September 2016.
- (2D) If:

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**Division 1** Family tax benefit

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- (a) the approved care organisation was entitled to be paid family tax benefit in respect of 19 September 2016; and
- (b) the organisation ceases to be entitled to be paid family tax benefit in respect of a day on or after 20 September 2016; then paragraph (2)(b) does not apply, and never again applies, to the organisation from:
  - (c) if the cessation occurred before the commencement of this subsection—the start of the day this subsection commences; or
  - (d) if the cessation occurred on or after the commencement of this subsection—the start of the day of that cessation.

*Daily rate of family tax benefit*

- (3) The daily rate of family tax benefit is the annual rate divided by 365 and rounded to the nearest cent (rounding 0.5 cents upwards). If the daily rate before rounding is above nil and below half a cent, round up to 1 cent.

**58AA Newborn upfront payment of family tax benefit if newborn supplement added into Part A rate**

- (1) If, under Division 1A of Part 5 of Schedule 1, an amount of newborn supplement is added in relation to an individual and an FTB child of the individual, then the individual is entitled to be paid, as an amount of family tax benefit, \$500 in respect of the FTB child.

Note: The amount is to be paid as a single lump sum: see section 24A of the Family Assistance Administration Act.

(1A) If:

- (a) under Division 1A of Part 5 of Schedule 1 an amount of newborn supplement is added for a day in relation to both members of a couple and an FTB child of both members of the couple; and

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(b) in relation to that day, a determination under section 28 or 29 is in force in relation to both members of the couple and that child; and

(c) that day is the first day on which an amount of newborn supplement is added in relation to that child;

then, despite subsection (1) of this section, each member of the couple is entitled to be paid, as an amount of family tax benefit in respect of that child, an amount equal to \$500 multiplied by the percentage applicable under that determination for that member on that day.

Note: The amount is to be paid as a single lump sum: see section 24A of the Family Assistance Administration Act.

*Exceptions*

- (2) Subject to subsection (1A), subsection (1) does not apply in relation to an individual and an FTB child of the individual if another individual has received an amount under this section in respect of that child while the individual and the other individual were members of the same couple.
- (3) Subsection (1) does not apply in relation to an individual and an FTB child of the individual in the circumstances prescribed in a legislative instrument under subclause 35A(12) of Schedule 1.

*One amount only in respect of FTB child*

- (4) An individual cannot receive more than one amount under this section in respect of an FTB child of the individual.

*Interpretation*

- (5) This section is subject to sections 28AA and 32AEA of the Family Assistance Administration Act.

**58A Election to receive energy supplements quarterly**

- (1) If a determination under section 16 of the Family Assistance Administration Act is in force in a quarter under which an
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**Part 4** Rate of family assistance (other than child care subsidy and additional child care subsidy)

**Division 1** Family tax benefit

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individual is entitled to be paid family tax benefit by instalment, the individual may, in a manner or way approved by the Secretary, make an election to have Division 2B of Part 4 of Schedule 1 to this Act and Division 2AA of Part 5 of that Schedule disregarded.

Note 1: Those Divisions deal with energy supplement (Part A) and energy supplement (Part B).

Note 2: If those Divisions are disregarded, they will be taken into account when the determination is reviewed under section 105 of the Family Assistance Administration Act—see section 105B of that Act.

- (1A) An individual cannot make an election under subsection (1) on a day on or after the commencement of this subsection unless energy supplement (Part A) or energy supplement (Part B) is used to work out the rate of the individual's family tax benefit in respect of that day.
- (2) An election comes into force as soon as practicable after it is made.
- (3) An election ceases to be in force if the individual ceases to be entitled to be paid family tax benefit under the determination.
- (3AA) An election ceases to be in force if, disregarding the election, neither energy supplement (Part A) nor energy supplement (Part B) would be used to work out the rate of the individual's family tax benefit.
- (3A) An election ceases to be in force if subsection 32(1) applies in relation to the individual. The election ceases to be in force on the request day (see subsection 32(1)).
- (3B) If an election ceases to be in force under subsection (3A), the individual cannot make another election under subsection (1) until after the end of the lump sum period referred to in step 1 of the method statement in subsection 65(1).

*Revoking an election*

- (4) The individual may, in a manner or way approved by the Secretary, revoke an election. A revocation takes effect as soon as practicable after it is made.



*Definition*

(5) In this section:

**quarter** means a period of 3 months beginning on 1 July,  
1 October, 1 January or 1 April.

**59 Shared care percentages where individual is FTB child of more  
than one person who are not members of the same couple**

- (1) An individual has a shared care percentage under this section for  
an FTB child of the individual if:
- (a) the Secretary has determined the individual's percentage of  
care for the child during a care period; and
  - (b) that percentage is at least 35% and not more than 65%.

Note: Paragraph 27(2)(b) deals with the percentage of care in a blended  
family case.

- (2) The individual's **shared care percentage** for the FTB child is the  
relevant percentage specified in column 2 of the table.

**Shared care percentages**

<b>Item</b>	<b>Column 1 Individual's percentage of care</b>	<b>Column 2 Shared care percentage</b>
1	35% to less than 48%	25% plus 2% for each percentage point over 35%
2	48% to 52%	50%
3	more than 52% to 65%	51% plus 2% for each percentage point over 53%

- (3) If the shared care percentages, specified in the table, of all of the  
individuals of whom the child is an FTB child add to less than  
100%, then the Secretary may determine a different whole  
percentage for one or more of those individuals for the FTB child.  
Despite subsection (2), the individual's **shared care percentage** for  
the child is the percentage so determined for that individual.

**Part 4** Rate of family assistance (other than child care subsidy and additional child care subsidy)

**Division 1** Family tax benefit

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**59A Multiple birth allowance where individual is FTB child of more than one person who are not members of the same couple**

- (1) If the Secretary is satisfied that:
  - (a) an individual is an FTB child of an individual (*person A*); and
  - (b) the FTB child is also an FTB child of one or more other individuals who are not person A's partner; and
  - (c) the FTB child is one of 3 or more FTB children who were born during the same multiple birth;the Secretary may determine the manner in which multiple birth allowance under Division 2 of Part 5 of Schedule 1 is to be dealt with.
- (2) Without limiting subsection (1), the Secretary may specify that the whole of the multiple birth allowance is to be paid to one of the individuals involved.

**60 Sharing family tax benefit between members of a couple in a blended family**

If the Secretary determines under section 28 an individual's percentage (the *specified percentage*) of the family tax benefit for FTB children of the individual, the individual's annual rate of family tax benefit is the specified percentage of the rate that would otherwise apply.

**61 Sharing family tax benefit between separated members of a couple for period before separation**

If the Secretary determines under section 29 an individual's percentage (the *specified percentage*) of the family tax benefit for an FTB child or children of the individual for a period, the individual's annual rate of family tax benefit for that period is the specified percentage of the rate that would otherwise apply for the period.

**61AA Part A rate of family tax benefit is nil for a day in newly  
arrived resident's waiting period**

- (1) Despite Parts 2 to 3A of Schedule 1, an individual's Part A rate of family tax benefit in respect of a day is nil if the day occurs in a newly arrived resident's waiting period for the individual.

*When individual subject to newly arrived resident's waiting period*

- (2) Subject to this section, an individual is subject to a newly arrived resident's waiting period if, on or after the commencement of this subsection, the individual:
- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
  - (b) becomes the holder of a permanent visa, except:
    - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
    - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
    - (iii) a visa of a kind determined in an instrument under subsection (2A).

(2A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (2)(b)(iii).

(2B) Paragraph (2)(b) does not apply in relation to an individual if, at any time before the commencement of this subsection, the individual held a visa covered by paragraph (2)(a).

*Length of waiting period*

- (3) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and

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- (b) the visa covered by paragraph (2)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
  - (c) subsection (4) does not apply;
- the waiting period:
- (d) starts on the day on which the individual applied for that visa; and
  - (e) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (4) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
  - (b) the individual has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;
- the waiting period:
- (c) starts on the day on which the individual applied for the last of those visas; and
  - (d) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (5) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
  - (b) neither subsection (3) nor (4) applies to the individual;
- the waiting period starts on the day on which the individual:
- (c) first entered Australia; or
  - (d) becomes the holder of a permanent visa;
- whichever occurs last, and ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.

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*Exemptions*

- (6) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day the individual holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day:
- (a) the individual is receiving a social security pension or a social security benefit; or
  - (b) the individual is receiving farm household allowance under the *Farm Household Support Act 2014*; or
  - (c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the individual.
- (8) Subsection (1) does not apply to an individual in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the individual if:
- (a) on the assessment day the individual is a refugee or a former refugee; or
  - (b) the following apply:
    - (i) the individual was a family member of another individual at the time the other individual became a refugee before the assessment day;
    - (ii) the individual is a family member of that other individual on the assessment day or, if that other individual has died, the individual was a family member of that other individual immediately before that other individual died; or
  - (c) the individual is an Australian citizen on the assessment day; or
  - (d) the individual is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.

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- (9) For the purposes of subsection (8):
- (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
  - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
  - (c) **refugee** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

**61A Reduction in FTB child rate unless health check requirement satisfied**

- (1) An individual's FTB child rate in relation to an FTB child is reduced under subclause 7(2) or 26(3) of Schedule 1 if:
- (a) in the income year in which the child turned 4:
    - (i) the individual was entitled to be paid family tax benefit in respect of the child; and
    - (ii) the individual, or the individual's partner, was receiving a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment; and
  - (b) before the day the child turned 5, the individual was sent a notice by the Secretary informing the individual of the following:
    - (i) the requirement for the child to undertake a health check before the day the child turns 5, or before any later day determined by the Secretary under subsection (5);
    - (ii) the fact that the individual's FTB child rate in relation to the child will be reduced if the child does not meet the requirement; and
  - (c) the child was an FTB child of the individual on the day the child turned 5; and
  - (d) none of the following applies:
    - (i) the FTB child meets the health check requirement before the applicable day (see subsections (4) and (8));

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- (ii) the FTB child is in a class exempted from the health check requirement by a determination under paragraph (9)(b);
- (iii) the FTB child is in a class that is taken to meet the health check requirement by a determination under paragraph (9)(c);
- (iv) the Secretary is satisfied that special circumstances exist in relation to the individual or the individual's partner (or both) that make it inappropriate for the individual, and the individual's partner, to arrange for the FTB child to meet the health check requirement.

Note: See also sections 61C (persons still entitled to FTB despite reductions to nil) and 61D (death of an FTB child).

*Meaning of FTB child rate reduction period*

- (2) The individual's FTB child rate in relation to the child is reduced for each day in the period (the **FTB child rate reduction period**):
  - (a) beginning on the applicable day (see subsection (4)); and
  - (b) ending after the relevant number of days (see subsection (3));(whether or not the individual continues to be entitled to be paid family tax benefit in respect of the child for the whole period).

*Meaning of relevant number of days*

- (3) The **relevant number of days** is the number of days, in the income year in which the child turned 4, on which:
  - (a) the individual was entitled to be paid family tax benefit in respect of the child; and
  - (b) the individual, or the individual's partner, received a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment.

*Meaning of applicable day*

- (4) For the purposes of this section, the **applicable day** is:
  - (a) the day the child turns 5; or

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- (b) the day after any later day determined by the Secretary under subsection (5).

*Determining later days*

- (5) The Secretary may, in writing, determine a later day for the purposes of this section.
- (6) For the purposes of subsection (5):
- (a) an application for a later day may be made after the child turns 5, but must be made before the child turns 6; and
  - (b) the Secretary must not determine a later day unless the Secretary is satisfied that there are special circumstances which prevented the individual, or the individual's partner (or both), from arranging for the child to undertake the health check before the day the child turned 5; and
  - (c) any later day determined by the Secretary must not be after the day the child turns 6.

*Exemption on the grounds the health check requirement inappropriate*

- (7) An application under subparagraph (1)(d)(iv) must be:
- (a) made before the child turns 5; and
  - (b) must be made in the form and manner, contain any information, and be accompanied by any documents, required by the Secretary.

*Health check requirement*

- (8) For the purposes of this section, the **health check requirement** for a child is that the child must meet the requirements specified in an instrument under paragraph (9)(a).

*Legislative instrument*

- (9) The Minister may, by legislative instrument:



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- (a) specify requirements relating to the health of children for the purposes of subsection (8); or
- (b) determine that children included in a specified class are exempt from the health check requirement; or
- (c) determine that children included in a specified class are taken to meet the health check requirement.

**61B Reduction in FTB child rate unless immunisation requirements satisfied**

- (1) An individual's FTB child rate in relation to an FTB child is reduced under subclause 7(2) or (3) or 26(3) or (4) of Schedule 1 if:
  - (a) the child is an FTB child of the individual or the individual's partner; and
  - (b) the child does not meet the immunisation requirements set out in section 6:
    - (i) for a claim made under the Family Assistance Administration Act for payment of family tax benefit for a past period—on the day the claim is determined; or
    - (ii) for family tax benefit paid to the individual in instalments—before the end of the grace period (see subsection (4)).

Note: See also sections 61C (persons still entitled to FTB despite reductions to nil) and 61D (death of an FTB child).

*Meaning of FTB child rate reduction period*

- (2) If family tax benefit is paid to the individual in instalments, the individual's FTB child rate in relation to the child is reduced for each day in the period (the **FTB child rate reduction period**):
  - (a) beginning on the day specified as the date of the notice given in relation to the child under subsection (3); and
  - (b) ending on the day the child meets the immunisation requirements;

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(whether or not the individual continues to be entitled to be paid family tax benefit in respect of the child for the whole period).

Note: For an individual who claims family tax benefit for a past period, the FTB child rate is reduced as a lump sum (instead of for a day): see subclauses 7(3) and 26(4) of Schedule 1.

*Grace period*

- (3) For the purposes of subparagraph (1)(b)(ii), if, at any time, the Secretary becomes aware that an FTB child of an individual does not meet the immunisation requirements set out in section 6, the Secretary must give a notice to the individual informing the individual of the following:
- (a) the fact that the child does not meet the immunisation requirements;
  - (b) the requirement for the child to meet the immunisation requirements before the end of the grace period;
  - (c) the fact that the individual's FTB child rate in relation to the child will be reduced if the child does not meet the requirements before the end of that period.
- (4) The *grace period*:
- (a) begins on the day specified as the date of the notice given to the individual in relation to the child; and
  - (b) ends 63 days after that day.

**61C Persons still entitled to FTB despite reductions to nil**

Despite section 31 of the Family Assistance Administration Act, the Secretary must not vary a determination so that the individual is not entitled to be paid family tax benefit merely because the individual's rate of family tax benefit is nil as a result of section 61A or 61B of this Act.

**61D Death of an FTB child**

- (1) Section 61A or 61B does not apply in relation to an FTB child of an individual if the child dies:
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- (a) for section 61A—before the child turns 5, or any later day determined by the Secretary under subsection 61A(5); or
  - (b) for section 61B—during the grace period in subsection 61B(4); or
  - (c) in any case—during the FTB child rate reduction period in relation to the child.
- (2) Section 61A or 61B does not apply on and from the day the child dies.

#### **64 Calculation of rate of family tax benefit for death of FTB or regular care child**

The rate of family tax benefit for each day in the period to which subsection 31(2) applies is worked out:

- (a) by applying the Rate Calculator in Schedule 1 on the assumption that the child who died did not die and is an FTB child, or a regular care child, (as the case requires) of the individual during that period; and
- (b) by having regard to the actual circumstances during that period of any other child who is, from time to time, an FTB child, or a regular care child, of the individual.

#### **65 Calculation of single amount for death of FTB or regular care child**

*Instalment case*

- (1) The single amount of family tax benefit an individual is eligible for under subsection 32(1) is worked out as follows:

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*Method statement*

Step 1. Work out the rate of family tax benefit for which the individual would be eligible under this Act (other than under section 31) for the period (the ***lump sum period***) beginning on the request day (see subsection 32(1)) and ending at the end of the section 31 accrual period (see subsection 32(1)) by applying the Rate Calculator in Schedule 1 on the following assumptions:

- (a) that the child who died did not die and is an FTB child, or a regular care child, (as the case requires) of the individual for each day in the lump sum period;
- (b) if on the request day the individual had any other children who were FTB children or regular care children—that each of those children is an FTB child, or a regular care child, (as the case requires) of the individual for each day in the lump sum period, other than an excluded day (see subsection (2)) in relation to the child;
- (c) if the lump sum period extends over 2 income years—that the individual’s adjusted taxable income for the lump sum period is the same as the individual’s adjusted taxable income for the first of those income years.

Step 2. If paragraph (b) of step 1 applies, work out the rate of family tax benefit for which the individual would be eligible under this Act (other than under section 31) for the lump sum period by applying the Rate Calculator in Schedule 1 on the following assumptions:

- (a) that each child mentioned in that paragraph is an FTB child, or a regular care child, (as the case requires) of the individual for each day in that period, other than an excluded day (see subsection (2)) in relation to the child;
- (b) if paragraph (c) of step 1 applies—the assumption in that paragraph.

Step 3. The single amount is:

- (a) the step 1 amount less the step 2 amount (if any); plus
- (b) the additional amount (if any) under subsection (4).

- (2) For the purposes of the method statement in subsection (1), a day in the lump sum period is an *excluded day* in relation to the child if:
  - (a) where the child had turned 16 when the child died—the Secretary is satisfied the child would not have been a senior secondary school child on that day if the child had not died; or
  - (b) where the child had not turned 16 when the child died—the child would have been aged 16, and the Secretary is satisfied the child would not have been a senior secondary school child, on that day if the child had not died.

*Other cases*

- (3) The single amount of family tax benefit an individual is eligible for under subsection 32(2) is worked out:
  - (a) by applying the method statement in subsection (1) of this section (disregarding paragraph (c) of step 1, and paragraph (b) of step 2, of the statement) as if a reference to the request day in that statement were a reference to the first

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day of the second of those income years (see subsection 32(2)); and

- (b) on the assumption that the individual's adjusted taxable income for the period falling in the second of those income years is the same as the individual's adjusted taxable income for the first of those income years.

*Additional amount*

(4) If:

- (a) the child who died was an FTB child; and
- (b) that child died before turning 1; and
- (c) an amount of newborn supplement, in relation to that child, worked out under paragraph 35B(1)(d) of Schedule 1 forms part of the individual's Part A rate for one or more days;

then the additional amount under this subsection is worked out as follows:

*Method statement*

Step 1. In relation to the days that newborn supplement, in relation to that child, worked out under paragraph 35B(1)(d) of Schedule 1 forms part of the individual's Part A rate, work out the total amount of that newborn supplement for those days.

Step 2. In relation to those days, work out what would have been the total amount of newborn supplement for that child for those days if that newborn supplement had been worked out under paragraph 35B(1)(a) of Schedule 1.

Step 3. The additional amount is the step 2 amount less the step 1 amount.

## Division 2—Stillborn baby payment

### 66 Amount of stillborn baby payment

The amount of a stillborn baby payment for an individual in respect of a child is the amount worked out using the formula:

$$\text{Higher newborn supplement amount} + \text{Newborn upfront amount} + \left( \frac{\text{Additional amount}}{365} \times 98 \right)$$

where:

**additional amount** means the dollar amount mentioned in item 1 of the table in subclause 7(1) of Schedule 1 applicable on the day of the child's delivery (including that amount as indexed).

**higher newborn supplement amount** means the dollar amount mentioned in the formula under paragraph 35B(1)(a) of Schedule 1 applicable on the day of the child's delivery (including that amount as indexed).

**newborn upfront amount** means the dollar amount mentioned in subsection 58AA(1) applicable on the day of the child's delivery (including that amount as indexed).

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**Division 4B** Rate of single income family supplement

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## **Division 4B—Rate of single income family supplement**

### **84G Rate of single income family supplement**

- (1) An individual's rate of single income family supplement is worked out in accordance with this section.
- (2) For the purposes of this section:
  - (a) the *main income earner* is:
    - (i) if the individual is not a member of a couple—the individual; or
    - (ii) if the individual is a member of a couple—the member of the couple whose taxable income for the income year is the highest (or the individual if those taxable incomes are equal); and
  - (b) if the individual is a member of a couple—the *low income earner* is the member of the couple whose taxable income for the income year is the lowest (or the individual's partner if those taxable incomes are equal).

#### *Annual rate*

- (3) An individual's annual rate of single income family supplement is nil if the main income earner's taxable income for the income year (rounded down to the nearest dollar) is:
  - (a) \$68,000 or less; or
  - (b) \$150,000 or more.
- (4) An individual's annual rate of single income family supplement is worked out as follows if the main income earner's taxable income for the income year (rounded down to the nearest dollar) is more than \$68,000 and less than \$150,000:



*Method statement*

- Step 1. Work out the main income earner's taxable income (rounded down to the nearest dollar).
- Step 2. Reduce the amount at step 1 by \$68,000.
- Step 3. Multiply the amount worked out at step 2 by 0.025.
- Step 4. If the amount at step 3 is less than or equal to \$300, the provisional component is the amount at step 3.
- Step 5. If the amount at step 3 is more than \$300, the provisional component is:
  - (a) if the main income earner's taxable income exceeds \$80,000 and is less than or equal to \$120,000—\$300; or
  - (b) if the main income earner's taxable income exceeds \$120,000—\$300 less \$0.01 for each dollar of the excess.
- Step 6. If the individual is not a member of a couple—the individual's annual rate of single income family supplement is the provisional component.
- Step 7. If the individual is a member of a couple—the individual's annual rate of single income family supplement is the provisional component less any reduction under step 8.
- Step 8. If the low income earner's taxable income for the income year (rounded down to the nearest dollar) exceeds \$16,000, the provisional component is reduced (but not below nil) by \$0.15 for each dollar of the excess.

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**Division 4B** Rate of single income family supplement

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*Daily rate*

- (5) The daily rate of single income family supplement is the annual rate divided by 365 and rounded up to the nearest cent.

**84GA Sharing single income family supplement between members of a couple in a blended family**

If the Secretary determines under section 57GC an individual's percentage of the single income family supplement for qualifying children of the individual, the individual's annual rate of single income family supplement is that percentage of the rate that would otherwise apply.

**84GB Sharing single income family supplement between separated members of a couple for period before separation**

If the Secretary determines under section 57GD an individual's percentage of the single income family supplement for a qualifying child or children of the individual for a period, the individual's annual rate of single income family supplement for that period is that percentage of the rate that would otherwise apply for the period.

## **Division 5—Indexation**

### **85 Indexation of amounts**

Schedule 4 provides for the indexation of certain amounts used in working out rates of family assistance.

## **Part 4A—Child care subsidy**

### **Division 1—Introduction**

#### **85AA Simplified outline of this Part**

An individual whose child is attending a child care service may be eligible for child care subsidy (CCS) in relation to the fees charged by the service.

In some circumstances, the individual may be eligible for additional child care subsidy (ACCS) instead.

The child care service must be approved and the individual must meet the eligibility criteria for CCS or ACCS.

Generally, for CCS, the eligibility criteria relate to the child's relationship to the individual, the child's age and immunisation status and the individual's residency status.

For ACCS, the individual must be eligible for CCS and meet some additional criteria.

The approved provider of a child care service may be eligible for ACCS (child wellbeing) (relating to a child at risk of serious abuse or neglect) when there is no eligible individual, if the service is approved and certain additional criteria are met.

#### **85AB Constitutional basis**

- (1) Without limitation, the provisions of this Act and the Family Assistance Administration Act in relation to child care subsidy and additional child care subsidy (including provisions in relation to approved providers) rely on:

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- (a) the Commonwealth's legislative powers under paragraphs 51(xxiiiA), (xxix) and (xxxix) of the Constitution; and
  - (b) any implied legislative powers of the Commonwealth.
- (2) For the purposes of reliance on paragraph 51(xxix) of the Constitution and without limitation, the provisions of this Act and the Family Assistance Administration Act in relation to child care subsidy and additional child care subsidy (including provisions in relation to approved providers) are intended to give effect to the Convention on the Rights of the Child done at New York on 20 November 1989.

Note: The Convention on the Rights of the Child is in Australian Treaty Series 1991 No. 4 ([1991] ATS 4) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

## Division 2—Eligibility for child care subsidy

### 85BA Eligibility for CCS

- (1) An individual is eligible for CCS for a session of care provided by an approved child care service to a child if:
- (a) at the time the session of care is provided:
    - (i) the child is an FTB child, or a regular care child, of the individual or the individual's partner; and
    - (ii) the child is 13 or under and does not attend secondary school, or the requirements covered by subsection (2) are satisfied; and
    - (iii) the child meets the immunisation requirements in section 6; and
    - (iv) the individual, or the individual's partner, meets the residency requirements in section 85BB; and
  - (b) the individual, or the individual's partner, has incurred a liability to pay for the session of care under a complying written arrangement; and
  - (c) the session of care:
    - (i) is provided in Australia; and
    - (ii) is not provided as part of the compulsory education program in the State or Territory where the care is provided; and
    - (iii) is not provided in circumstances prescribed by the Minister's rules; and
  - (d) Division 5 does not prevent the individual being eligible for CCS for the session of care; and
  - (e) if the session of care is provided by an approved child care service of a kind prescribed by the Minister's rules—the Secretary determines that the requirements prescribed by the Minister's rules in relation to that kind of service are met.

Note: **Complying written arrangement** is defined in subsection 200B(3) of the Family Assistance Administration Act.

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- (2) For the purposes of subparagraph (1)(a)(ii), the requirements covered by this subsection are that:
- (a) the child is a member of a class prescribed by the Minister's rules; and
  - (b) the individual and the approved child care service satisfy any conditions prescribed by the Minister's rules in relation to the child.
- (2A) To avoid doubt, circumstances prescribed by the Minister's rules for the purposes of subparagraph (1)(c)(iii) may include circumstances relating to an emergency or disaster.
- Note: **Emergency or disaster** is defined in subsection 205C(2) of the Family Assistance Administration Act.
- (3) A determination under paragraph (1)(e) is not a legislative instrument.

**85BB Residency requirements**

- (1) For the purposes of subparagraph 85BA(1)(a)(iv), an individual or the individual's partner meets the residency requirements at a time if, at that time, the individual or partner:
- (a) is an Australian resident; or
  - (b) is a special category visa holder residing in Australia; or
  - (c) satisfies subsection (2) of this section; or
  - (d) is undertaking a course of study in Australia and receiving financial assistance directly from the Commonwealth for the purpose of undertaking that study.
- (2) The individual or the individual's partner satisfies this subsection if the individual or partner:
- (a) is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; and
  - (b) is either in Australia or temporarily absent from Australia for no more than 6 weeks on an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

### **Division 3—Eligibility for additional child care subsidy**

#### **Subdivision A—Eligibility for ACCS (child wellbeing)**

##### **85CA Eligibility for ACCS (child wellbeing)**

*Eligibility of individual*

- (1) An individual is eligible for ACCS for a session of care provided by an approved child care service to a child if:
  - (a) the individual is eligible for CCS for the session of care; and
  - (b) either of the following is in effect in relation to the child for the week in which the session of care is provided:
    - (i) a certificate given by the approved provider of the service under section 85CB;
    - (ii) a determination made by the Secretary under section 85CE; and
  - (c) Division 5 does not prevent the individual being eligible for ACCS (child wellbeing) for the session of care.

*Eligibility of approved provider*

- (2) The approved provider of an approved child care service is eligible for ACCS for a session of care provided by the service to a child if:
  - (a) either of the following is in effect in relation to the child for the week in which the session of care is provided:
    - (i) a certificate given by the provider under section 85CB;
    - (ii) a determination made by the Secretary under section 85CE; and
  - (b) at the time the session of care is provided:
    - (i) the provider is not able to identify an individual who is eligible for CCS for the session of care; or
    - (ii) the child is a member of a class prescribed by the Minister's rules; and
  - (ba) at the time the session of care is provided:



- (i) the child is 13 or under and does not attend secondary school, or the requirements covered by subsection (3) are satisfied; and
  - (ii) the child meets the immunisation requirements in section 6; and
  - (c) the session:
    - (i) is provided in Australia; and
    - (ii) is not provided as part of the compulsory education program in the State or Territory where the care is provided; and
    - (iii) is not provided in circumstances prescribed by Minister's rules made for the purposes of subparagraph 85BA(1)(c)(iii); and
  - (d) Division 5 does not prevent the provider being eligible for ACCS (child wellbeing) for the session of care.
- (3) For the purposes of subparagraph (2)(ba)(i), the requirements covered by this subsection are that:
- (a) the child is a member of a class prescribed by the Minister's rules; and
  - (b) the approved child care service satisfies any conditions prescribed by the Minister's rules in relation to the child.

*Child at risk of serious abuse or neglect*

- (4) The Minister's rules may prescribe circumstances in which a child is or is not taken to be at risk of serious abuse or neglect.

**85CB Certification for ACCS (child wellbeing)**

- (1) The approved provider of an approved child care service may, if it considers that a child is or was at risk of serious abuse or neglect on a day (an *at risk day*), give the Secretary a certificate to that effect.

Note: If the provider gives a certificate under this section, it must give notice to an appropriate State/Territory support agency in accordance with section 204K of the Family Assistance Administration Act.

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**Division 3** Eligibility for additional child care subsidy

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- (2) The certificate must:
- (a) be given in a form and manner approved by the Secretary; and
  - (b) contain the information, and be accompanied by the documents, required by the Secretary; and
  - (c) specify the day it takes effect (which must be the Monday of a week that includes an at risk day and cannot be more than 28 days before the certificate is given); and
  - (d) specify the whole weeks for which it has effect (which must be weeks that include an at risk day); and
  - (e) identify the service to which, and the child to whom, it relates; and
  - (f) include any other matters prescribed by the Secretary's rules.
- (2A) The Secretary may extend the period of 28 days referred to in paragraph (2)(c), to a period of no more than 13 weeks, if the Secretary is satisfied that an exceptional circumstance prescribed by the Minister's rules exists.
- (3) A certificate given by an approved provider does not take effect if the certificate would have the effect that, in any period of 12 months, certificates given by the provider in relation to a particular child and a particular service would be in effect for more than 6 weeks (disregarding any days on which the provider's approval is suspended, or suspended in respect of the service).
- (4) A certificate given by an approved provider does not take effect if the certificate would have the result that any certificates given by the provider, together with any determinations made under section 85CE, that are in effect on any day of the first week in which the certificate takes effect, would be in effect in relation to more than the percentage of children for whom the service is providing care specified in a determination made under subsection (4A).
- (4A) For the purposes of subsection (4), if the Secretary determines that it is appropriate to the circumstances of the service, the Secretary may make a written determination specifying:

- (a) a percentage of children for whom the service is providing care; and
  - (b) the period for which the determination is to have effect.
- (5) A certificate given by an approved provider does not take effect if a circumstance prescribed by the Minister's rules exists in relation to any or all of the provider, the service or the child.
- (6) A determination made under subsection (4A) is not a legislative instrument.

### **85CC Cancellation of certificate by approved provider**

- (1) If:
- (a) a certificate given by an approved provider under section 85CB in relation to a child is in effect for a week; and
  - (b) the provider considers that the child is not at any risk of serious abuse or neglect during the week; and
  - (c) the time for varying, substituting or withdrawing the report under subsection 204B(6) (requirement to report about children for whom care is provided) of the Family Assistance Administration Act for the first week for which the certificate has effect has not expired;
- the provider must, by written notice given to the Secretary, cancel the certificate.
- (2) If the provider cancels a certificate, the certificate is taken never to have been in effect.
- (3) The provider may cancel a certificate even if the certificate has ceased to have effect.
- (4) Despite paragraph 85CB(2)(c), if:
- (a) the provider cancels a certificate in relation to a child under this section (the *original certificate*); and
  - (b) the provider then gives a certificate under section 85CB in relation to the child for one or more weeks for which the

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original certificate was specified to have effect (the *replacement certificate*);

the replacement certificate may take effect more than 28 days before the replacement certificate is given but no earlier than the day the original certificate took effect.

**85CD Variation and cancellation of certificates by Secretary**

- (1) If:
  - (a) a certificate given by an approved provider under section 85CB in relation to a child is in effect for a week; and
  - (b) the Secretary considers that the child is not at any risk of serious abuse or neglect during the week;the Secretary may, by written notice given to the provider, cancel or vary the certificate so that the certificate is not in effect for the week.
- (2) If the Secretary cancels the certificate, the certificate ceases to have effect on the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (3) If the Secretary varies the certificate, the certificate is varied as specified in the notice with effect from the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (4) The Secretary may cancel or vary a certificate even if the certificate has ceased to have effect.

**85CE Determination for ACCS (child wellbeing)**

- (1) An approved provider may apply to the Secretary for a determination under this section if the provider:
  - (a) considers that a child is or was at risk of serious abuse or neglect at the time an approved child care service of the provider provides or provided a session of care to the child; and

- (b) is unable to give a certificate because of subsection 85CB(3) or (4).

Note: Before making the application, the provider must give notice to an appropriate State/Territory support agency in accordance with section 204K of the Family Assistance Administration Act.

- (2) The application must:
- (a) be made in a form and manner approved by the Secretary; and
  - (b) contain the information, and be accompanied by the documents, required by the Secretary.
- (3) The Secretary must, no later than 28 days after the day the application is made:
- (a) if satisfied that the child is or was at risk of serious abuse or neglect on a day (an *at risk day*)—make a written determination to that effect; and
  - (b) otherwise—refuse the application.

Note: Persons whose interests are affected by the decision must be notified of the decision and of their right to have it reviewed (see section 27A of the AAT Act).

- (4) If the Secretary neither makes a determination nor refuses the application by the end of the 28 days after the day the application was made, the Secretary is taken at that time to have refused the application. Subsection 27A(1) of the AAT Act does not apply to such a refusal.

Note: This means the Secretary is not required to give notice of the refusal.

- (5) A determination made under this section must:
- (a) specify the day it takes effect, which must be the Monday of a week that includes an at risk day and cannot be more than 28 days before the application was made; and
  - (b) specify the whole weeks for which it has effect, which:
    - (i) must be weeks that include an at risk day; and
    - (ii) unless subsection (5A) applies—cannot exceed 13 weeks; and
  - (c) identify the child to whom it relates.

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- (5A) If the child is a member of a class prescribed by the Minister's rules for the purposes of subparagraph 85CA(2)(b)(ii), the unbroken period of weeks for which the determination and any of the following have effect cannot exceed 13 weeks:
- (a) a certificate given by the provider under section 85CB in relation to the child;
  - (b) one or more other determinations under this section that relate to the child.
- (5B) The Secretary may extend the period of 28 days referred to in paragraph (5)(a), to a period of no more than 13 weeks, if the Secretary is satisfied that an exceptional circumstance prescribed by the Minister's rules exists.
- (5C) The Secretary may extend the period of 13 weeks referred to in subparagraph (5)(b)(ii), to a period of no more than 52 weeks, if the Secretary is satisfied that a circumstance prescribed by the Minister's rules exists in relation to the child.
- (6) If:
- (a) a determination made under this section is in effect in relation to a child; and
  - (b) the Secretary is satisfied that the child will still be at risk of serious abuse or neglect after the determination ceases to have effect;
- the Secretary may make a written determination accordingly to take effect on the Monday immediately after the earlier determination ceases to have effect.
- (7) A determination made under this section is not a legislative instrument.

**85CF Variation and revocation of determinations**

- (1) If:
- (a) a determination made under section 85CE in relation to a child is in effect for a week; and

- (b) the Secretary considers that the child is not at any risk of serious abuse or neglect during the week;  
the Secretary may, by written notice given in accordance with subsection (2), cancel or vary the determination so that the determination is not in effect for the week.
- (2) The Secretary must give the written notice to the approved provider that made the application for the determination, or, if there has been more than one consecutive such determination, for the first determination in the series.
- Note: Persons whose interests are affected by the decision must be notified of the decision and of their right to have it reviewed (see section 27A of the AAT Act).
- (3) If the Secretary revokes a determination, the determination ceases to have effect on the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (4) If the Secretary varies a determination, the determination is varied as specified in the notice with effect from the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (5) The Secretary may vary or revoke a determination even if the determination has ceased to have effect.

### **Subdivision B—Eligibility for ACCS (temporary financial hardship)**

#### **85CG Eligibility for ACCS (temporary financial hardship)**

- (1) An individual is eligible for ACCS for a session of care provided by an approved child care service to a child if:
- (a) the individual is eligible for CCS for the session of care; and
  - (b) a determination of temporary financial hardship made by the Secretary under section 85CH is in effect in relation to the individual for the week in which the session of care is provided; and

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- (c) Division 5 does not prevent the individual being eligible for ACCS (temporary financial hardship) for the session.

*Temporary financial hardship*

- (2) The Minister's rules may prescribe circumstances in which an individual is taken to be experiencing temporary financial hardship.

**85CH Determination of temporary financial hardship**

*Determinations on own initiative or on application*

- (1) The Secretary may make a determination that an individual is experiencing temporary financial hardship:
- (a) on application by the individual in accordance with this section; or
  - (b) on the Secretary's own initiative, if the Secretary is satisfied that a circumstance prescribed by the Minister's rules for the purposes of subsection 85CG(2) (temporary financial hardship) exists in relation to the individual.

*Applications*

- (2) An individual may apply to the Secretary for a determination under this section, if the individual considers that a circumstance prescribed by the Minister's rules for the purposes of subsection 85CG(2) (temporary financial hardship) exists in relation to the individual.
- (3) The application must:
- (a) be made in a form and manner approved by the Secretary; and
  - (b) contain the information, and be accompanied by the documents, required by the Secretary.
- (4) The Secretary must, no later than 28 days after the day the application is made:



- (a) if satisfied that a circumstance prescribed by the Minister's rules for the purposes of subsection 85CG(2) (temporary financial hardship) exists in relation to the individual—make the determination referred to in subsection (1); and
- (b) otherwise—refuse the application.

Note: Persons whose interests are affected by the decision must be notified of the decision and of their right to have it reviewed (see section 27A of the AAT Act).

- (5) If the Secretary neither makes a determination nor refuses the application by the end of the 28 days after the day the application was made, the Secretary is taken at that time to have refused the application. Subsection 27A(1) of the AAT Act does not apply to such a refusal.

Note: This means the Secretary is not required to give notice of the refusal.

*Content etc. of determinations*

- (6) A determination made under this section must:
  - (a) specify the day it takes effect, which must be a Monday and cannot be more than 28 days before:
    - (i) if made on application—the application was made; or
    - (ii) otherwise—the determination was made; and
  - (b) specify the whole weeks for which it has effect; and
  - (c) identify the child to whom it relates; and
  - (d) identify the individual concerned and the reason why the circumstance causing the temporary financial hardship exists in relation to the individual.
- (7) A determination does not take effect if the determination would have the result that determinations made under this section would be in effect in relation to a particular child and a particular individual, and for a particular reason, for more than 13 weeks.
- (8) A determination made under this section is not a legislative instrument.

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**85CI Revocation of determinations**

- (1) If:
- (a) a determination made under section 85CH in relation to an individual is in effect for a week; and
  - (b) the Secretary considers that a circumstance prescribed by the Minister's rules for the purposes of subsection 85CG(2) (temporary financial hardship) does not exist in relation to the individual during the week;
- the Secretary may, by written notice given to the individual, cancel or vary the determination so that the determination is not in effect for the week.
- Note: Persons whose interests are affected by the decision must be notified of the decision and of their right to have it reviewed (see section 27A of the AAT Act).
- (2) If the Secretary revokes a determination, the determination ceases to have effect on the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (3) If the Secretary varies a determination, the determination is varied as specified in the notice with effect from the day specified in the notice (which must be a Monday and may be earlier than the day the notice is given).
- (4) The Secretary may vary or revoke a determination even if the determination has ceased to be in effect.

**Subdivision C—Eligibility for ACCS (grandparent)**

**85CJ Eligibility for ACCS (grandparent)**

- (1) An individual is eligible for ACCS for a session of care provided by an approved child care service to a child if:
- (a) the individual is eligible for CCS for the session of care; and
  - (b) the individual, or the individual's partner, is the grandparent or great-grandparent of the child; and

- (c) at the start of the CCS fortnight in which the session of care is provided, the individual or the individual's partner is the principal carer of the child within the meaning of subsection (2); and
  - (d) at the start of the CCS fortnight in which the session of care is provided, the individual, or the individual's partner, is receiving:
    - (i) a social security pension; or
    - (ii) a social security benefit; or
    - (iii) a service pension; or
    - (iv) an income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*; or
    - (v) a veteran payment; or
    - (vi) a payment prescribed by the Minister's rules; and
  - (e) Division 5 does not prevent the individual being eligible for ACCS (grandparent) for the session.
- (2) For the purposes of paragraph (1)(c), the individual or the individual's partner is the principal carer of the child if the individual or partner:
- (a) provides all or at least 65% of ongoing daily care for the child; and
  - (b) has substantial autonomy for the day-to-day decisions about the child's care, welfare and development.
- (3) In determining, for the purposes of this section, whether an individual is a **grandparent** or **great-grandparent** of another person, treat the following relationships as if they were biological child-parent relationships:
- (a) the relationship between an adopted child and his or her adoptive parent;
  - (b) the relationship between a step-child and his or her step-parent;
  - (c) the relationship between a relationship child and his or her relationship parent.
- (4) In this section:
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***adoptive parent***, of a person (the ***child***), means the person who adopted the child under a law of any place (whether in Australia or not) relating to the adoption of children.

***step-parent***, of a person (the ***child***), means the person who:

- (a) is the current or former partner of the biological parent, adoptive parent or relationship parent of the child; and
- (b) is not the biological parent, adoptive parent or relationship parent of the child.

**Subdivision D—Eligibility for ACCS (transition to work)**

**85CK Eligibility for ACCS (transition to work)**

*Eligibility of individual receiving transition to work payment*

- (1) An individual is eligible for ACCS for a session of care provided by an approved child care service to a child if:
  - (a) the individual is eligible for CCS for the session of care; and
  - (b) at the start of the CCS fortnight in which the session of care is provided:
    - (i) the individual is receiving (within the meaning of subsections 23(2) and (4) of the *Social Security Act 1991*) a transition to work payment referred to in subsection (3) of this section; and
    - (ii) if the transition to work payment is referred to in paragraph (3)(a)—an employment pathway plan within the meaning of the *Social Security Act 1991*, or a participation plan under section 94B of that Act, is in effect in relation to the individual; and
  - (c) any requirements prescribed by the Minister's rules are met; and
  - (d) Division 5 does not prevent the individual being eligible for ACCS (transition to work) for the session.

*Eligibility of individual who ceased receiving transition to work payment fewer than 12 weeks ago*

- (2) An individual is eligible for ACCS for a session of care provided by an approved child care service to a child if:
- (a) the individual is eligible for CCS for the session of care; and
  - (b) the individual stopped receiving (within the meaning of subsections 23(2) and (4) of the *Social Security Act 1991*) a transition to work payment referred to in subsection (3) of this section less than 12 weeks before the start of the CCS fortnight in which the session of care is provided; and
  - (c) any requirements prescribed by the Minister's rules are met; and
  - (d) Division 5 does not prevent the individual being eligible for ACCS (transition to work) for the session.

*Definition of transition to work payment*

- (3) Each of the following is a **transition to work payment**:
- (a) the following payments made under the social security law:
    - (i) parenting payment;
    - (ii) jobseeker payment;
    - (iii) disability support pension;
    - (iv) youth allowance;
  - (b) a payment (whether or not made under the social security law) prescribed by the Minister's rules.

**Division 4—Eligibility in substitution for an individual who has died**

**85DA Eligibility for child care subsidy or additional child care subsidy in substitution for individual who has died**

If:

- (a) an individual is eligible for CCS or ACCS; and
- (b) the individual dies; and
- (c) an amount of CCS or ACCS for which the individual was eligible has not been paid; and
- (d) another individual (the *substitute*) makes a claim under Part 3A of the Family Assistance Administration Act for CCS in substitution for the individual who has died; and
- (e) the Secretary considers that the substitute ought to be eligible for so much of the unpaid amount as relates to sessions of care provided after the start of the income year before the income year in which the individual died;

the substitute is eligible for that much of the unpaid amount of CCS or ACCS.

## **Division 5—Limitations on eligibility for child care subsidy and additional child care subsidy**

### **85EA Only one individual eligible at a time**

- (1) If, apart from this section, more than one individual would be eligible for CCS for the same session of care provided to a child, only the individual determined under subsection (2) is eligible for the CCS.
- (2) For the purposes of subsection (1), the Secretary may, in accordance with any Minister's rules, determine in writing the individual eligible for the CCS for the session of care provided to the child.
- (3) A determination made under subsection (2) is not a legislative instrument.

### **85EB Only eligible for one kind of ACCS at a time**

If, apart from this section, an individual would be eligible for ACCS under more than one provision of Division 3 for the same session of care provided to a child, then the individual is only eligible for:

- (a) ACCS (child wellbeing); or
- (b) if the individual is not eligible for ACCS (child wellbeing)—ACCS (grandparent); or
- (c) if the individual is not eligible for ACCS (child wellbeing) or ACCS (grandparent)—ACCS (temporary financial hardship).

Note: An individual who would otherwise be eligible for ACCS (transition to work), as well as for one or more other kinds of ACCS, is instead eligible for the other kind, or one of the other kinds, of ACCS according to the priority set out in this section.

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**85EC Only one individual eligible in substitution for individual who has died**

If an individual is eligible for an amount of CCS or ACCS because of section 85DA (eligibility in substitution for individual who has died), no other individual and no approved provider is or can become eligible for CCS or ACCS that is part of the amount.

**85ECA No eligibility for in home care unless certain requirements met**

An individual is not eligible for CCS or ACCS, and an approved provider is not eligible for ACCS (child wellbeing), for a session of care provided by an in home care service to a child unless any requirements prescribed by the Minister's rules are met.

**85ED No eligibility for child who is in care of State or Territory or member of prescribed class**

- (1) An individual is not eligible for CCS or ACCS, and an approved provider is not eligible for ACCS (child wellbeing), for a session of care provided to a child if the child is:
  - (a) under the care (however described) of a person (other than a foster parent) under a State/Territory child welfare law; or
  - (b) a member of a class prescribed by the Minister's rules.
- (2) A *State/Territory child welfare law* is:
  - (a) a law of a State or Territory which is prescribed by the Minister's rules; or
  - (b) if the Minister's rules do not prescribe a law for a State or Territory—a law of the State or Territory that relates to the welfare of children.



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**85EE Maximum period of eligibility for individual who is absent from Australia**

- (1) If an individual leaves Australia, the maximum period for which the individual can be eligible for CCS or ACCS during that absence from Australia is the period of 6 weeks beginning on the first day of that absence.
- (2) If:
- (a) an individual is eligible for CCS or ACCS while the individual is absent from Australia; and
  - (b) the individual then ceases to be eligible for CCS or ACCS because of the application of subsection (1) or a previous application of this subsection; and
  - (c) the individual returns to Australia; and
  - (d) the individual leaves Australia again less than 6 weeks after returning to Australia;
- the individual is not eligible for CCS or ACCS at any time during the absence from Australia referred to in paragraph (d).
- (3) The Secretary may extend the 6 week period (the *initial period*) referred to in subsection (1), to a period of no more than 3 years, if the Secretary is satisfied that the individual is unable to return to Australia within the initial period because of any of the following events:
- (a) a serious accident involving the individual or a family member of the individual;
  - (b) a serious illness of the individual or a family member of the individual;
  - (c) the hospitalisation of the individual or a family member of the individual;
  - (d) the death of a family member of the individual;
  - (e) the individual's involvement in custody proceedings in the country in which the individual is located;
  - (f) a legal requirement for the individual to remain outside Australia in connection with criminal proceedings (other than

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- criminal proceedings in respect of a crime alleged to have been committed by the individual);
- (g) robbery or serious crime committed against the individual or a family member of the individual;
  - (h) a natural disaster in the country in which the individual is located;
  - (i) political or social unrest in the country in which the individual is located;
  - (j) industrial action in the country in which the individual is located;
  - (k) a war in the country in which the individual is located.
- (4) The Secretary must not extend the initial period under subsection (3) unless:
- (a) the event occurred or began during the initial period; and
  - (b) if the event is political or social unrest, industrial action or war—the individual is not willingly involved in, or willingly participating in, the event.
- (5) The Secretary may extend the 6 week period referred to in subsection (1), to a period of no more than 3 years, if the Secretary is satisfied that, under the Medical Treatment Overseas Program administered by the Minister who administers the *National Health Act 1953*, financial assistance is payable in respect of the absence from Australia of the individual.
- (6) The Secretary may extend the 6 week period referred to in subsection (1), to a period of no more than 3 years, if the Secretary is satisfied that the individual mentioned in the subsection is unable to return to Australia within the 6 week period because the individual is:
- (a) deployed outside Australia as a member of the Defence Force, under conditions specified in a determination made under the *Defence Act 1903* that relates to such deployment; or
  - (b) deployed outside Australia, for the purpose of capacity-building or peacekeeping functions, as:

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- (i) a member or a special member of the Australian Federal Police; or
- (ii) a protective service officer within the meaning of the *Australian Federal Police Act 1979*.

## **Division 6—Amount of child care subsidy and additional child care subsidy**

### **85FA Amount of child care subsidy**

If an individual is eligible for child care subsidy for at least one session of care provided by an approved child care service to a child in a week, the amount of child care subsidy for the individual for the week for the child is worked out under Part 1 of Schedule 2.

### **85FB Amount of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for an individual**

If an individual is eligible for ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for at least one session of care provided by an approved child care service to a child in a week, the amount of additional child care subsidy for the individual for the week for the child is worked out under Part 2 of Schedule 2.

### **85FC Amount of ACCS (transition to work)**

If an individual is eligible for ACCS (transition to work) for at least one session of care provided by an approved child care service to a child in a week, the amount of additional child care subsidy for the individual for the week for the child is worked out under Part 3 of Schedule 2.

### **85FD Amount of ACCS (child wellbeing) for an approved provider**

If an approved provider is eligible for ACCS (child wellbeing) for at least one session of care provided by an approved child care service of the provider to a child in a week, the amount of additional child care subsidy for the provider for the week for the child is worked out under Part 4 of Schedule 2.

**Division 7—Miscellaneous****85GA Funding agreements**

- (1) The Secretary may, on behalf of the Commonwealth, enter into, vary and administer written agreements with a person under which the Commonwealth makes one or more grants of money to the person for purposes that are related to both:
- (a) child care; and
  - (b) either or both of the following:
    - (i) the provision of child endowment or family allowances within the meaning of paragraph 51(xxiiiA) of the Constitution;
    - (ii) giving effect to Australia's obligations under the Convention on the Rights of the Child done at New York on 20 November 1989 and, in particular, under articles 2, 3, 18 or 23 of the Convention.

Note: The Convention on the Rights of the Child is in Australian Treaty Series 1991 No. 4 ([1991] ATS 4) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (2) A grant under this section is payable to a person:
- (a) at such time as is specified in the agreement; and
  - (b) in full or in such instalments as are specified in the agreement.
- (3) The Minister's rules may specify requirements with which the Secretary must comply in exercising powers under this section.

**85GB Minister's and Secretary's rules**

- (1) The Minister may, by legislative instrument, make rules (the *Minister's rules*) prescribing matters:
- (a) required or permitted by this Act or by the Family Assistance Administration Act to be prescribed by the Minister's rules;
- or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to any or all of the following:
  - (i) this Part or Schedule 2;
  - (ii) Part 8 or 8A of the Family Assistance Administration Act;
  - (iii) any other provision of the Family Assistance Administration Act in relation to child care subsidy or additional child care subsidy.

Note: The Minister cannot delegate this power (there is no power to delegate Minister's powers or functions under this Act).

- (2) The Secretary may, by legislative instrument, make rules (the **Secretary's rules**) prescribing matters:
  - (a) required or permitted by this Act or by the Family Assistance Administration Act to be prescribed by the Secretary's rules; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to any or all of the following:
    - (i) this Part or Schedule 2;
    - (ii) Part 8 or 8A of the Family Assistance Administration Act;
    - (iii) any other provision of the Family Assistance Administration Act in relation to child care subsidy or additional child care subsidy.

Note: The Secretary cannot delegate this power (see subsection 221(1) of the Family Assistance Administration Act).

- (2A) Despite subsection 14(2) of the *Legislation Act 2003*, the Minister's rules and the Secretary's rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
- (3) To avoid doubt, the Minister's rules and the Secretary's rules may not do the following:
  - (a) create an offence or civil penalty;
  - (b) provide powers of:

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- (i) arrest or detention; or
  - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
  - (e) directly amend the text of this Act.
- (4) Secretary's rules that are inconsistent with Minister's rules have no effect to the extent of the inconsistency, but Secretary's rules are taken to be consistent with Minister's rules to the extent that the Secretary's rules are capable of operating concurrently with the Minister's rules.
- (5) Minister's rules and Secretary's rules that are inconsistent with regulations made under section 235 of the Family Assistance Administration Act have no effect to the extent of the inconsistency, but Minister's rules and Secretary's rules are taken to be consistent with those regulations to the extent they are capable of operating concurrently with those regulations.

## Part 5—One-off payment to families

### 86 When is an individual entitled to a one-off payment to families?

- (1) An individual (the *entitled individual*) is entitled to a one-off payment to families if subsection (2), (3) or (4) applies to the individual.
- (2) This subsection applies to the individual if:
  - (a) on 11 May 2004, a determination under subsection 16(2) of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the daily rate (the *applicable section 16 rate*) of family tax benefit that was determined in the determination and applicable to 11 May 2004 consisted of or included a Part A rate greater than nil.
- (3) This subsection applies to the individual (the *recipient*) if the recipient has been paid one or more instalments of youth allowance in relation to which the following conditions are satisfied:
  - (a) the instalment was in respect of a period that included 11 May 2004;
  - (b) the instalment was of another individual who, on 11 May 2004, was under 18 years of age and was not independent (within the meaning of Part 3.5 of the *Social Security Act 1991*);
  - (c) the instalment was paid to the recipient:
    - (i) on behalf of the other individual in accordance with subsection 45(1) of the *Social Security (Administration) Act 1999*; or
    - (ii) as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.
- (4) This subsection applies to the individual if:
  - (a) neither of subsections (2) and (3) applies to the individual; and



- (b) on 11 May 2004, a determination under section 17 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
- (c) the determination determined a daily rate of family tax benefit for the whole, or part, of the 2002-03 income year that consisted of or included a Part A rate greater than nil.

The rate applicable to the last day in the 2002-03 income year in relation to which the determination determined a daily rate as mentioned in paragraph (c) is the *applicable section 17 rate*.

### **87 In respect of what children is the payment payable?**

Each of the following is an *eligible child* in relation to the entitled individual:

- (a) if subsection 86(2) applies to the entitled individual (whether or not subsection 86(3) also applies)—each FTB child taken into account in determining the applicable section 16 rate;
- (b) if subsection 86(3) applies to the entitled individual (whether or not subsection 86(2) also applies)—the other individual, or each other individual, referred to in paragraph 86(3)(b);
- (c) if subsection 86(4) applies to the entitled individual—each FTB child taken into account in determining the applicable section 17 rate.

### **88 What is the amount of the payment?**

*Add together the amounts applicable under this section for each eligible child*

- (1) The amount of the one-off payment to the entitled individual is worked out by adding together the amounts applicable under this section for each eligible child.

*Amount is \$600 unless another subsection applies*

- (2) Subject to this section, the amount applicable for an eligible child is \$600.

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*Reduced amount if applicable section 16 or 17 rate took account of a subsection 59(1) percentage determination*

- (3) If the applicable section 16 rate, or the applicable section 17 rate, took account of a determination under subsection 59(1) of a particular percentage in relation to an eligible child covered by paragraph 87(a) or (c), the amount applicable for the eligible child is that percentage of \$600.

*Reduced amount if applicable section 16 or 17 rate took account of a section 28 percentage determination*

- (4) If the applicable section 16 rate, or the applicable section 17 rate, took account of a determination under section 28 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$600; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

*Reduced amount if applicable section 17 rate took account of a section 29 percentage determination*

- (5) If the applicable section 17 rate took account of a determination under section 29 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$600; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

## **Part 6—Economic security strategy payment to families**

### **Division 1—Entitlements in respect of eligible children**

#### **89 When is an individual entitled to an economic security strategy payment to families?**

- (1) An individual (the *entitled individual*) is entitled to an economic security strategy payment to families if subsection (2), (3), (4), (5), (6), (7) or (8) applies to the individual.

*FTB category*

- (2) This subsection applies to the individual if:
- (a) in relation to 14 October 2008, a determination under section 16 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 14 October 2008 consisted of or included a Part A rate greater than nil worked out taking into account one or more FTB children.
- (3) This subsection applies to the individual if:
- (a) in relation to 14 October 2008, a determination under section 17 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09, 2009-10 or 2010-11 income year; and
  - (c) if the claim was made in the 2008-09 income year—the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 14 October 2008 consisted of or included a Part A rate greater than nil worked out taking into account one or more FTB children; and

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- (d) if the claim was made in the 2009-10 or 2010-11 income year:
  - (i) the individual has satisfied the FTB reconciliation conditions under section 32B of the Family Assistance Administration Act for all of the same-rate benefit periods in the 2008-09 income year; and
  - (ii) the rate (the ***applicable rate***) of family tax benefit that was payable under the determination after the individual satisfied those conditions, and that was payable in relation to 14 October 2008, consisted of or included a Part A rate greater than nil worked out taking into account one or more FTB children.
- (4) This subsection applies to the individual if:
  - (a) in relation to 14 October 2008, a determination under section 18 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09 income year or a later income year; and
  - (c) the rate (the ***applicable rate***) of family tax benefit payable under the determination in relation to 14 October 2008 consisted of or included a Part A rate greater than nil worked out taking into account one or more FTB children.

*Youth allowance category*

- (5) This subsection applies to the individual (the ***recipient***) if the recipient has been paid an instalment of youth allowance in relation to which the following conditions are satisfied:
  - (a) the instalment was in respect of a period that included 14 October 2008;
  - (b) the instalment was of another individual who, on 14 October 2008, was under 25 years of age and was not independent (within the meaning of Part 3.5 of the *Social Security Act 1991*);
  - (c) the instalment was paid to the recipient:

- (i) on behalf of the other individual in accordance with subsection 45(1) of the *Social Security (Administration) Act 1999*; or
- (ii) as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.

*ABSTUDY category*

- (6) This subsection applies to the individual if:
  - (a) the whole or a part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid in respect of a dependent student; and
  - (b) the instalment was in respect of a period that included 14 October 2008; and
  - (c) on 14 October 2008, the student was a dependent student under the scheme and was under 25 years of age; and
  - (d) on 14 October 2008, the individual was a parent or guardian of the student; and
  - (e) the individual is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the instalment was paid to a parent or guardian of the student and no amount of the instalment was paid to the student—the parent or guardian with whom the student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to a payment under this section.

*Education allowance category*

- (7) This subsection applies to the individual if:
  - (a) the whole or a part of an education allowance under section 3.2, 3.3, 3.4, 3.5 or 3.6A of the Veterans' Children Education Scheme was paid in respect of a student; and
  - (b) the allowance was in respect of a period that included 14 October 2008; and

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- (c) on 14 October 2008, the student was under 25 years of age;  
and
  - (d) on 14 October 2008, the individual was a parent or guardian  
of the student; and
  - (e) the individual is either:
    - (i) the parent or guardian to whom the whole or part was  
paid; or
    - (ii) if no amount of the allowance was paid to a parent or  
guardian of the student and no amount of the allowance  
was paid to the student—the parent or guardian with  
whom the student usually lives who is determined by  
the Secretary to be the most appropriate parent or  
guardian to be entitled to a payment under this section.
- (8) This subsection applies to the individual if:
- (a) the whole or a part of an education allowance under  
section 3.2, 3.3, 3.4 or 3.5 of the Military Rehabilitation and  
Compensation Act Education and Training Scheme was paid  
in respect of a student; and
  - (b) the allowance was in respect of a period that included  
14 October 2008; and
  - (c) on 14 October 2008, the student was under 25 years of age;  
and
  - (d) on 14 October 2008, the individual was a parent or guardian  
of the student; and
  - (e) the individual is either:
    - (i) the parent or guardian to whom the whole or part was  
paid; or
    - (ii) if no amount of the allowance was paid to a parent or  
guardian of the student and no amount of the allowance  
was paid to the student—the parent or guardian with  
whom the student usually lives who is determined by  
the Secretary to be the most appropriate parent or  
guardian to be entitled to a payment under this section.

## 90 In respect of what children is the payment payable?

Each of the following is an *eligible child* in relation to the entitled individual:

- (a) if subsection 89(2) applies to the entitled individual—each FTB child taken into account in determining the applicable rate;
- (b) if subsection 89(3) applies to the entitled individual—each FTB child taken into account in determining the applicable rate;
- (c) if subsection 89(4) applies to the entitled individual—each FTB child taken into account in determining the applicable rate;
- (d) if subsection 89(5) applies to the entitled individual—the other individual, or each other individual, covered by paragraph 89(5)(b);
- (e) if subsection 89(6) applies to the entitled individual—the dependent student, or each dependent student, covered by paragraph 89(6)(a);
- (f) if subsection 89(7) applies to the entitled individual—the student, or each student, covered by paragraph 89(7)(a);
- (g) if subsection 89(8) applies to the entitled individual—the student, or each student, covered by paragraph 89(8)(a).

## 91 What is the amount of the payment?

*Add together the amounts applicable under this section for each eligible child*

- (1) The amount of the economic security strategy payment to the entitled individual is worked out by adding together the amounts applicable under this section for each eligible child.

*Amount is \$1,000 unless another subsection applies*

- (2) Subject to this section, the amount applicable for an eligible child is \$1,000.

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*Reduced amount if applicable rate took account of an individual's shared care percentage*

- (3) If the applicable rate (see section 89) took account of a shared care percentage in relation to an eligible child covered by paragraph 90(a), (b) or (c), the amount applicable for the eligible child is that percentage of \$1,000.

*Reduced amount if applicable rate took account of a section 28 percentage determination*

- (4) If the applicable rate (see section 89) took account of a determination under section 28 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$1,000; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

*Reduced amount if applicable rate took account of a section 29 percentage determination*

- (5) If the applicable rate (see section 89) took account of a determination under section 29 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$1,000; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

*Reduced amount for part of education allowance*

- (6) If:



- (a) subsection 89(7) or (8) applies in circumstances where the entitled individual was paid a part (the *applicable part*) of the allowance concerned in relation to an eligible child; and
- (b) another parent or guardian of the eligible child was paid a part of the allowance concerned;

the amount applicable for the eligible child is worked out as follows:

$$\frac{\text{Amount of applicable part}}{\text{Amount of allowance concerned}} \times \$1,000$$

## 92 General rules

### *Overlapping categories*

- (1) If, at the time the Secretary determines whether an individual is entitled to an economic security strategy payment to families under this Division, 2 or more subsections of section 89 would otherwise apply to the individual in relation to an eligible child, then the first of those subsections applies to the individual in relation to that child and none of the others apply to the individual in relation to that child.

Note: For the purposes of this section, section 91 of this Act (amount of payment) and section 71J of the Family Assistance Administration Act (debts), it is necessary to know which subsection of section 89 of this Act applies to an individual.

### *More than one recipient per child in FTB category*

- (2) If an economic security strategy payment to families under this Division in relation to an eligible child is paid to an individual because subsection 89(2), (3) or (4) applied to the individual, then another individual can be paid an economic security strategy payment to families under this Division in relation to that child only if subsection 89(2), (3) or (4) applies to the other individual.

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*Only one recipient per child in youth allowance or ABSTUDY category*

- (3) If an economic security strategy payment to families under this Division in relation to an eligible child is paid to an individual because subsection 89(5) or (6) applied to the individual, then no other individual can be paid an economic security strategy payment to families under this Division in relation to that child.

*More than one recipient per child in education allowance category*

- (4) If an economic security strategy payment to families under this Division in relation to an eligible child is paid to an individual because subsection 89(7) or (8) applied to the individual, then another individual can be paid an economic security strategy payment to families under this Division in relation to that child only if subsection 89(7) or (8) applies to the other individual.

*One payment per individual per eligible child*

- (5) If an economic security strategy payment to families under this Division in relation to an eligible child is paid to an individual, no further economic security strategy payment to families under this Division in relation to that child can be paid to the individual.

## **Division 2—Other entitlements**

### **93 When is an individual entitled to an economic security strategy payment to families?**

- (1) An individual (the *entitled individual*) is entitled to an economic security strategy payment to families if subsection (2), (3), (4) or (5) applies to the individual.

*Youth allowance category*

- (2) This subsection applies to the individual if the individual has been paid an instalment of youth allowance in relation to which the following conditions are satisfied:
- (a) the instalment was in respect of a period that included 14 October 2008;
  - (b) the instalment was of the individual who, on 14 October 2008, was under 25 years of age and was not independent (within the meaning of Part 3.5 of the *Social Security Act 1991*).

*ABSTUDY category*

- (3) This subsection applies to the individual if:
- (a) the whole or a part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid to the individual as a dependent student; and
  - (b) the instalment was in respect of a period that included 14 October 2008; and
  - (c) on 14 October 2008, the individual was a dependent student under the scheme and was under 25 years of age.

*Education allowance category*

- (4) This subsection applies to the individual if:

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- (a) an education allowance under section 3.3, 3.5 or 3.6A of the Veterans' Children Education Scheme was paid to the individual as a student; and
  - (b) the allowance was in respect of a period that included 14 October 2008; and
  - (c) on 14 October 2008, the individual was under 25 years of age.
- (5) This subsection applies to the individual if:
- (a) an education allowance under section 3.3 or 3.5 of the Military Rehabilitation and Compensation Act Education and Training Scheme was paid to the individual as a student; and
  - (b) the allowance was in respect of a period that included 14 October 2008; and
  - (c) on 14 October 2008, the individual was under 25 years of age.

**94 What is the amount of the payment?**

The amount of the economic security strategy payment to the entitled individual is \$1,000.

## **Part 7—Back to school bonus and single income family bonus**

### **Division 1—Back to school bonus**

#### **Subdivision A—Entitlements in relation to eligible children**

##### **95 When is an individual entitled to a back to school bonus?**

- (1) An individual (the *entitled individual*) is entitled to a back to school bonus if subsection (2), (3) or (4) applies to the individual.
- (2) This subsection applies to the individual if:
  - (a) in relation to 3 February 2009, a determination under section 16 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part A rate greater than nil worked out taking into account at least one FTB child who was aged 4 or more and less than 19 on 3 February 2009.
- (3) This subsection applies to the individual if:
  - (a) in relation to 3 February 2009, a determination under section 17 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09, 2009-10 or 2010-11 income year; and
  - (c) if the claim was made in the 2008-09 income year—the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part A rate greater than nil worked out taking into account at least one FTB child who was aged 4 or more and less than 19 on 3 February 2009; and

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- (d) if the claim was made in the 2009-10 or 2010-11 income year:
  - (i) the individual has satisfied the FTB reconciliation conditions under section 32B of the Family Assistance Administration Act for all of the same-rate benefit periods in the 2008-09 income year; and
  - (ii) the rate (the *applicable rate*) of family tax benefit that was payable under the determination after the individual satisfied those conditions, and that was payable in relation to 3 February 2009, consisted of or included a Part A rate greater than nil worked out taking into account at least one FTB child who was aged 4 or more and less than 19 on 3 February 2009.
- (4) This subsection applies to the individual if:
  - (a) in relation to 3 February 2009, a determination under section 18 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09 income year or a later income year; and
  - (c) the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part A rate greater than nil worked out taking into account at least one FTB child who was aged 4 or more and less than 19 on 3 February 2009 (or, if the child has died, who would have been that age on that date if the child had not died).

**96 In respect of what children is the bonus payable?**

Each of the following is an *eligible child* in relation to the entitled individual:

- (a) if subsection 95(2) applies to the entitled individual—each FTB child covered by paragraph 95(2)(b) and taken into account in determining the applicable rate;
- (b) if subsection 95(3) applies to the entitled individual—each FTB child covered by paragraph 95(3)(c) or

subparagraph 95(3)(d)(ii) and taken into account in determining the applicable rate;

- (c) if subsection 95(4) applies to the entitled individual—each FTB child covered by paragraph 95(4)(c) and taken into account in determining the applicable rate.

## **97 What is the amount of the bonus?**

*Add together the amounts applicable under this section for each eligible child*

- (1) The amount of the back to school bonus to the entitled individual is worked out by adding together the amounts applicable under this section for each eligible child.

*Amount is \$950 unless another subsection applies*

- (2) Subject to this section, the amount applicable for an eligible child is \$950.

*Reduced amount if applicable rate took account of an individual's shared care percentage*

- (3) If the applicable rate (see section 95) took account of a shared care percentage in relation to an eligible child, the amount applicable for the eligible child is that percentage of \$950.

*Reduced amount if applicable rate took account of a section 28 percentage determination*

- (4) If the applicable rate (see section 95) took account of a determination under section 28 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$950; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

**Part 7** Back to school bonus and single income family bonus

**Division 1** Back to school bonus

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*Reduced amount if applicable rate took account of a section 29 percentage determination*

- (5) If the applicable rate (see section 95) took account of a determination under section 29 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
- (a) unless paragraph (b) applies—that percentage of \$950; or
  - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

**Subdivision B—Other entitlements**

**98 When is an individual entitled to a back to school bonus?**

An individual is entitled to a back to school bonus if:

- (a) the individual was receiving either of the following payments in relation to 3 February 2009:
  - (i) a carer payment under Part 2.5 of the *Social Security Act 1991*;
  - (ii) a disability support pension under Part 2.3 of the *Social Security Act 1991*; and
- (b) the individual was aged less than 19 on 3 February 2009.

**99 What is the amount of the bonus?**

The amount of the back to school bonus to the individual is \$950.

**Subdivision C—General rules**

**100 General rules**

- (1) If a back to school bonus under Subdivision A in relation to an eligible child (see section 96) is paid to an individual, no back to school bonus under Subdivision B can be paid to the eligible child.



- (2) If a back to school bonus under Subdivision B is paid to an individual (the *recipient*), no back to school bonus under Subdivision A can be paid to another individual in relation to the recipient.

## Division 2—Single income family bonus

### 101 When is an individual entitled to a single income family bonus?

- (1) An individual (the *entitled individual*) is entitled to a single income family bonus if subsection (2), (3) or (4) applies to the individual.
- (2) This subsection applies to the individual if:
  - (a) in relation to 3 February 2009, a determination under section 16 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part B rate greater than nil.
- (3) This subsection applies to the individual if:
  - (a) in relation to 3 February 2009, a determination under section 17 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09, 2009-10 or 2010-11 income year; and
  - (c) if the claim was made in the 2008-09 income year—the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part B rate greater than nil; and
  - (d) if the claim was made in the 2009-10 or 2010-11 income year:
    - (i) the individual has satisfied the FTB reconciliation conditions under section 32B of the Family Assistance Administration Act for all of the same-rate benefit periods in the 2008-09 income year; and
    - (ii) the rate (the *applicable rate*) of family tax benefit that was payable under the determination after the individual satisfied those conditions, and that was payable in

relation to 3 February 2009, consisted of or included a Part B rate greater than nil.

- (4) This subsection applies to the individual if:
- (a) in relation to 3 February 2009, a determination under section 18 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
  - (b) the determination was made as a result of a claim made in the 2008-09 income year or a later income year; and
  - (c) the rate (the *applicable rate*) of family tax benefit payable under the determination in relation to 3 February 2009 consisted of or included a Part B rate greater than nil.

## 102 What is the amount of the bonus?

*Amount is \$900 unless another subsection applies*

- (1) Subject to this section, the amount of the single income family bonus to the entitled individual is \$900.

*Reduced amount if applicable rate took account of an individual's shared care percentage*

- (2) If the applicable rate (see section 101) was worked out taking into account only one FTB child and a shared care percentage in relation to that child, the amount of the single income family bonus to the entitled individual is that percentage of \$900.
- (3) If the applicable rate (see section 101) was worked out taking into account more than one FTB child and a shared care percentage for each of those children, the amount of the single income family bonus to the entitled individual is the highest of those percentages of \$900.

*Reduced amount if applicable rate took account of a section 28 percentage determination*

- (4) If the applicable rate (see section 101) took account of a determination under section 28 of a particular percentage in

**Part 7** Back to school bonus and single income family bonus

**Division 2** Single income family bonus

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relation to one or more FTB children, the amount of the single income family bonus to the entitled individual is:

- (a) unless paragraph (b) applies—that percentage of \$900; or
- (b) if subsection (2) or (3) also applies—that percentage of the amount worked out under subsection (2) or (3).

*Reduced amount if applicable rate took account of a section 29 percentage determination*

- (5) If the applicable rate (see section 101) took account of a determination under section 29 of a particular percentage in relation to one or more FTB children, the amount of the single income family bonus to the entitled individual is:
  - (a) unless paragraph (b) applies—that percentage of \$900; or
  - (b) if subsection (2) or (3) also applies—that percentage of the amount worked out under subsection (2) or (3).

## **Part 7A—ETR payment**

### **Division 1—Entitlements in respect of eligible children**

#### **102A When is an individual entitled to an ETR payment in respect of a child?**

*FTB*

- (1) An individual (the *entitled individual*) is entitled to an ETR payment if:
  - (a) in relation to 8 May 2012:
    - (i) a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the entitled individual as a claimant; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the entitled individual because the Secretary is satisfied that the entitled individual is eligible for family tax benefit under section 32 of this Act; and
  - (b) the entitled individual's rate of family tax benefit on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, consisted of or included a Part A rate greater than nil; and
  - (c) that rate was worked out taking into account one or more FTB children of the entitled individual who were born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 31 July 2007; and
  - (d) if, on 8 May 2012, an FTB child to whom paragraph (c) applies is at least 16—the FTB child is a senior secondary school child.

**Part 7A** ETR payment

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*Youth allowance*

- (2) An individual (the ***entitled individual***) is entitled to an ETR payment if:
- (a) the entitled individual has been paid an instalment of youth allowance; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the instalment was of another individual who was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and
  - (d) on 8 May 2012, the other individual was undertaking full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*); and
  - (e) youth allowance is payable to the other individual in respect of 8 May 2012; and
  - (f) the instalment was paid to the entitled individual:
    - (i) on behalf of the other individual in accordance with subsection 45(1) of the *Social Security (Administration) Act 1999*; or
    - (ii) as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.

*ABSTUDY*

- (3) An individual (the ***entitled individual***) is entitled to an ETR payment if:
- (a) the whole or a part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid in respect of a student; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the student was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and

- (d) on 8 May 2012, the student was undertaking full-time study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act; and
- (e) living allowance is payable under the scheme in respect of the student on 8 May 2012; and
- (f) on 8 May 2012, the entitled individual was a parent or guardian of the student; and
- (g) the entitled individual is either:
  - (i) the parent or guardian to whom the whole or part was paid; or
  - (ii) if no amount of the instalment was paid to a parent or guardian of the student and no amount of the instalment was paid to the student—the parent or guardian with whom the student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

*Disability support pension and pensioner education supplement*

- (4) An individual (the **entitled individual**) is entitled to an ETR payment if:
  - (a) an instalment of disability support pension under Part 2.3 of the *Social Security Act 1991* has been paid to the entitled individual; and
  - (b) an instalment of pensioner education supplement under:
    - (i) Part 2.24A of the *Social Security Act 1991*; or
    - (ii) the scheme known as the ABSTUDY scheme; has been paid (whether or not to the entitled individual); and
  - (c) the instalments referred to in paragraphs (a) and (b) were each in respect of a period that included 8 May 2012; and
  - (d) the instalments referred to in paragraphs (a) and (b) were of another individual who was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and

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- (e) on 8 May 2012, the other individual is:
  - (i) if subparagraph (b)(i) applies—undertaking qualifying study (within the meaning of Part 2.24A of the *Social Security Act 1991*) in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of the *Student Assistance Act 1973*; or
  - (ii) if subparagraph (b)(ii) applies—undertaking study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act; and
- (f) disability support pension and the pensioner education supplement are both payable to the other individual in respect of 8 May 2012; and
- (g) the instalment referred to in paragraph (a) was paid to the entitled individual as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.

**102B In respect of what children is the payment payable?**

Each of the following is an *eligible child* in relation to the entitled individual:

- (a) if subsection 102A(1) applies to the entitled individual—each FTB child:
  - (i) taken into account in determining the rate referred to in paragraph 102A(1)(b); and
  - (ii) to whom paragraph 102A(1)(c) applies; and
  - (iii) if, on 8 May 2012, an FTB child is at least 16—who satisfies paragraph 102A(1)(d);
- (b) if subsection 102A(2) applies to the entitled individual—the other individual, or each other individual, covered by paragraphs 102A(2)(c), (d) and (e);
- (c) if subsection 102A(3) applies to the entitled individual—the student, or each student, covered by paragraphs 102A(3)(a), (c), (d) and (e);



- (d) if subsection 102A(4) applies to the entitled individual—the other individual, or each other individual, covered by paragraphs 102A(4)(d), (e) and (f).

### **102C What is the amount of the payment?**

*Add together the amounts applicable under this section for each eligible child*

- (1) The amount of the ETR payment to an individual who is entitled under section 102A is worked out by adding together the amounts applicable under this section for each eligible child.

*General rule*

- (2) Subject to this section, the amount applicable for an eligible child is:
- (a) if the eligible child was born on or after 1 August 2000—\$409; or
  - (b) otherwise—\$818.

*Reduced amount if rate of family tax benefit took account of an individual's shared care percentage*

- (3) If:
- (a) subsection 102A(1) applies to the entitled individual; and
  - (b) the rate referred to in paragraph 102A(1)(b) took account of a shared care percentage in relation to an eligible child covered by paragraph 102B(a);
- the amount applicable for the eligible child is:
- (c) if the eligible child was born on or after 1 August 2000—that percentage of \$409; or
  - (d) otherwise—that percentage of \$818.

*Reduced amount if rate of family tax benefit took account of a section 28 or 29 percentage determination*

- (4) If:

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- (a) subsection 102A(1) applies to the entitled individual; and
- (b) the rate referred to in paragraph 102A(1)(b) took account of a determination under section 28 or 29 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children);

the amount applicable for the eligible child, or for each of those eligible children, is:

- (c) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child; or
- (d) otherwise:
  - (i) if the eligible child was born on or after 1 August 2000—the percentage referred to in paragraph (b) of \$409; or
  - (ii) if the eligible child was born before 1 August 2000—the percentage referred to in paragraph (b) of \$818.

## **Division 2—Other entitlements**

### **Subdivision A—Entitlement in normal circumstances**

#### **102D When is an individual entitled to an ETR payment?**

##### *Youth allowance*

- (1) An individual is entitled to an ETR payment if:
  - (a) the individual has been paid an instalment of youth allowance; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the instalment was of the individual; and
  - (d) the individual was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and
  - (e) on 8 May 2012, the individual was undertaking full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*); and
  - (f) youth allowance is payable to the individual in respect of 8 May 2012.

##### *ABSTUDY*

- (2) An individual is entitled to an ETR payment if:
  - (a) the whole or a part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid to the individual as a student; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the individual was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and

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- (d) on 8 May 2012, the individual was undertaking full-time study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act; and
- (e) living allowance is payable under the scheme in respect of the individual on 8 May 2012.

*Disability support pension and pensioner education supplement*

- (3) An individual is entitled to an ETR payment if:
  - (a) an instalment of disability support pension under Part 2.3 of the *Social Security Act 1991* has been paid to the individual; and
  - (b) an instalment of pensioner education supplement under:
    - (i) Part 2.24A of the *Social Security Act 1991*; or
    - (ii) the scheme known as the ABSTUDY scheme; has been paid (whether or not to the individual); and
  - (c) the instalments referred to in paragraphs (a) and (b) were each in respect of a period that included 8 May 2012; and
  - (d) the instalments referred to in paragraphs (a) and (b) were of the individual; and
  - (e) the individual was born:
    - (i) on or after 1 January 1993; and
    - (ii) on or before 8 May 1996; and
  - (f) on 8 May 2012, the individual is:
    - (i) if subparagraph (b)(i) applies—undertaking qualifying study (within the meaning of Part 2.24A of the *Social Security Act 1991*) in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of the *Student Assistance Act 1973*; or
    - (ii) if subparagraph (b)(ii) applies—undertaking study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act; and

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- (g) disability support pension and the pensioner education supplement are both payable to the individual in respect of 8 May 2012.

**102E What is the amount of the payment?**

The amount of the ETR payment to an individual who is entitled under section 102D is \$818.

**Subdivision B—Entitlement where death occurs**

**102F Entitlement where death occurs**

- (1) The Secretary may determine that an individual is entitled to an ETR payment if:
- (a) in relation to 8 May 2012, a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 33 of this Act because of the death of another individual; and
  - (b) either:
    - (i) the other individual was entitled to an amount of ETR payment, but the other individual died before the amount was paid; or
    - (ii) the Secretary is satisfied that the other individual would have become entitled to an amount of ETR payment if the other individual had not died.
- Note: The amount of the ETR payment for an individual entitled under this section is worked out under section 102G.
- (2) If the Secretary makes a determination under subsection (1), no-one else is, or can become, entitled to an ETR payment because of the death of the other individual.

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**102G What is the amount of the payment?**

If the Secretary makes a determination under subsection 102F(1) that an individual is entitled to an ETR payment, the amount of the ETR payment is the amount referred to in subparagraph 102F(1)(b)(i) or (ii) (as the case requires).

## **Division 3—General**

### **102H General rules**

*More than one entitlement under this Part*

- (1) If an ETR payment under Division 1 in relation to an eligible child (see section 102B) is paid to an individual, no ETR payment under Subdivision A of Division 2 can be paid to the eligible child.
- (2) If an ETR payment under Division 1 in relation to an eligible child (see section 102B) is paid to an individual, no further ETR payment under that Division in relation to that eligible child can be paid to the individual.
- (3) If an ETR payment under Subdivision A of Division 2 is paid to an individual (the *recipient*), no ETR payment under Division 1 can be paid to another individual in relation to the recipient.
- (4) If an ETR payment under Subdivision A of Division 2 is paid to an individual, no further ETR payment under that Subdivision can be paid to the individual.

Note: Payments under Subdivision B of Division 2 are dealt with in subsection 102F(2).

*More than one entitlement under this Part and veterans' entitlements*

- (5) If an ETR payment under Division 1 of Part VIIH of the *Veterans' Entitlements Act 1986* in relation to a child is paid to a person, no ETR payment under this Part can be paid:
  - (a) to the person in relation to the same child; or
  - (b) to the child.

## **Part 8—Clean energy advances**

### **Division 1—Entitlement to clean energy advances**

#### **103 Entitlement in normal circumstances**

*Entitlement for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that an individual is entitled to a clean energy advance if:
- (a) in relation to that day:
    - (i) a determination under section 16 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of this Act; and
  - (b) the individual is in Australia on that day; and
  - (c) the individual's rate of family tax benefit on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, is greater than nil; and
  - (d) that rate was worked out taking into account at least one FTB child of the individual who is in Australia on that day; and
  - (e) on that day, neither section 32AA nor 32AD of the Family Assistance Administration Act prevents the Secretary from making a payment of family tax benefit to the individual, or the individual's partner, worked out on an estimated income basis.

Note: The amount of the advance is worked out under sections 105 and 106.



*Entitlement for days 1 July 2012 to 30 June 2013*

- (2) The Secretary may determine that an individual is entitled to a clean energy advance if:
- (a) in relation to any day during the period starting on 1 July 2012 and ending on 30 June 2013:
    - (i) a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of this Act; and
  - (b) the individual is not an absent overseas recipient on that day (disregarding section 63A); and
  - (c) the individual's rate of family tax benefit on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, is greater than nil; and
  - (d) that rate was worked out taking into account at least one FTB child of the individual who is not an absent overseas FTB child on that day (disregarding section 63A).

Note: The amount of the advance is worked out under sections 105 and 106.

- (3) However, the Secretary must not make a determination under subsection (2) on a day before 1 July 2013 if:
- (a) on that day:
    - (i) the individual is outside Australia and the individual left Australia before 1 April 2013; and
    - (ii) the individual is not an absent overseas recipient (disregarding section 63A); or
  - (b) on that day:
    - (i) each FTB child of the individual is outside Australia and each FTB child of the individual left Australia before 1 April 2013; and

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- (ii) each FTB child of the individual is not an absent overseas FTB child (disregarding section 63A).

*Operation of section 32*

- (4) For the purposes of paragraphs (1)(c) and (d) and (2)(c) and (d), disregard section 32.

*One clean energy advance only*

- (5) An individual is not entitled to more than one clean energy advance under this section.

**104 Entitlement where death occurs**

- (1) The Secretary may determine that an individual is entitled to a clean energy advance if:
  - (a) in relation to any day during the period starting on 1 July 2012 and ending on 30 June 2013, a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 33 of this Act because of the death of another individual; and
  - (b) either:
    - (i) the Secretary has determined that the other individual was entitled to an amount of a clean energy advance, but the other individual died before the amount was paid; or
    - (ii) the Secretary is satisfied that the other individual would have become entitled to an amount of a clean energy advance if the other individual had not died.

Note: The amount of the advance is worked out under section 107.

- (2) If the Secretary makes a determination under subsection (1), no-one else is, or can become, entitled to a clean energy advance because of the death of the other individual.

## **Division 2—Amount of clean energy advance**

### **105 Amount of advance where entitlement under section 103**

- (1) On the day (the *decision day*) that the Secretary determines that an individual is entitled to a clean energy advance under section 103, the Secretary must work out the amount of the advance.

*Secretary determines entitlement before 1 July 2012*

- (2) If the decision day is before 1 July 2012, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), worked out as follows:

*Method statement*

Step 1. Work out the individual's clean energy daily rate (see section 106) on the decision day (assuming that any rate or amount that is to be indexed on 1 July 2012 had already been indexed on the decision day).

Step 2. Multiply the amount at step 1 by 365: the result is the amount of the individual's clean energy advance.

*Secretary determines entitlement in the 2012-13 income year*

- (3) If the decision day is on or after 1 July 2012 and before 1 July 2013, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), worked out as follows:

*Method statement*

Step 1. Work out the sum of the individual's clean energy daily rates (see section 106) for each day in the period beginning on 1 July 2012 and ending on the decision day.

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Step 2. Multiply the individual's clean energy daily rate on the decision day by the number of days in the 2012-13 income year that are after the decision day.

Step 3. Work out the sum of the amounts at steps 1 and 2: the result is the amount of the individual's clean energy advance.

*Secretary determines entitlement on or after 1 July 2013*

- (4) If the decision day is on or after 1 July 2013, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), the sum of the individual's clean energy daily rates (see section 106) for each day in the 2012-13 income year.

*Reduced amount if rate took account of a section 28 or 29 percentage determination*

- (5) If, in relation to any of the following days:
- (a) if the decision day is before 1 July 2012—the decision day;
  - (b) if the decision day is on or after 1 July 2012 and before 1 July 2013—a day in the period beginning on 1 July 2012 and ending on the decision day;
  - (c) if the decision day is on or after 1 July 2013—a day in the 2012-13 income year;

a determination under section 28 or 29 of a particular percentage in relation to one or more FTB children of the individual is in effect, the clean energy daily rate for that day is that percentage of the clean energy daily rate that would otherwise apply.

*Legislative instrument*

- (6) If:
- (a) an individual is entitled to a clean energy advance under section 103 in relation to an FTB child; and
  - (b) before the decision day in relation to the individual, a former partner of the individual was entitled to a clean energy

advance under section 103 or 108 in relation to that FTB child; and

- (c) at the time the former partner became so entitled, the individual and the former partner were members of the same couple;

then:

- (d) subsections (2) to (5) do not apply in relation to working out the amount of the individual's clean energy advance; and
- (e) the amount of the individual's clean energy advance is worked out in accordance with an instrument made under subsection (7) (which may be nil).
- (7) The Minister may, by legislative instrument, specify a method for working out the amount of clean energy advances for the purposes of subsection (6).

### 106 Clean energy daily rate

- (1) An individual's *clean energy daily rate* for a day is worked out as follows:

*Method statement*

Step 1. If the individual's rate of family tax benefit on that day (disregarding reductions (if any) under clause 5 or 25A of Schedule 1) consisted of or included a Part A rate greater than nil:

- (a) if the Part A rate is worked out under clause 3 of Schedule 1 and the individual's income and maintenance tested rate exceeds the individual's base rate—work out the sum of the amounts at paragraphs (a) and (ca) of step 1 of the method statement in that clause; or

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- (b) if the Part A rate is worked out under clause 3 of Schedule 1 and the individual's income and maintenance tested rate is less than or equal to the individual's base rate—work out the sum of the amounts at paragraphs (a) and (d) of step 1 of the method statement in clause 25 of that Schedule; or
  - (c) if the Part A rate is worked out under clause 25 of Schedule 1 and the individual's Method 2 income and maintenance tested rate is less than or equal to the individual's provisional Part A rate—work out the sum of the amounts at paragraphs (a) and (d) of step 1 of the method statement in that clause; or
  - (d) if the Part A rate is worked out under clause 25 of Schedule 1 and the individual's Method 2 income and maintenance tested rate exceeds the individual's provisional Part A rate—work out the sum of the amounts at paragraphs (a) and (ca) of step 1 of the method statement in clause 3 of that Schedule.
- Step 2. If the individual's rate of family tax benefit on that day consisted of or included a Part B rate greater than nil, work out whichever of the following amounts is appropriate:
- (a) the sum of the amounts under paragraphs 29(1)(a) and (b) of Schedule 1;
  - (b) the sum of the amounts at paragraphs (a) and (b) of step 1 of the method statement in subclause 29(2) of Schedule 1;
  - (c) the sum of the amounts under paragraphs 29A(2)(a) and (b) of Schedule 1.

- Step 3. Work out the sum of the amounts at steps 1 and 2.
- Step 4. Multiply the amount at step 3 by 0.017.
- Step 5. Divide the amount at step 4 by 365 (rounded to the nearest cent (rounding 0.5 cents upwards)): the result is the individual's ***clean energy daily rate*** for that day.

- (2) If steps 1 and 2 of the method statement in subsection (1) do not apply in relation to an individual on a day, the individual's ***clean energy daily rate*** for that day is nil.
- (3) An individual's ***clean energy daily rate*** for a day is nil if the individual is an absent overseas recipient on that day (disregarding section 63A).
- (4) The calculation under subsection (1) for a day is to be done disregarding any FTB child of the individual who is an absent overseas FTB child (disregarding section 63A) on that day.
- (5) The calculation under subsection (1) is to be done disregarding section 32.
- (6) If:
- (a) the decision day (see subsection 105(1)) is before 1 July 2013; and
  - (b) on the decision day:
    - (i) an FTB child of the individual is outside Australia and the FTB child left Australia before 1 April 2013; and
    - (ii) that FTB child is not an absent overseas FTB child (disregarding section 63A);
- then the calculation under subsection (1) of this section on the decision day is to be done disregarding that FTB child.
- (7) If the child referred to in subsection (6) returns to Australia before 1 July 2013, then, for the purposes of section 108, there is taken to be a change in the individual's circumstances on the day of the child's return.

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- (8) If the child referred to in subsection (6) does not return to Australia before 1 July 2013, then, for the purposes of section 108, there is taken to be a trigger day of 30 June 2013 in relation to the individual.

**107 Amount of advance where entitlement under section 104**

If the Secretary makes a determination under subsection 104(1) that an individual is entitled to a clean energy advance, the amount of the advance is the amount referred to in subparagraph 104(1)(b)(i) or (ii) (as the case requires).



## **Division 3—Top-up payments of clean energy advance**

### **108 Top-up payments of clean energy advance**

#### *General case*

- (1) If:
- (a) the Secretary pays a clean energy advance (the ***original payment***) to an individual in circumstances where the Secretary determined the individual is entitled to the advance under section 103 and where the amount of the advance is not worked out under subsection 105(6); and
  - (b) the decision day (see subsection 105(1)) is before 1 July 2013; and
  - (c) on a day (the ***trigger day***) after the decision day and before 1 July 2013, the individual's circumstances change so that:
    - (i) if the individual has not previously become entitled to a payment under this section—the amount of the original payment is less than the amount of the clean energy advance that would have been paid to the individual if the decision day had been the trigger day; or
    - (ii) if the individual has previously become entitled to one or more payments under this section—the sum of those payments and the original payment is less than the amount of the clean energy advance that would have been paid to the individual if the decision day had been the trigger day; and
  - (d) subsection (1A) does not apply in relation to the individual;
- then the individual is entitled to a further payment of clean energy advance equal to the amount of the shortfall.

#### *Other cases*

- (1A) If:
- (a) the Secretary pays a clean energy advance to an individual in circumstances where the Secretary determined the individual

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is entitled to the advance under section 103 and where the amount of the advance is not worked out under subsection 105(6); and

- (b) the decision day (see subsection 105(1)) is before 1 July 2013; and
- (d) on a day (the *trigger day*) after the decision day and before 1 July 2013, the individual's circumstances change; and
- (e) the individual is entitled to a further payment of clean energy advance in accordance with an instrument made under subsection (1B);

then the amount of the individual's further clean energy advance is worked out in accordance with an instrument made under subsection (1B) (which may be nil).

(1B) The Minister may, by legislative instrument:

- (a) specify the circumstances in which individuals are entitled to further payments of clean energy advances for the purposes of subsection (1A); and
- (b) specify a method for working out the amount of further clean energy advances for the purposes of subsection (1A).

(2) If:

- (a) the Secretary pays a clean energy advance to an individual in circumstances where the Secretary determined the individual is entitled to the advance under section 103 and where the amount of the advance is worked out under subsection 105(6); and
- (b) the decision day (see subsection 105(1)) is before 1 July 2013; and
- (c) on a day (the *trigger day*) after the decision day and before 1 July 2013, the individual's circumstances change; and
- (d) the individual is entitled to a further payment of clean energy advance in accordance with an instrument made under subsection (3);

then the amount of the individual's further clean energy advance is worked out in accordance with an instrument made under subsection (3) (which may be nil).

- (3) The Minister may, by legislative instrument:
- (a) specify the circumstances in which individuals are entitled to further payments of clean energy advances for the purposes of subsection (2); and
  - (b) specify a method for working out the amount of further clean energy advances for the purposes of subsection (2).

*Interpretation*

- (4) For the purposes of this section, there is taken not to be a change in the individual's circumstances merely because a determination under section 28 in relation to the individual is varied or ceases to be in force.

## **Division 4—General rules**

### **109 General rules**

If:

- (a) an individual is entitled to a clean energy advance under section 103 or 108 in relation to an FTB child; and
- (b) the amount of the advance was not worked out by applying subsection 105(5); and
- (c) the amount of the advance was not worked out under subsection 108(1A);

then, while the individual is a member of a couple, the other member of the couple is not entitled to a clean energy advance under section 103 or 108 in relation to that child.

## **Part 9—2020 economic support payments**

### **Division 1—First 2020 economic support payment**

#### **110 When is an individual entitled to a first 2020 economic support payment?**

An individual is entitled to a first 2020 economic support payment if subsection 116(2), (3) or (4) applies to the individual on a day in the period:

- (a) starting on 12 March 2020; and
- (b) ending on 13 April 2020.

#### **111 What is the amount of the payment?**

The amount of an individual's first 2020 economic support payment under this Division is \$750.

#### **112 More than one entitlement**

- (1) If, at the time the Secretary determines whether an individual is entitled to a first 2020 economic support payment under this Division, 2 or more of subsections 116(2), (3) and (4) would otherwise apply to the individual on a day or days occurring in the period mentioned in section 110 (whether on the same day or different days), then:
  - (a) the first of those subsections applies to the individual on that day or those days; and
  - (b) none of the others apply to the individual during that period.

Note: For the purposes of sections 65JA (payment) and 72 (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of section 116 of this Act applies.

- (2) If:
  - (a) a first 2020 economic support payment under the ABSTUDY Scheme; or

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(b) a first 2020 economic support payment under Division 1 of Part 2.6B of the *Social Security Act 1991*; or

(c) a first 2020 economic support payment under Division 1 of Part IIIH of the *Veterans' Entitlements Act 1986*;

is paid to an individual, no payment under this Division can be paid to the individual.

## **Division 2—Second 2020 economic support payment**

### **113 When is an individual entitled to a second 2020 economic support payment?**

An individual is entitled to a second 2020 economic support payment if:

- (a) subsection 116(2), (3) or (4) applies to the individual on 10 July 2020; and
- (b) the individual does not receive COVID-19 supplement under the *Social Security Act 1991* in respect of 10 July 2020.

### **114 What is the amount of the payment?**

The amount of an individual's second 2020 economic support payment under this Division is \$750.

### **115 More than one entitlement**

- (1) If, at the time the Secretary determines whether an individual is entitled to a second 2020 economic support payment under this Division, 2 or more of subsections 116(2), (3) and (4) would otherwise apply to the individual on 10 July 2020, then:
  - (a) the first of those subsections applies to the individual on 10 July 2020; and
  - (b) none of the others apply to the individual on 10 July 2020.

Note: For the purposes of sections 65JB (payment) and 72 (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of section 116 of this Act applies.

- (2) If:
  - (a) a second 2020 economic support payment under the ABSTUDY Scheme; or
  - (b) a second 2020 economic support payment under Division 2 of Part 2.6B of the *Social Security Act 1991*; or

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(c) a second 2020 economic support payment under Division 2 of Part IIIH of the *Veterans' Entitlements Act 1986*; is paid to an individual, no payment under this Division can be paid to the individual.



## **Division 3—Eligibility for 2020 economic support payment**

### **116 Eligibility for 2020 economic support payment**

- (1) This section applies for the purposes of section 110 and paragraph 113(a).
- (2) Subject to subsection (5) of this section, this subsection applies to an individual on a day if:
  - (a) in relation to that day, a determination under section 16 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
  - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil.
- (3) Subject to subsection (5) of this section, this subsection applies to an individual on a day if:
  - (a) in relation to that day, a determination under section 17 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
  - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil; and
  - (c) the determination is made as a result of a claim made in:
    - (i) the income year in which that day occurs; or
    - (ii) either of the next 2 income years.
- (4) Subject to subsection (5) of this section, this subsection applies to an individual on a day if:
  - (a) in relation to that day, a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
  - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil; and

**Part 9** 2020 economic support payments

**Division 3** Eligibility for 2020 economic support payment

**Section 116**

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- (c) the determination is made as a result of a claim made in:
- (i) the income year in which that day occurs; or
  - (ii) a later income year.

*Residence requirement*

- (5) Subsection (2), (3) or (4) does not apply to an individual on a day if the individual does not reside in Australia on that day.

## **Part 10—Additional economic support payments**

### **Division 1—Additional economic support payment 2020**

#### **117 When is an individual entitled to an additional economic support payment 2020?**

An individual is entitled to an additional economic support payment 2020 if:

- (a) subsection 123(2), (3) or (4) applies to the individual on 27 November 2020; and
- (b) the individual does not receive an income support payment (within the meaning of the *Social Security Act 1991*) in respect of 27 November 2020; and
- (c) the individual does not receive a payment under a prescribed educational scheme in respect of 27 November 2020; and
- (d) the individual is residing in Australia on 27 November 2020.

#### **118 What is the amount of the payment?**

The amount of an individual's additional economic support payment 2020 under this Division is \$250.

#### **119 More than one entitlement**

- (1) If, at the time the Secretary determines whether an individual is entitled to an additional economic support payment 2020 under this Division, 2 or more of subsections 123(2), (3) and (4) would otherwise apply to the individual on 27 November 2020, then:
  - (a) the first of those subsections applies to the individual on 27 November 2020; and
  - (b) none of the others apply to the individual on 27 November 2020.

Note: For the purposes of sections 65JC (payment) and 72A (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of section 123 of this Act applies.

**Part 10** Additional economic support payments

**Division 1** Additional economic support payment 2020

Section 119

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(2) If:

- (a) an additional economic support payment 2020 under Division 1 of Part 2.6C of the *Social Security Act 1991*; or
- (b) an additional economic support payment 2020 under Division 1 of Part IIIJ of the *Veterans' Entitlements Act 1986*;

is paid to an individual, no payment under this Division can be paid to the individual.

## **Division 2—Additional economic support payment 2021**

### **120 When is an individual entitled to an additional economic support payment 2021?**

An individual is entitled to an additional economic support payment 2021 if:

- (a) subsection 123(2), (3) or (4) applies to the individual on 26 February 2021; and
- (b) the individual does not receive an income support payment (within the meaning of the *Social Security Act 1991*) in respect of 26 February 2021; and
- (c) the individual does not receive a payment under a prescribed educational scheme in respect of 26 February 2021; and
- (d) the individual is residing in Australia on 26 February 2021.

### **121 What is the amount of the payment?**

The amount of an individual's additional economic support payment 2021 under this Division is \$250.

### **122 More than one entitlement**

- (1) If, at the time the Secretary determines whether an individual is entitled to an additional economic support payment 2021 under this Division, 2 or more of subsections 123(2), (3) and (4) would otherwise apply to the individual on 26 February 2021, then:
  - (a) the first of those subsections applies to the individual on 26 February 2021; and
  - (b) none of the others apply to the individual on 26 February 2021.

Note: For the purposes of sections 65JD (payment) and 72A (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of section 123 of this Act applies.

**Part 10** Additional economic support payments

**Division 2** Additional economic support payment 2021

Section 122

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- (2) If:
- (a) an additional economic support payment 2021 under Division 2 of Part 2.6C of the *Social Security Act 1991*; or
  - (b) an additional economic support payment 2021 under Division 2 of Part IIIJ of the *Veterans' Entitlements Act 1986*;
- is paid to an individual, no payment under this Division can be paid to the individual.

## **Division 3—Eligibility**

### **123 Eligibility**

- (1) This section applies for the purposes of paragraphs 117(a) and 120(a).
  - (2) This subsection applies to an individual on a day if:
    - (a) in relation to that day, a determination under section 16 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
    - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil.
  - (3) This subsection applies to an individual on a day if:
    - (a) in relation to that day, a determination under section 17 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
    - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil; and
    - (c) the determination is made as a result of a claim made in:
      - (i) the income year in which that day occurs; or
      - (ii) either of the next 2 income years.
  - (4) This subsection applies to an individual on a day if:
    - (a) in relation to that day, a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; and
    - (b) the rate of family tax benefit payable under the determination in relation to that day consists of or includes a Part A or Part B rate greater than nil; and
    - (c) the determination is made as a result of a claim made in:
      - (i) the income year in which that day occurs; or
      - (ii) a later income year.
-

## **Schedule 1—Family tax benefit rate calculator**

Note: See subsection 58(1).

### **Part 1—Overall rate calculation process**

#### **1 Overall rate calculation process**

- (1) To work out an individual's annual rate of family tax benefit, add:
  - (a) the individual's Part A rate calculated under Part 2 (clauses 3 to 24S), Part 3 (clauses 25 to 28) or Part 3A (clause 28A); and
  - (b) the individual's Part B rate calculated under Part 4 (clauses 28B to 33).
- (2) To work out the individual's Part A rate:
  - (a) use Part 2 (clauses 3 to 24S) if the individual has at least one FTB child and:
    - (i) the individual's adjusted taxable income does not exceed the individual's higher income free area; or
    - (ii) the individual, or the individual's partner, is receiving a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment; and
  - (b) use Part 3 (clauses 25 to 28) if the individual has at least one FTB child and:
    - (i) the individual's adjusted taxable income exceeds the individual's higher income free area; and
    - (ii) neither the individual, nor the individual's partner, is receiving a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment; and
  - (c) use Part 3A (clause 28A) if the individual has no FTB children.



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Clause 2

Use Schedule 3 to work out the individual's adjusted taxable income. Use clause 2 to work out the individual's higher income free area.

## 2 Higher income free area

For the purposes of this Part, an individual's higher income free area is the basic amount in column 1 of the following table.

<b>Higher income free area</b>	
<b>Column 1</b>	
<b>Basic amount</b>	
1	\$98,988

## Part 2—Part A rate (Method 1)

### Division 1—Overall rate calculation process

#### 3 Method of calculating Part A rate

Subject to the operation of clauses 5, 6A, 38J and 38K, if the individual's Part A rate is to be calculated using this Part, it is calculated as follows:

*Method statement*

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 of this Part (clauses 7 to 11);
- (ba) the individual's newborn supplement (if any) under Division 1A of Part 5 (clauses 35A and 35B);
- (c) the individual's multiple birth allowance (if any) under Division 2 of Part 5 (clauses 36 to 38);
- (ca) the individual's FTB Part A supplement under Division 2A of Part 5 (clause 38A);
- (cb) the individual's energy supplement (Part A) under Subdivision A of Division 2AA of Part 5 (clause 38AA);
- (d) the individual's rent assistance (if any) under Subdivision A of Division 2B of Part 5 (clauses 38B to 38H).

The result is the individual's *maximum rate*.

Note: Paragraph (cb) does not apply to certain individuals: see clause 6A.

Step 2. Apply the income test in Division 2C of Part 5 (clauses 38L to 38N) to work out any reduction for adjusted taxable income. Take any reduction away from the individual's maximum rate: the result is the individual's **income tested rate**.

Step 3. Apply the maintenance income test in Division 5 of this Part (clauses 20 to 24) to work out any reduction for maintenance income. Take any reduction away from the individual's income tested rate: the result is the individual's **income and maintenance tested rate**.

Step 4. The individual's **Part A rate** is:

- (a) the individual's income and maintenance tested rate if it is equal to or greater than the individual's base rate (see clause 4); or
- (b) the individual's base rate (see clause 4) if it is more than the individual's income and maintenance tested rate.

#### 4 Base rate

The individual's **base rate** is the rate that would be the individual's Method 2 base rate under clause 25 if the individual's Part A rate were worked out using Part 3.

#### 5 Family tax benefit advance to individual

- (1) If:
- (a) an individual is entitled to be paid family tax benefit by instalment; and
  - (b) the individual is paid a family tax benefit advance; and
  - (c) the individual has not repaid the whole of the advance; and

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 1** Overall rate calculation process

Clause 6

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- (d) the amount of unrepaid family tax benefit advance is not an FTB advance debt;
- then, subject to clauses 44 and 49, the individual's Part A rate (as reduced (if at all) under clauses 38J and 38K) is to be reduced in accordance with Division 4 of Part 5 (clauses 40 to 51).
- (2) If an individual satisfies paragraphs (1)(a) to (d) for more than one family tax benefit advance, the individual's Part A rate is to be reduced under subclause (1) for each of those advances.

**6 Components of Part A rates under this Part**

The Minister may, by legislative instrument, determine a method for working out the extent to which Part A rates under this Part are attributable to the amounts referred to in step 1 of the method statement in clause 3.

**6A Energy supplement**

- (1) Paragraph (cb) of step 1 of the method statement in clause 3 does not apply to an individual on or after the commencement of this clause unless:
- (a) the individual was entitled to be paid family tax benefit in respect of 19 September 2016; and
  - (b) the individual's Part A rate of family tax benefit in respect of 19 September 2016 was not worked out under Part 3A of this Schedule.
- (2) However, if:
- (a) the individual ceases to be entitled to be paid family tax benefit in respect of a day (the *applicable day*) on or after 20 September 2016; or
  - (b) the individual's Part A rate of family tax benefit is worked out under Part 3A of this Schedule in respect of a day (the *applicable day*) on or after 20 September 2016;
- then paragraph (cb) of step 1 of the method statement in clause 3 does not apply, and never again applies, to the individual from:

- (c) if the applicable day is before the commencement of this clause—the start of the day this clause commences; or
- (d) if the applicable day is on or after the commencement of this clause—the start of the applicable day.

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 2** Standard rate

Clause 7

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**Division 2—Standard rate**

**7 Standard rate**

- (1) Subject to subclauses (2) and (3) and clauses 8 to 11, an individual's standard rate is worked out using the following table. Work out which category applies to each FTB child of the individual. The FTB child rate is the corresponding amount in column 2. The standard rate is the sum of the FTB child rates.

<b>FTB child rates</b>	
<b>(Part A—Method 1)</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Category of FTB child</b>	<b>FTB child rate</b>
1 FTB child who is under 13 years of age	\$4,292.40
2 FTB child who has reached 13 years of age	\$5,580.85

*Reduction during reduction period for failing to have health check or meet immunisation requirements*

- (2) If either or both section 61A and subparagraph 61B(1)(b)(ii) apply in relation to an individual and an FTB child of the individual, the annual FTB child rate in relation to the child is reduced by \$737.30 for each day in the FTB child rate reduction period (except any day in a past period to which subclause (3) applies).

*Reduction of past period claims for failing to meet immunisation requirements*

- (3) The annual FTB child rate in relation to an FTB child of an individual is reduced by \$737.30 if subparagraph 61B(1)(b)(i) applies in relation to the individual and the child.

## **8 Base FTB child rate**

For the purposes of this Division, the **base FTB child rate** for an FTB child of an individual is the rate that would be the FTB child rate under subclause 26(2) if:

- (a) the individual's Part A rate were being worked out under Part 3; and
- (b) clause 27 did not apply.

## **9 FTB child rate—recipient of other periodic payments**

The FTB child rate for an FTB child of an individual is the base FTB child rate (see clause 8) if:

- (a) the individual or the individual's partner is receiving a periodic payment under a law of the Commonwealth and the law provides for an increase in the rate of payment by reference to an FTB child of the individual; or
- (b) the individual or the individual's partner is receiving a periodic payment under a scheme administered by the Commonwealth and the scheme provides for an increase in the rate of payment by reference to an FTB child of the individual.

## **10 Effect of certain maintenance rights**

- (1) The FTB child rate for an FTB child of an individual is the base FTB child rate (see clause 8) if:
  - (a) the individual or the individual's partner is entitled to claim or apply for maintenance for the child; and
  - (b) the Secretary considers that it is reasonable for the individual or partner to take action to obtain maintenance; and
  - (c) the individual or partner does not take action that the Secretary considers reasonable to obtain maintenance.
- (2) Subclause (1) does not apply to maintenance that is:
  - (a) a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 2** Standard rate

Clause 11

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(b) not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*).

**11 Sharing family tax benefit (shared care percentages)**

If an individual has a shared care percentage for an FTB child of the individual, the FTB child rate for the child, in working out the individual's standard rate, is the individual's shared care percentage of the FTB child rate that would otherwise apply to the child.



## **Division 5—Maintenance income test**

### **Subdivision A—Maintenance income test**

#### **19A Extended meaning of receiving maintenance income**

In this Division, if the FTB child of an individual receives maintenance income, the individual is taken to have received the maintenance income.

#### **19AA References to applying for maintenance income**

A reference in this Division to an individual being, or not being, entitled to apply for maintenance income includes an individual who is, or is not, entitled to so apply under the *Child Support (Assessment) Act 1989* or the *Family Law Act 1975*.

#### **19B Application of maintenance income test to certain pension and benefit recipients and their partners**

If the individual, or the individual's partner, is:

- (a) permanently blind; and
- (b) receiving:
  - (i) an age pension (under Part 2.2 of the *Social Security Act 1991*); or
  - (ii) a disability support pension (under Part 2.3 of the *Social Security Act 1991*); or
  - (iii) a service pension; or
  - (iv) income support supplement (under Part IIIA of the *Veterans' Entitlements Act 1986*); or
  - (v) a veteran payment;

then:

- (c) the individual's maintenance income excess is nil; and
- (d) the individual's income and maintenance tested rate is the same as the individual's income tested rate.

Clause 20

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**20 Effect of maintenance income on family tax benefit rate**

- (1) This is how to work out an individual's reduction for maintenance income if clause 19B does not apply:

*Method statement*

Step 1. Work out the annualised amount of the individual's ***maintenance income***. In doing so:

- (a) disregard any maintenance income for an FTB child for whom the FTB child rate under clause 7 does not exceed the base FTB child rate (see clause 8); and
- (b) disregard the operation of clause 11 (sharing of family tax benefit) in applying paragraph (a); and
- (c) disregard any amount that, for the income year for which the individual's reduction for maintenance income is being worked out, is required under clause 24E to be depleted from a maintenance income credit balance of the individual and, if the individual is a member of a couple, from a maintenance income credit balance of the individual's partner; and
- (d) disregard any maintenance income that is received by the individual, or the individual's partner, from another individual if the income is over the maintenance income ceiling for the income (see Subdivisions C and D).

Step 2. Work out the individual's ***maintenance income free area*** using clauses 22 and 23.

Step 3. Work out whether the individual's maintenance income exceeds the individual's maintenance income free area.

- Step 4. If the individual's maintenance income does not exceed the individual's maintenance income free area, the individual's ***maintenance income excess*** is nil and there is no reduction for maintenance income.
- Step 5. If the individual's maintenance income exceeds the individual's maintenance income free area, the individual's ***maintenance income excess*** is the individual's maintenance income less the individual's maintenance income free area.
- Step 6. The individual's ***reduction for maintenance income*** is half the maintenance income excess.

- (2) Paragraph (c) of step 1 of the method statement in subclause (1) does not apply unless and until the individual has satisfied the FTB reconciliation conditions in section 32B of the Family Assistance Administration Act for all of the same-rate benefit periods (within the meaning of that section) that are included in the income year for which the individual's reduction for maintenance income is being worked out.

## 20A Annualised amount of maintenance income

### *Object of clause*

- (1) The object of this clause is to annualise the maintenance income (other than capitalised maintenance income) (***CMI***) of an individual during an income year.

### *Annualisation of maintenance income other than CMI*

- (2) If an individual receives maintenance income (other than CMI) from another individual during any period or periods (the ***relevant period or periods***) in an income year, the annualised amount of the maintenance income of the individual is worked out using the following formula:

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 20A

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The amount of maintenance income (other than CMI) received by the individual during the relevant period or periods  $\times$   $\frac{\text{Number of days in the income year}}{\text{Number of days in the relevant period or periods}}$

*Commencement of relevant period*

(3) If:

- (a) an individual (*payee*) receives maintenance income (other than CMI) from another individual (*payer*) in an income year under a maintenance liability; and
- (b) subsection (4) does not apply;

the relevant period in respect of the maintenance income commences:

- (c) in the case where the maintenance liability arises after 1 July of the income year in which the maintenance income is received—on the day that the maintenance liability arises; or
- (d) in the case where the maintenance liability exists on 1 July of the income year in which the maintenance income is received—1 July.

(4) If:

- (a) a payee receives maintenance income (other than CMI) from a payer in an income year under a maintenance liability; and
- (b) the payee has received maintenance income (other than CMI) from that payer previously during a period in the income year, but not under a maintenance liability; and
- (c) in between the time the payee receives maintenance income under paragraph (a) and the end of the period referred to in paragraph (b):
  - (i) the payee and the payer were not members of the same couple; and
  - (ii) the payee was entitled to claim, or apply for, maintenance from the payer;

the relevant period in respect of the maintenance income commences:

- (d) on the day the payee first received the previously received maintenance income in the income year; or
  - (e) on such earlier day in respect of the previously received maintenance income that the Secretary determines.
- (5) If a payee receives maintenance income (other than CMI) from a payer during a period in an income year but not under a maintenance liability, the relevant period, in respect of the maintenance income, commences:
- (a) on the day that the payee first received the maintenance income during that period; or
  - (b) on such earlier day that the Secretary determines.

*End of relevant period*

- (6) A relevant period, in respect of maintenance income (other than CMI) received under a maintenance liability in an income year, ends either when the maintenance liability ceases (if it ceases before the end of the income year) or on 30 June of the income year.
- (7) If:
- (a) a payee receives maintenance income (other than CMI) in an income year; and
  - (b) the maintenance income is not received under a maintenance liability;
- the relevant period ends in respect of the payee either:
- (c) unless subclause (8) applies—when the payee ceases to receive the maintenance income (if the payee ceases to receive the income before the end of the income year); or
  - (d) on 30 June of the income year.
- (8) If:
- (a) a payee receives maintenance income (other than CMI) from a payer in an income year under a maintenance liability; and
  - (b) the payee has received maintenance income (other than CMI) from that payer previously during a period in the income year, but not under a maintenance liability; and

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 20A

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(c) in between the time the payee receives maintenance income under paragraph (a) and the end of the period referred to in paragraph (b):

- (i) the payee and the payer were not members of the same couple; and
- (ii) the payee was entitled to claim, or apply for, maintenance from the payer;

the relevant period ends either when the maintenance liability ceases (if it ceases before the end of the income year) or on 30 June of the income year.

*Relevant period where payee elects to end an assessment*

(9) If:

- (a) a payee receives maintenance income (other than CMI) in an income year from a payer under a maintenance liability which is an assessment under Part 5 of the *Child Support (Assessment) Act 1989*; and
- (b) the payee and payer become members of the same couple; and
- (c) the payee elects under the *Child Support (Assessment) Act 1989* to end the assessment from a specified day before the day the payee and payer became members of the same couple;

for the purpose of determining the commencement or end of the relevant period, the assessment is taken to end from the day the payee and the payer became a member of the same couple or from such earlier day as the Secretary determines (not being a day earlier than the specified day).

*Meaning of maintenance liability*

- (10) In this clause, ***maintenance liability*** means a liability to provide:
- (a) child support; or
  - (b) maintenance (other than child support) that arises as a result of:
    - (i) the order of a court; or

- (ii) a maintenance agreement (within the meaning of the *Family Law Act 1975*) that has been registered in, or approved by, a court in Australia or an external Territory; or
- (iii) a financial agreement, or Part VIIIAB financial agreement, within the meaning of that Act; or
- (iv) any other agreement with respect to the maintenance of a person that has been registered in, or approved by, a court in Australia or an external Territory.

*Day a maintenance liability arises*

- (11) The day a maintenance liability arises is:
- (a) if the liability is to provide child support, the day that the liability arises under the *Child Support (Assessment) Act 1989*; or
  - (b) if the liability is to provide maintenance that arises as set out in paragraph (10)(b), the day that the order of the court or the agreement has effect from.

**20B Working out amounts of child maintenance using notional assessments**

- (1) If:
- (a) an individual receives child maintenance for an FTB child of the individual under a child support agreement or court order; and
  - (b) there is, in relation to the agreement or order, a notional assessment of the annual rate of child support that would be payable to the individual for the child for a particular day in a child support period if that annual rate were payable under Part 5 of the *Child Support (Assessment) Act 1989* instead of under the agreement or order;

then the amount of child maintenance that the individual is taken to have received in an income year under the agreement or order for the child for a period is worked out in accordance with this clause.

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 20B

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Note: The amount worked out in accordance with this clause is annualised under clause 20A.

*Individual taken to have received notional assessed amount*

- (2) For the purposes of this Act, the amount of child maintenance that the individual is taken to have received under the agreement or order for the child for the period is, subject to this clause, the amount (the **notional assessed amount**) that the individual would have received if the individual had received the annual rate of child support for the child for the period that is included in the notional assessment, disregarding so much of that rate as is attributable to the individual receiving disability expenses maintenance.

*Underpayments*

- (3) If the amount received in an income year by the individual under the agreement or order for the child for the period is less than the amount that is payable to the individual under the agreement or order for the child for the period (such that a debt arises for the period under the agreement or order), then, for the purposes of this Act, the amount of child maintenance that the individual is taken to have received under the agreement or order for the child for the period is the following amount (the **notional amount paid**):

$$\frac{\text{Amount received by the individual under the agreement or order for the child for the period}}{\text{Amount payable to the individual under the agreement or order for the child for the period}} \times \text{Notional assessed amount for the child for the period}$$

Note: This subclause only applies in respect of enforceable maintenance liabilities (see subclause (7)).

*Underpayments—non-periodic payments and lump sum payments*

- (3A) For the purposes of the formula in subclause (3), the amount received by the individual under the agreement or order, for the child for the period, is taken to include:



- (a) if the agreement or order is a non-periodic payments agreement or order—the amount by which the annual rate of child support payable for the child is reduced for the period under the agreement or order; and
  - (b) if the agreement or order is a lump sum payments agreement or order—the total amount of the lump sum payment that is credited for each day in the period under section 69A of the *Child Support (Registration and Collection) Act 1988* against the amount payable under the liability under the agreement or order.
- (3B) If the agreement or order is a non-periodic payments agreement or order, for the purposes of the formula in subclause (3), the amount payable to the individual under the agreement or order for the child for the period is taken to include the amount by which the annual rate of child support payable for the child is reduced for the period under the agreement or order.

*Arrears*

- (4) If the amount received in an income year by the individual under the agreement or order for the child for the period exceeds the amount that is payable to the individual under the agreement or order for the child for the period, then, for the purposes of this Act, the amount of child maintenance that the individual is taken to have received under the agreement or order for the child for the period is:

Notional assessed amount for the child for the period +  $\frac{\text{Total of the notional arrears amounts in respect of each debt arising for a previous period under the agreement or order}}{\text{Total of the notional arrears amounts in respect of each debt arising for a previous period under the agreement or order}}$

Note: This subclause only applies in respect of enforceable maintenance liabilities (see subclause (7)).

- (5) The ***notional arrears amount***, in respect of a debt arising for a previous period under the agreement or order, is:

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 20B

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$$\frac{\text{Notional assessed amount for the child for the previous period} - \text{Notional amount paid for the child for the previous period}}{\text{The amount of the debt that arose for the previous period under the agreement or order}} \times \text{Amount of the debt that is paid off}$$

- (6) For the purposes of subclause (5), if:
- (a) an individual has more than one debt that arose under an agreement or order for previous periods; and
  - (b) the amount received in an income year by the individual under the agreement or order for a child for a period exceeds the amount that is payable to the individual under the agreement or order for the child for the period;
- then:
- (c) the individual is taken to have received the excess to pay off each debt in the order in which the debts arose; and
  - (d) each debt is reduced by the amount of the debt that is paid off.
- (7) Subclauses (3) and (4) only apply in respect of enforceable maintenance liabilities (within the meaning of the *Child Support (Registration and Collection) Act 1988*).
- (8) In this clause:

***lump sum payments agreement or order*** means:

- (a) an agreement containing lump sum payment provisions (within the meaning of the *Child Support (Assessment) Act 1989*); or
- (b) a court order made under section 123A of that Act.

***non-periodic payments agreement or order*** means:

- (a) an agreement containing non-periodic payment provisions (within the meaning of the *Child Support (Assessment) Act 1989*); or

- (b) a court order made under section 124 of that Act that includes a statement made under section 125 of that Act that the annual rate of child support payable by a liable parent under an administrative assessment is to be reduced.

### **20C Working out amounts of child maintenance in relation to lump sum payments**

- (1) This clause applies if an individual receives in an income year child maintenance for an FTB child of the individual under:
- (a) a child support agreement, containing lump sum payment provisions (within the meaning of paragraph 84(1)(e) of the *Child Support (Assessment) Act 1989*), to which clause 20B does not apply; or
  - (b) a court order made under section 123A of that Act; in the form of a lump sum payment that is to be credited under section 69A of the *Child Support (Registration and Collection) Act 1988* against the amount payable under a liability under an administrative assessment.
- (2) For the purposes of this Act, the amount of child maintenance that the individual is taken to have received in an income year under the agreement or order for the child for a period is the amount that is credited under section 69A of the *Child Support (Registration and Collection) Act 1988* against the amount payable under the liability under the administrative assessment for the child for the period.

Note: The amount worked out under this clause is annualised under clause 20A.

- (3) Subclause (2) does not apply in relation to the individual and the child for a period if subclause 20B(2), (3) or (4) or 20D(2) has applied in relation to the individual and the child for that period.

### **20D Working out amounts of child maintenance for administrative assessments privately collected**

- (1) This clause applies if, during a period in an income year:

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 21

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- (a) an individual is entitled to receive an amount of child maintenance for an FTB child of the individual under a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and
- (b) the liability is not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*); and
- (c) the child maintenance is not maintenance to which clause 20B applies; and
- (d) the Secretary considers that it is reasonable for the individual to take action to obtain the amount.

*Individual taken to have received full entitlement*

- (2) For the purposes of this Act, the individual is taken to have received, for the period in the income year, the amount of child maintenance for the child that the individual is entitled to receive under the liability, disregarding so much of that amount as is attributable to the individual receiving disability expenses maintenance.

**21 Maintenance income of members of couple to be added**

The annualised amount of the maintenance income of an individual who is a member of a couple is the sum of the amounts that, apart from this clause, would be the respective annualised amounts of each of the members of the couple.

**22 How to calculate an individual's maintenance income free area**

An individual's *maintenance income free area* is worked out using the following table. Work out which family situation in the table applies to the individual. The maintenance income free area is the corresponding amount in column 2 plus an additional corresponding amount in column 3 for each FTB child after the first, disregarding any child:

- (a) for whom maintenance income is disregarded under paragraph (a) of step 1 of the method statement in clause 20; or
- (b) in respect of whom neither the individual, nor the individual's partner, is entitled to apply for maintenance income.

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<b>Maintenance income free area</b>			
<b>(Part A—Method 1)</b>			
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Individual's family situation</b>	<b>Basic amount</b>	<b>Additional amount</b>
1	Not a member of a couple	\$952.65	\$317.55
2	Partnered (both the individual and the partner have an annualised amount of maintenance income)	\$1,905.30	\$317.55
3	Partnered (only one has an annualised amount of maintenance income)	\$952.65	\$317.55

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### **23 Only maintenance actually received taken into account in applying clause 22**

In determining whether or not item 2 or 3 of the table in clause 22 applies to an individual, clause 21 is to be disregarded. This has the effect of taking into account only maintenance income that the individual actually receives rather than any maintenance income that the individual is taken to receive because of maintenance income received by the individual's partner.

Clause 24

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**24 Apportionment of capitalised maintenance income**

- (1) The object of this clause is to spread capitalised maintenance income so that it is taken into account over the whole of the period in respect of which it is received.
- (2) If an individual receives capitalised maintenance income, the maintenance income of the individual that is attributable to the capitalised maintenance income during any period (the *relevant period*) in the capitalisation period is the amount worked out using the formula:

$$\text{Capitalised maintenance income} \times \frac{\text{Relevant period}}{\text{Capitalisation period}}$$

- (2A) For the capitalisation period in an income year, the annualised amount of an individual's capitalised maintenance income is worked out using the following formula:

$$\frac{\text{The amount worked out under subclause (2) in respect of the individual for the capitalisation period in the income year}}{\text{Number of days in the income year}} \times \frac{\text{Number of days in the capitalisation period in the income year}}{\text{Number of days in the income year}}$$

*Capitalisation period—court order or agreement*

- (3) If:
- (a) the capitalised maintenance income is received under or as a result of:
- (i) the order of a court; or
  - (ii) a maintenance agreement (within the meaning of the *Family Law Act 1975*) that has been registered in, or approved by, a court in Australia or an external Territory; or
  - (iii) a financial agreement, or Part VIIIAB financial agreement, within the meaning of that Act; or

- (iv) any other agreement with respect to the maintenance of a person that has been registered in, or approved by, a court in Australia or an external Territory; and
- (b) the order or agreement specified the period in relation to which the capitalised maintenance income was to be provided; and
- (c) the length of the period could be ascertained with reasonable certainty when the order was made or the agreement was so registered or approved;

the **capitalisation period** is, subject to subclause (6), the period specified in the order or agreement.

*Capitalisation period—FTB child under 18*

- (4) If:
- (a) the capitalised maintenance income relates to the maintenance of an FTB child of the individual; and
  - (b) the child has not turned 18 on the day on which the income is received; and
  - (c) subclause (3) does not apply to the capitalised maintenance income;

the **capitalisation period** is, subject to subclause (6), the period that starts on the day on which the income is received and ends on the day immediately before the day on which the child turns 18.

*Capitalisation period—partner under 65*

- (5) If:
- (a) the capitalised maintenance income relates to the maintenance of the individual by the individual's partner or former partner; and
  - (b) the individual has not turned 65 on the day on which the income is received; and

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 24A

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(c) subclause (3) does not apply to the capitalised maintenance income;

the *capitalisation period* is, subject to subclause (6), the period that starts on the day on which the income is received and ends on the day immediately before the day on which the individual turns 65.

*Capitalisation period—other cases*

(6) If:

(a) the Secretary considers:

(i) in a case falling within subclause (3) where the period referred to in that subclause was specified in an order of a court that was made by consent or in an agreement referred to in subparagraph (3)(a)(ii), (iii) or (iv)—that the period is not appropriate in the circumstances of the case; or

(ii) in a case falling within subclause (4) or (5)—that the period referred to in that subclause is not appropriate in the circumstances of the case; or

(b) no capitalisation period is applicable in relation to the capitalised maintenance income under subclause (3), (4) or (5);

the *capitalisation period* is such period as the Secretary considers appropriate in the circumstances of the case.

**Subdivision B—Maintenance income credit balances**

**24A Maintenance income credit balances**

(1) A *maintenance income credit balance*, for a registered entitlement of an individual, is, at any particular time, the balance at that time of the accruals under clause 24B and the depletions under clause 24E in relation to that entitlement.

(2) Despite subclause (1), a maintenance income credit balance for a registered entitlement, at the end of an income year, cannot exceed the total arrears owing from that registered entitlement, at that time, for all income years for which the entitlement has existed.



- (3) If:
- (a) but for the condition in subclause 24B(3) not being met in relation to an income year, there would be an accrual to a maintenance income credit balance of an individual for a day in that income year; and
  - (b) after there has been an accrual under clause 24C for a day in a later income year or a depletion under clause 24E for a later income year, that condition is met in relation to the earlier income year;
- the maintenance income credit balance is recalculated, taking into account the accrual for the day in the earlier income year before taking into account the accrual or depletion mentioned in paragraph (b).
- (4) This Subdivision continues to apply in relation to a maintenance income credit balance of an individual whether or not the individual or the individual's partner continues to be eligible for family tax benefit.

## **24B Accruals to a maintenance income credit balance**

### *Accrual if conditions are satisfied*

- (1) There is an accrual to a maintenance income credit balance for a registered entitlement of an individual, for a day in an income year, of the amount worked out under clause 24C for that day, if all the conditions in this clause are satisfied.

### *Conditions that must be satisfied*

- (2) Either or both of the following must apply:
- (a) the individual is eligible for family tax benefit for the day;
  - (b) if the individual is a member of a couple on the day—the individual's partner is eligible for family tax benefit for the day.
- (3) The eligible person must have satisfied the FTB reconciliation conditions in section 32B of the Family Assistance Administration

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

**Clause 24C**

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Act for all of the same-rate benefit periods (within the meaning of that section) that are included in the income year.

- (4) The annualised amount of the maintenance income of the eligible person for the day must be less than the maintenance income free area that applied to the eligible person for that day.
- (5) The maintenance income that the individual received in the income year from the registered entitlement must be less than the amount due in the income year from the registered entitlement.

**24C Amount of accrual to a maintenance income credit balance**

- (1) This is how to work out the amount of the accrual under clause 24B, for a day in an income year, to a maintenance income credit balance for a registered entitlement of an individual who is, or is the partner of, an eligible person under subclause 24B(2):

*Method statement*

- Step 1. Work out the global maintenance entitlement of the eligible person for the day using clause 24D.
- Step 2. Identify the lower of:
  - (a) that global maintenance entitlement; and
  - (b) the maintenance income free area that applied to the eligible person for the day.
- Step 3. Subtract from the lower amount identified in step 2 the annualised amount of the maintenance income of the eligible person for the day.
- Step 4. Divide the result of step 3 by 365 and round the result of the division to the nearest cent (rounding 0.5 cents upwards).

Step 5. Unless subclause (2) applies to the individual, the amount that accrues to the maintenance income credit balance of the individual for the day is the amount worked out under step 4.

If subclause (2) applies to the individual, take the amount worked out under step 4 and apply the method statement in subclause (2).

- (2) If either or both of the following apply:
- (a) the individual has more than one registered entitlement for the day in respect of which the condition in subclause 24B(5) is met;
  - (b) if the individual is a member of a couple on the day—the individual's partner has one or more registered entitlements for the day in respect of which the condition in subclause 24B(5) is met;
- this is how to work out the amount of the accrual under clause 24B, for a day in an income year, to each of the maintenance income credit balances (the *relevant balances*) for those entitlements:

*Method statement*

- Step 1. Work out the *daily cap* for each relevant balance as follows:
- (a) work out the annualised amount mentioned in paragraph 24D(1)(a) that is due in the income year from the registered entitlement to which the balance relates, and any related private collection entitlement;
  - (b) work out under subclause (4) the annualised amount of maintenance income received in the income year from that registered entitlement, and any related private collection entitlement;

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 24C

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<p>(c) the daily cap is the excess of the amount mentioned in paragraph (a) over the amount mentioned in paragraph (b), divided by 365 and rounded to the nearest cent (rounding 0.5 cents upwards).</p> <p>Step 2. Distribute the amount worked out under step 4 of the method statement in subclause (1) equally among each relevant balance, up to the amount of the daily cap for the relevant balance.</p> <p>Step 3. Distribute any remaining amount equally among each relevant balance for which the daily cap has not been reached, up to the amount of the daily cap for the relevant balance.</p> <p>Step 4. Reapply step 3 to any remaining amount until:</p> <p style="padding-left: 40px;">(a) there is no remaining amount to distribute; or</p> <p style="padding-left: 40px;">(b) the daily cap for each relevant balance is reached.</p> <p>Step 5. The amount that accrues to each of the relevant balances for the day is the sum of the amount distributed under step 2 and any additional amounts distributed under steps 3 and 4, with that sum rounded to the nearest cent (rounding 0.5 cents upwards).</p>
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- (3) To avoid doubt, clauses 24B and 24C apply only once for a day in relation to any relevant balance.
- (4) For the purposes of step 1 of the method statement in subclause (2), the ***annualised amount of maintenance income*** received in an income year from a registered entitlement, and any related private collection entitlement, of an individual (or an individual's partner) is the amount worked out by using this formula:

$$\frac{\text{Amount of maintenance income received in the income year from the registered entitlement, and any related private collection entitlement}}{\text{Number of days in the income year for which the individual (or partner) had the registered entitlement, and any related private collection entitlement}} \times \text{Number of days in the income year}$$

(5) In this clause:

*related private collection entitlement*, in relation to a registered entitlement, has the same meaning as in clause 24D.

### **24D Global maintenance entitlement of an eligible person**

- (1) For the purposes of step 1 of the method statement in subclause 24C(1), the *global maintenance entitlement* of the eligible person under subclause 24B(2) for the day is the sum of:
- (a) the annualised amounts worked out using the formula in subclause (2) for:
    - (i) each registered entitlement for the day, and any related private collection entitlement, of the eligible person; and
    - (ii) if the eligible person is a member of a couple on the day—each registered entitlement for the day, and any related private collection entitlement, of the eligible person's partner; and
  - (b) any amounts worked out under subclause (3); and
  - (c) the annualised amount of any capitalised maintenance income of the eligible person and, if the eligible person is a member of a couple on the day, of the eligible person's partner, for the day; and
  - (d) the annualised amount of any maintenance income of the eligible person and, if the eligible person is a member of a couple on the day, of the eligible person's partner, for the day:
    - (i) that is not from a registered entitlement; and

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 24D

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(ii) that is not capitalised maintenance income.

(2) For the purposes of paragraph (1)(a), the formula is:

$$\frac{\text{Amount due in the income year from the registered entitlement, and any related private collection entitlement}}{\text{Number of days in the income year for which the eligible person (or partner) had the registered entitlement, and any related private collection entitlement}} \times \text{Number of days in the income year}$$

(3) If:

(a) in respect of:

- (i) a registered entitlement for the day, and any related private collection entitlement, of the eligible person; or
- (ii) if the eligible person is a member of a couple on the day—a registered entitlement for the day, and any related private collection entitlement, of the eligible person's partner;

the maintenance income received by the eligible person or partner for the income year exceeds the amount due in the income year from the registered entitlement, and any related private collection entitlement; and

(b) that excess, or any part of it (the *relevant excess*), is not disregarded for the purposes of paragraph (c) of step 1 of the method statement in clause 20;

an amount for the purposes of paragraph (1)(b) is worked out by using this formula:

$$\frac{\text{Amount of the relevant excess}}{\text{Number of days in the income year for which the eligible person (or partner) had the registered entitlement, and any related private collection entitlement}} \times \text{Number of days in the income year}$$

(4) For the purposes of this clause, an individual's private collection entitlement is *related* to the individual's registered entitlement if

the private collection entitlement and registered entitlement relate to the same registrable maintenance liability, within the meaning of the *Child Support (Registration and Collection) Act 1988*.

(5) In this clause:

***private collection entitlement***, of an individual, means the individual's entitlement to receive maintenance income from a particular payer, if the payer's liability to pay that maintenance income is a registrable maintenance liability that is not an enforceable maintenance liability, within the meaning of the *Child Support (Registration and Collection) Act 1988*.

## **24E Depletions from a maintenance income credit balance**

- (1) There is a depletion from the maintenance income credit balance for a registered entitlement of an individual, for an income year, of the amount worked out under subclause (2), if:
  - (a) the income year has ended; and
  - (b) the maintenance income that the individual received in the income year from the entitlement is more than the amount due in the income year from the entitlement.
- (2) The amount by which the maintenance income credit balance is depleted is the lower of:
  - (a) the excess of the maintenance income that the individual received in the income year from the entitlement over the amount due in the income year from the entitlement; and
  - (b) the amount of the maintenance income credit balance.
- (3) For the purposes of paragraphs (1)(b) and (2)(a), in working out the maintenance income received in an income year or the amount of maintenance income due in an income year:
  - (a) disregard any maintenance income received or due for an FTB child for whom the FTB child rate under clause 7 does not exceed the base FTB child rate (see clause 8); and
  - (b) disregard the operation of clause 11 (sharing of family tax benefit) in applying paragraph (a).

Clause 24EA

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**24EA Amounts due under notional assessments**

- (1) This clause applies if:
- (a) an individual receives child maintenance for an FTB child of the individual under a child support agreement or court order; and
  - (b) there is, in relation to the agreement or order, a notional assessment of the annual rate of child support that would be payable to the individual for the child for a particular day in a child support period if that annual rate were payable under Part 5 of the *Child Support (Assessment) Act 1989* instead of under the agreement or order; and
  - (c) the child maintenance is received, wholly or in part, from a registered entitlement.
- (2) For the purposes of this Subdivision, the amount of child maintenance that is taken to be due to the individual under the agreement or order (whether from the registered entitlement or from a related private collection entitlement within the meaning of clause 24D), for the child for a period, is the amount that would have been due if the amount due to the individual had been the annual rate of child support for the child for the period that is included in the notional assessment.
- (3) To avoid doubt, subclause (2) does not apply in relation to the total arrears owing from a registered entitlement, as mentioned in subclause 24A(2).

**Subdivision C—Maintenance income ceiling for Method 1**

**24F Subdivision not always to apply**

This Subdivision does not apply to an individual if:

- (a) the individual, and the individual's partner, between them are entitled to apply for maintenance income:
  - (i) from only one other individual; and
  - (ii) in respect of all of the FTB children of the individual; and



- (b) the individual has no regular care children who are rent assistance children.

## **24G Overall method for working out maintenance income ceiling for Method 1**

For the purposes of paragraph (d) of step 1 of the method statement in clause 20, this is how to work out an individual's maintenance income ceiling for maintenance income received by the individual, or the individual's partner, from another individual (the ***maintenance payer***) if the individual's Part A rate is worked out using this Part (Method 1):

### *Method statement*

- Step 1. Work out the individual's ***above base standard amount*** for the maintenance income using clause 24H.
- Step 1A. Work out the individual's ***above base energy supplement amount*** for the maintenance income using clause 24HA.
- Step 2. Work out the individual's ***RA amount*** for the maintenance income using clause 24J.
- Step 3. Work out the individual's ***MIFA amount*** for the maintenance income using clause 24K.
- Step 4. Work out the individual's ***maintenance income ceiling*** for the maintenance income using clause 24L.

## **24H How to work out an individual's above base standard amount**

The individual's ***above base standard amount*** for the maintenance income is the difference between:

- (a) the individual's standard rate under Division 2 of this Part (clauses 7 to 11) for the FTB children of the individual in respect of whom the individual, or the individual's partner, is

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 24HA

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entitled to apply for maintenance income from the maintenance payer; and

- (b) the individual's standard rate under Division 2 of Part 3 (clauses 26 and 27) for those children (assuming that the individual's Part A rate were calculated under Part 3).

**24HA How to work out an individual's above base energy supplement amount**

- (1) The individual's *above base energy supplement amount* for the maintenance income is the difference between:
- (a) the individual's energy supplement (Part A) under Subdivision A of Division 2AA of Part 5 (clause 38AA) for the FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer; and
  - (b) the individual's energy supplement (Part A) under Subdivision B of Division 2AA of Part 5 (clause 38AF) for those children (assuming that the individual's Part A rate were calculated under Part 3).
- (2) However, the individual's *above base energy supplement amount* for the maintenance income is nil if paragraph (cb) of step 1 of the method statement in clause 3 does not apply to the individual because of clause 6A.

**24J How to work out an individual's RA (rent assistance) amount**

This is how to work out the individual's *RA amount* for the maintenance income:

*Method statement*

- Step 1. Work out the individual's rent assistance (if any) under Subdivision A of Division 2B of Part 5.

Step 2. Work out the amount that would be the individual's rent assistance (if any) under that Subdivision if rent assistance were paid for only those children in respect of whom neither the individual, nor the individual's partner, is entitled to apply for maintenance income.

Step 3. If the individual, and the individual's partner, between them are entitled to apply for maintenance income from only one maintenance payer, the difference between the amount worked out under step 1 and the amount worked out under step 2 is the individual's **RA amount** for the maintenance income.

Step 4. If the individual, and the individual's partner, between them are entitled to apply for maintenance income from more than one maintenance payer, the individual's **RA amount** for maintenance income received from a particular maintenance payer is worked out using the formula:

$$\frac{\text{Amount worked out under step 3}}{\text{Total number of FTB children in respect of whom either the individual, or the individual's partner, is entitled to apply for maintenance income}} \times \frac{\text{Number of FTB children in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from that maintenance payer}}{\text{Total number of FTB children in respect of whom either the individual, or the individual's partner, is entitled to apply for maintenance income}}$$

**24K How to work out an individual's MIFA (maintenance income free area) amount**

- (1) If the individual, and the individual's partner, between them are entitled to apply for maintenance income from only one maintenance payer, then the individual's **MIFA amount** for the maintenance income is the amount of the individual's maintenance income free area.

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

**Clause 24L**

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*Apportioning the maintenance income free area*

- (2) If the individual, and the individual's partner, between them are entitled to apply for maintenance income from more than one maintenance payer, the individual's **MIFA amount** for maintenance income received from a particular maintenance payer is worked out using the following formula:

$$\frac{\text{Individual's no child amount}}{\text{Total number of maintenance payers in respect of whom either the individual, or the individual's partner, is entitled to apply for maintenance income}} + \left( \begin{array}{l} \text{Number of FTB children} \\ \text{in respect of whom} \\ \text{the individual,} \\ \text{or the individual's partner,} \\ \text{is entitled to apply for} \\ \text{maintenance income} \\ \text{from the maintenance payer,} \\ \text{disregarding any child for whom} \\ \text{maintenance income is disregarded} \\ \text{under paragraph (a) of step 1} \\ \text{of the method statement in clause 20} \end{array} \right) \times \begin{array}{l} \text{Individual's additional} \\ \text{amount for one child} \\ \text{worked out under} \\ \text{clause 22} \end{array}$$

where:

**individual's no child amount** is the amount worked out using the following formula:

$$\begin{array}{l} \text{Individual's basic amount} \\ \text{worked out under} \\ \text{clause 22} \end{array} - \begin{array}{l} \text{Individual's additional amount} \\ \text{for one child} \\ \text{worked out under} \\ \text{clause 22} \end{array}$$

**24L How to work out an individual's maintenance income ceiling**

The individual's **maintenance income ceiling** for the maintenance income is worked out using the following formula:

$$\left[ 2 \times \left( \begin{array}{l} \text{Above base} \\ \text{standard} \\ \text{amount for} \\ \text{the income} \end{array} + \begin{array}{l} \text{Above base} \\ \text{energy} \\ \text{supplement} \\ \text{amount for} \\ \text{the income} \end{array} + \begin{array}{l} \text{RA} \\ \text{amount} \\ \text{for the} \\ \text{income} \end{array} \right) \right] + \begin{array}{l} \text{MIFA amount} \\ \text{for the income} \end{array}$$

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## **Subdivision D—Maintenance income ceiling for purposes of comparison for Method 2**

### **24M Subdivision not always to apply**

This Subdivision does not apply to an individual if:

- (a) the individual, and the individual's partner, between them are entitled to apply for maintenance income:
  - (i) from only one other individual; and
  - (ii) in respect of all of the FTB children of the individual; and
- (b) the individual has no regular care children who are rent assistance children.

### **24N Overall method for working out maintenance income ceiling for purposes of comparison for Method 2**

For the purposes of the comparison in step 4 of the method statement in clause 25, this is how to work out an individual's maintenance income ceiling for maintenance income received by the individual, or the individual's partner, from another individual (the *maintenance payer*) if the individual's Part A rate is worked out using Part 3 of this Schedule (Method 2):

*Method statement*

- Step 1. Work out the individual's *standard amount* for the maintenance income using clause 24P.
- Step 2A. Work out the individual's *newborn supplement* (if any) under Division 1A of Part 5 (clauses 35A and 35B) for FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.

**Schedule 1** Family tax benefit rate calculator

**Part 2** Part A rate (Method 1)

**Division 5** Maintenance income test

Clause 24P

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- Step 3. Work out the individual's **multiple birth allowance** (if any) under Division 2 of Part 5 (clauses 36 to 38) for FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.
- Step 4. Work out the individual's **supplement amount** for the maintenance income using clause 24R.
- Step 4A. Work out the individual's **energy supplement amount** for the maintenance income using clause 24RA.
- Step 5. Work out the individual's **RA amount** for the maintenance income using clause 24J.
- Step 6. Work out the individual's **MIFA amount** for the maintenance income using clause 24K.
- Step 7. Work out the individual's **maintenance income ceiling** for the maintenance income using clause 24S.

**24P How to work out an individual's standard amount**

The individual's **standard amount** for the maintenance income is the individual's standard rate under Division 2 of this Part (clauses 7 to 11) for the FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.

**24R How to work out an individual's supplement amount**

The individual's **supplement amount** for the maintenance income is the individual's FTB Part A supplement under Division 2A of Part 5 (clause 38A) for the FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.

### **24RA How to work out an individual's energy supplement amount**

- (1) The individual's *energy supplement amount* for the maintenance income is the individual's energy supplement (Part A) under Subdivision A of Division 2AA of Part 5 (clause 38AA) for the FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.
- (2) However, the individual's *energy supplement amount* for the maintenance income is nil if paragraph (e) of step 1 of the method statement in clause 25 does not apply to the individual because of clause 25C.

### **24S How to work out an individual's maintenance income ceiling**

The individual's *maintenance income ceiling* for the maintenance income is worked out using the following formula:

$$\left( 2 \times \begin{array}{l} \text{Total of the amounts worked out} \\ \text{for the income under steps 1 to 5} \\ \text{of the method statement} \\ \text{in clause 24N} \end{array} \right) + \text{MIFA amount for the income}$$

## Part 3—Part A rate (Method 2)

### Division 1—Overall rate calculation process

#### 25 Method of calculating Part A rate

Subject to the operation of clauses 25A, 25C and 25D, if the individual's Part A rate is to be calculated using this Part, it is calculated as follows:

*Method statement*

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 of this Part (clauses 26 and 27);
- (ba) the individual's newborn supplement (if any) under Division 1A of Part 5 (clauses 35A and 35B);
- (c) the individual's multiple birth allowance (if any) under Division 2 of Part 5 (clauses 36 to 38);
- (d) the individual's FTB Part A supplement under Division 2A of Part 5 (clause 38A);
- (e) the individual's energy supplement (Part A) under Subdivision B of Division 2AA of Part 5 (clause 38AF).

The result is the individual's ***Method 2 base rate***.

Note: Paragraph (e) does not apply to certain individuals: see clause 25C.



Step 2. Apply the income test in Division 3 of this Part (clause 28) to work out any reduction for adjusted taxable income. Take any reduction away from the individual's Method 2 base rate: the result is the individual's ***provisional Part A rate***.

Step 3. Work out the rate that would be the individual's income and maintenance tested rate under step 3 of the method statement in clause 3 if the individual's Part A rate were to be calculated using Part 2 (but disregarding clause 24G): the result is the individual's ***Method 2 income and maintenance tested rate***.

Note: Clause 25D modifies the application of this step.

Step 4. The individual's ***Part A rate*** is:

- (a) the individual's provisional Part A rate if it is equal to or greater than the individual's Method 2 income and maintenance tested rate; or
- (b) the individual's Method 2 income and maintenance tested rate if it is greater than the individual's provisional Part A rate.

## **25A Family tax benefit advance to individual**

(1) If:

- (a) an individual is entitled to be paid family tax benefit by instalment; and
- (b) the individual is paid a family tax benefit advance; and
- (c) the individual has not repaid the whole of the advance; and
- (d) the amount of unrepaid family tax benefit advance is not an FTB advance debt;

then, subject to clauses 44 and 49, the individual's Part A rate is to be reduced in accordance with Division 4 of Part 5 (clauses 40 to 51).

**Schedule 1** Family tax benefit rate calculator

**Part 3** Part A rate (Method 2)

**Division 1** Overall rate calculation process

**Clause 25B**

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- (2) If an individual satisfies paragraphs (1)(a) to (d) for more than one family tax benefit advance, the individual's Part A rate is to be reduced under subclause (1) for each of those advances.

**25B Components of Part A rates under this Part**

The Minister may, by legislative instrument, determine a method for working out the extent to which Part A rates under this Part are attributable to the amounts referred to in step 1 of the method statement in clause 25.

**25C Energy supplement**

- (1) Paragraph (e) of step 1 of the method statement in clause 25 does not apply to an individual on or after the commencement of this clause unless:
- (a) the individual was entitled to be paid family tax benefit in respect of 19 September 2016; and
  - (b) the individual's Part A rate of family tax benefit in respect of 19 September 2016 was not worked out under Part 3A of this Schedule.
- (2) However, if:
- (a) the individual ceases to be entitled to be paid family tax benefit in respect of a day (the *applicable day*) on or after 20 September 2016; or
  - (b) the individual's Part A rate of family tax benefit is worked out under Part 3A of this Schedule in respect of a day (the *applicable day*) on or after 20 September 2016;
- then paragraph (e) of step 1 of the method statement in clause 25 does not apply, and never again applies, to the individual from:
- (c) if the applicable day is before the commencement of this clause—the start of the day this clause commences; or
  - (d) if the applicable day is on or after the commencement of this clause—the start of the applicable day.

## **25D Working out the Method 2 income and maintenance tested rate**

In applying step 3 of the method statement in clause 25, step 2 of the method statement in clause 3 is taken to be replaced with the following:

- Step 2. Subtract the individual's income free area (worked out under clause 38N) from the individual's higher income free area (worked out under clause 2).
- Step 2A. Work out 20% of the amount at step 2.
- Step 2B. Subtract the individual's higher income free area (worked out under clause 2) from the individual's adjusted taxable income.
- Step 2C. Work out 30% of the amount at step 2B.
- Step 2D. The individual's ***reduction for adjusted taxable income*** is the sum of the amounts at steps 2A and 2C. Take that reduction away from the individual's maximum rate: the result is the individual's ***income tested rate***.

## Division 2—Standard rate

### 26 Standard rate

(1) Subject to subclauses (3) and (4) and clause 27, an individual's **standard rate** is the total obtained by adding the FTB child rates for each of the individual's FTB children.

(2) The **FTB child rate** for the purpose of subclause (1) is \$1,416.20.

*Reduction during reduction period for failing to have health check or meet immunisation requirements*

(3) If either or both section 61A and subparagraph 61B(1)(b)(ii) apply in relation to an individual and an FTB child of the individual, the annual FTB child rate in relation to the child is reduced by \$737.30 for each day in the FTB child rate reduction period (except any day in a past period to which subclause (4) applies).

*Reduction of past period claims for failing to meet immunisation requirements*

(4) The annual FTB child rate in relation to an FTB child of an individual is reduced by \$737.30 if subparagraph 61B(1)(b)(i) applies in relation to the individual and the child.

### 27 Sharing family tax benefit (shared care percentages)

If an individual has a shared care percentage for an FTB child of the individual, the FTB child rate for the child, in working out the individual's standard rate under clause 26, is the individual's shared care percentage of the FTB child rate that would otherwise apply to the child.

## Division 3—Income test

### 28 Income test

This is how to work out an individual's reduction for adjusted taxable income:

*Method statement*

- Step 1. Work out the individual's **higher income free area** using clause 2.
- Step 2. Work out whether the individual's adjusted taxable income exceeds the individual's higher income free area.
- Step 3. If the individual's adjusted taxable income does not exceed the individual's higher income free area, the individual's **income excess** is nil.
- Step 4. If the individual's adjusted taxable income exceeds the individual's higher income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's higher income free area.
- Step 5. The individual's **reduction for income** is 30% of the income excess.

## Part 3A—Part A rate (Method 3)

### 28A Method of calculating Part A rate

Subject to the operation of clauses 38J and 38K, if the individual's Part A rate is to be calculated using this Part, it is calculated as follows:

*Method statement*

- Step 1. Work out the individual's rent assistance (if any) under Subdivision A of Division 2B of Part 5 (clauses 38B to 38H). The result is the individual's *maximum rate*.
- Step 2. Apply the income test in Division 2C of Part 5 (clauses 38L to 38N) to work out any reduction for adjusted taxable income. Take any reduction away from the individual's maximum rate: the result is the individual's *income tested rate*.
- Step 3. The individual's *Part A rate* is the individual's income tested rate.

## **Part 4—Part B rate**

### **Division 1—Overall rate calculation process**

#### **Subdivision AA—When Part B rate is nil**

##### **28B Adjusted taxable income exceeding \$100,000**

- (1) Despite Subdivisions A and B, an individual's Part B rate is nil if the individual's adjusted taxable income is more than \$100,000.

Note: If the individual is a member of a couple, the individual's adjusted taxable income is the higher of the individual's adjusted taxable income and the adjusted taxable income of the individual's partner: see clause 3 of Schedule 3.

- (2) However, subclause (1) does not apply while the individual, or the individual's partner, is receiving a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment.

##### **28C Paid parental leave**

Despite Subdivisions A and B, the Part B rate that an individual is eligible for in respect of a day is nil if the day is a day for which parental leave pay is payable to the individual, or the individual's partner.

##### **28D Member of a couple whose youngest FTB child has turned 13**

- (1) Despite Subdivisions A and B, an individual's Part B rate is nil if:
- (a) the individual is a member of a couple; and
  - (b) the youngest FTB child of the individual has turned 13 years of age.
- (2) Subclause (1) does not apply if the individual is a grandparent or great-grandparent of that FTB child.

Clause 29

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- (3) In determining, for the purposes of this clause, whether an individual is a **grandparent** or **great-grandparent** of another person, treat the following relationships as if they were biological child-parent relationships:
- (a) the relationship between an adopted child and his or her adoptive parent;
  - (b) the relationship between a step-child and his or her step-parent;
  - (c) the relationship between a relationship child and his or her relationship parent.
- (4) In this clause:

**adoptive parent**, of a person (the **child**), means the person who adopted the child under a law of any place (whether in Australia or not) relating to the adoption of children.

**step-parent**, of a person (the **child**), means the person who:

- (a) is the current or former partner of the biological parent, adoptive parent or relationship parent of the child; and
- (b) is not the biological parent, adoptive parent or relationship parent of the child.

## Subdivision A—General method of calculating Part B rate

### 29 General method of calculating Part B rate

- (1) Subject to clause 29AA, the individual's Part B rate is the amount worked out by adding the following amounts if the individual is not a member of a couple:
- (a) the individual's standard rate under Division 2 (clauses 30 and 31);
  - (b) the individual's FTB Part B supplement under Division 2A (clause 31A);
  - (c) the individual's energy supplement (Part B) under Division 2B (clause 31B).

Note: Paragraph (c) does not apply to certain individuals: see clause 29AA.



- (2) The individual's Part B rate is worked out using the following method statement if the individual is a member of a couple:

*Method statement*

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 (clauses 30 and 31);
- (b) the individual's FTB Part B supplement under Division 2A (clause 31A);
- (c) the individual's energy supplement (Part B) under Division 2B (clause 31B).

The result is the individual's **maximum rate**.

Note: Paragraph (c) does not apply to certain individuals: see clause 29AA.

Step 2. Work out the individual's **reduction for adjusted taxable income** using Division 3 (clauses 32 and 33).

Step 3. The individual's Part B rate is the maximum rate less the reduction for adjusted taxable income.

Note: An individual who is a member of a couple works out his or her Part B rate under Subdivision B if the secondary earner of the couple returns to paid work after the birth of a child etc.

- (2A) The Minister may, by legislative instrument, determine a method for working out the extent to which Part B rates under subclause (2) are attributable to the amounts referred to in step 1 of the method statement in subclause (2).
- (3) In applying this Part to an individual, disregard an FTB child who has turned 16 years of age unless the FTB child is a senior secondary school child. If disregarding the FTB child means that

**Schedule 1** Family tax benefit rate calculator

**Part 4** Part B rate

**Division 1** Overall rate calculation process

**Clause 29AA**

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neither item 1 nor item 2 in the table in clause 30 applies to the individual, the individual's Part B rate is nil.

**29AA Energy supplement**

(1) Paragraph 29(1)(c) of this Schedule, or paragraph (c) of step 1 of the method statement in subclause 29(2) of this Schedule, does not apply to an individual on or after the commencement of this clause unless:

- (a) the individual was entitled to be paid family tax benefit in respect of 19 September 2016; and
- (b) the individual's Part A rate of family tax benefit in respect of 19 September 2016 was not worked out under Part 3A of this Schedule.

(2) However, if:

- (a) the individual ceases to be entitled to be paid family tax benefit in respect of a day (the *applicable day*) on or after 20 September 2016; or
- (b) the individual's Part A rate of family tax benefit is worked out under Part 3A of this Schedule in respect of a day (the *applicable day*) on or after 20 September 2016;

then paragraph 29(1)(c) of this Schedule, or paragraph (c) of step 1 of the method statement in subclause 29(2) of this Schedule, does not apply, and never again applies, to the individual from:

- (c) if the applicable day is before the commencement of this clause—the start of the day this clause commences; or
- (d) if the applicable day is on or after the commencement of this clause—the start of the applicable day.

**Subdivision B—Method of calculating Part B rate for those who return to paid work after the birth of a child etc.****29A Method of calculating Part B rate for those who return to paid work after the birth of a child etc.***Application of clause*

- (1) The Part B rate that an individual is eligible for in respect of a day in an income year is worked out under subclause (2) if:
  - (a) the individual is a member of a couple on the day; and
  - (b) the conditions in subclauses (3) to (8) of this clause are met; and
  - (c) the conditions in clause 29C are met in respect of the day.

*Method of calculating Part B rate*

- (2) Subject to clause 29D, the Part B rate that the individual is eligible for in respect of the day is the amount worked out by adding the following amounts:
  - (a) the individual's standard rate under Division 2 in respect of the day (clauses 30 and 31);
  - (b) the individual's FTB Part B supplement under Division 2A in respect of the day (clause 31A);
  - (c) the individual's energy supplement (Part B) under Division 2B in respect of the day (clause 31B).

Note: Paragraph (c) does not apply to certain individuals: see clause 29D.

*Conditions*

- (3) During a period during the income year in which the day occurs, the secondary earner of the couple (who might be the individual mentioned in subclause (1)):
  - (a) is not engaging in paid work; and
  - (b) is not receiving passive employment income in respect of that period.

**Schedule 1** Family tax benefit rate calculator

**Part 4** Part B rate

**Division 1** Overall rate calculation process

Clause 29A

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- (4) Later during that income year, the secondary earner returns to paid work for the first time since a child became an FTB child of the secondary earner.
- (4A) If, in different income years, more than one secondary earner returns to paid work for the first time in respect of the same child, the Part B rate of the individual is not calculated under this clause in respect of a return to paid work that is not the earliest return to paid work.
- (4B) If, in the same income year, more than one secondary earner returns to paid work for the first time in respect of the same child, the Part B rate of the individual is not calculated under this clause in respect of a secondary earner for whom the period mentioned under paragraph 29C(1)(a) does not begin first.
- (5) The conditions in clause 29B are met in respect of that child.
- (6) The individual mentioned in subclause (1) has satisfied the FTB reconciliation conditions under section 32B of the Family Assistance Administration Act for all of the same-rate benefit periods in that income year.
- (7) If subclause (8) does not apply—either or both of the following apply:
  - (a) the individual notifies the Secretary of the secondary earner’s return to paid work before the end of the income year following the income year in which the secondary earner returns to paid work;
  - (b) the Secretary becomes aware of the secondary earner’s return to paid work before the end of the income year following the income year in which the secondary earner returns to paid work.
- (8) If, during the second income year following a particular income year, a claim is made under the Family Assistance Administration Act for payment of family tax benefit for a past period that occurs in the particular income year, the Secretary is notified in the claim

that the secondary earner returned to paid work during the particular income year.

### **29B Conditions to be met in respect of an FTB child**

- (1) For the purpose of subclause 29A(5), the conditions in this clause are met in respect of a child if the conditions in subclauses (2) and (3) of this clause are met in respect of the child on any single day that meets the conditions in clause 29C.

#### *Conditions in respect of FTB child*

- (2) Of all the FTB children of the secondary earner, either:
- (a) the child most recently became an FTB child of the secondary earner; or
  - (b) if all of the children became FTB children of the secondary earner at the same time—the child is the youngest FTB child of the secondary earner.

#### *Generally, only one individual calculates Part B rate under clause 29A*

- (3) No other individual's Part B rate has been calculated under clause 29A as a result of the conditions in this clause being met in respect of the child.

#### *Exception—section 59 determination (shared care)*

- (4) If another individual's Part B rate has been calculated as mentioned in subclause (3), the condition in that subclause is taken to be met in respect of the child if:
- (a) on the day on which the other individual or his or her partner returns to paid work, the other individual has a shared care percentage for the child; and
  - (b) the secondary earner is not a member of the same couple as the other individual on either:
    - (i) the day mentioned in paragraph (a); or

**Schedule 1** Family tax benefit rate calculator

**Part 4** Part B rate

**Division 1** Overall rate calculation process

**Clause 29C**

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- (ii) the day on which the secondary earner returns to paid work.

*Exception—section 28 and 29 determinations (members of a couple in a blended family or members of a separated couple) etc.*

- (5) If another individual's Part B rate has been calculated as mentioned in subclause (3), the condition in that subclause is taken to be met in respect of the child if:
  - (a) at some time during the income year, the other individual is the partner of:
    - (i) the secondary earner; or
    - (ii) the individual mentioned in subclause 29A(1) (if he or she is not the secondary earner); and
  - (b) the other individual's Part B rate has been calculated under clause 29A in respect of the same return to paid work, and the same FTB child, of the secondary earner.

**29C Conditions to be met in respect of a day**

- (1) For the purposes of paragraph 29A(1)(c) and clause 29B, the conditions in this clause are met in respect of a day in an income year if:
  - (a) the day falls in the period that starts on the latest of the following days:
    - (i) 1 July of the income year;
    - (ii) the day after the secondary earner stops paid work;
    - (iii) the day after the secondary earner stops receiving passive employment income in respect of a period; and ends immediately before the day on which the secondary earner returns to paid work; and
  - (b) the secondary earner is not receiving passive employment income in respect of the day.
- (2) For the purpose of subclause (1), the day on which an individual returns to paid work is:

- (a) if the individual returns to paid work because of subsection 3B(2)—the first day of the 4 week period mentioned in that subsection on which the individual is engaging in paid work; and
  - (b) if the individual returns to paid work because of subsection 3B(3)—the first day on which the individual is engaging in paid work.
- (3) To avoid doubt, the first and last days of the period mentioned in paragraph (1)(a) fall in that period.

### **29D Energy supplement**

- (1) Paragraph 29A(2)(c) of this Schedule does not apply to an individual on or after the commencement of this clause unless:
- (a) the individual was entitled to be paid family tax benefit in respect of 19 September 2016; and
  - (b) the individual's Part A rate of family tax benefit in respect of 19 September 2016 was not worked out under Part 3A of this Schedule.
- (2) However, if:
- (a) the individual ceases to be entitled to be paid family tax benefit in respect of a day (the *applicable day*) on or after 20 September 2016; or
  - (b) the individual's Part A rate of family tax benefit is worked out under Part 3A of this Schedule in respect of a day (the *applicable day*) on or after 20 September 2016;
- then paragraph 29A(2)(c) of this Schedule does not apply, and never again applies, to the individual from:
- (c) if the applicable day is before the commencement of this clause—the start of the day this clause commences; or
  - (d) if the applicable day is on or after the commencement of this clause—the start of the applicable day.

## Division 2—Standard rate

### 30 Standard rate

Subject to clause 31, an individual's standard rate is worked out using the following table. Work out which family situation applies to the individual. The standard rate is the corresponding amount in column 2.

<b>Standard rates (Part B)</b>		
	<b>Column 1 Family situation</b>	<b>Column 2 Standard rate</b>
1	youngest FTB child is under 5 years of age	\$2,569.60
2	youngest FTB child is 5 years of age or over	\$1,781.20

### 31 Sharing family tax benefit (shared care percentages)

(1) If:

- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is the individual's only FTB child;
- the individual's standard rate is the individual's shared care percentage of the standard rate that would otherwise apply.

(2) If:

- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is not the individual's only FTB child;
- the individual's standard rate is to be worked out as follows:
- (c) for each of the individual's FTB children for whom the individual does not have a shared care percentage, work out



Clause 31

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- the rate that would be the individual's standard rate under clause 30 if that child were the individual's only FTB child;
- (d) for each of the individual's FTB children for whom the individual has a shared care percentage, work out the rate that would be the individual's standard rate under clause 30 if:
- (i) that child were the individual's only FTB child; and
  - (ii) subclause (1) of this clause applied to the child;
- (e) the individual's standard rate is the highest of the rates obtained under paragraphs (c) and (d).

## Division 2A—FTB Part B supplement

### 31A Rate of FTB Part B supplement

- (1) The amount of the FTB Part B supplement to be added in working out an individual's Part B rate under clause 29 or 29A is:
  - (a) if the individual has one FTB child, or more than one FTB child, and the individual does not have a shared care percentage for that child, or for at least one of those children—the FTB (B) gross supplement amount; or
  - (b) if the individual has only one FTB child and the individual has a shared care percentage for the child—the shared care percentage of the FTB (B) gross supplement amount; or
  - (c) if the individual has more than one FTB child and the individual has a shared care percentage for each of those children—the highest of those percentages of the FTB (B) gross supplement amount.
- (2) For the purposes of subclause (1), the ***FTB (B) gross supplement amount*** is \$302.95.
- (3) To avoid doubt, when the FTB (B) gross supplement amount is indexed on a 1 July under Part 2 of Schedule 4, the amount, as it stood before that indexation, continues to apply in working out an individual's Part B rate under clause 29 or 29A for the income year ending just before that 1 July.

**Division 2B—Energy supplement (Part B)****31B Energy supplement (Part B)**

- (1) Subject to clause 31C, the amount of the energy supplement (Part B) to be added in working out an individual's Part B rate under clause 29 or 29A is worked out using the following table.

<b>Energy supplement (Part B)</b>		
<b>Item</b>	<b>Individual's family situation</b>	<b>Amount of energy supplement (Part B)</b>
1	Youngest FTB child is under 5 years of age	\$73.00
2	Youngest FTB child is 5 years of age or over	\$51.10

Note: For certain individuals, energy supplement (Part B) is not to be added in working out the Part B rate: see clauses 29AA and 29D.

- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then the Secretary must review the instalment determination taking into account this Division: see section 105B of the Family Assistance Administration Act.

**31C Sharing family tax benefit (shared care percentages)**

- (1) If:
- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is the individual's only FTB child;
- the individual's energy supplement (Part B) is the individual's shared care percentage of the energy supplement (Part B) that would otherwise apply.

- (2) If:

**Schedule 1** Family tax benefit rate calculator

**Part 4** Part B rate

**Division 2B** Energy supplement (Part B)

Clause 31C

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- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is not the individual's only FTB child;
- the individual's energy supplement (Part B) is to be worked out as follows:
- (c) for each of the individual's FTB children for whom the individual does not have a shared care percentage, work out the amount that would be the individual's energy supplement (Part B) under clause 31B if that child were the individual's only FTB child;
  - (d) for each of the individual's FTB children for whom the individual has a shared care percentage, work out the amount that would be the individual's energy supplement (Part B) under clause 31B if:
    - (i) that child were the individual's only FTB child; and
    - (ii) subclause (1) of this clause applied to the child;
  - (e) the individual's energy supplement (Part B) is the highest of the amounts obtained under paragraphs (c) and (d).

## Division 3—Income test

### 32 Income test

This is how to work out an individual's reduction for adjusted taxable income:

*Method statement*

- Step 1. Work out the individual's **income free area** using clause 33.
- Step 2. Work out whether the individual's adjusted taxable income exceeds the individual's income free area.
- Step 3. If the individual's adjusted taxable income does not exceed the individual's income free area, the individual's **income excess** is nil.
- Step 4. If the individual's adjusted taxable income exceeds the individual's income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 5. The individual's **reduction for income** is 20% of the income excess.

### 33 Income free area

An individual's income free area is \$4,000.

## Part 5—Common provisions

### Division 1A—Newborn supplement

#### 35A Eligibility for newborn supplement

- (1) Subject to this clause, an amount of newborn supplement is to be added, for a day, in working out an individual's maximum rate under clause 3, or an individual's Method 2 base rate under clause 25, if subclause (2), (5) or (7) of this clause applies for that day in relation to the individual and an FTB child of the individual.

*Parent of child*

- (2) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
- (a) the individual, or the individual's partner, is a parent of the child on that day; and
  - (b) the child is aged less than one on that day; and
  - (c) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
  - (d) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (c) are satisfied; and
  - (e) if the individual is, under a law (the **registration law**) of a State or Territory, responsible (whether alone or jointly) for registering the birth of the child in accordance with the law—the Secretary is notified, or becomes aware, at any time before the end of whichever of the following periods is applicable, that the birth registration requirement is met:
    - (i) the first income year after the income year (the **relevant income year**) in which occurs the last day on which paragraphs (a) to (d) are satisfied;

- (ii) if a further period in respect of the individual's claim for payment of family tax benefit in respect of the child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act and that claim is for a past period falling within the relevant income year—such further period (if any) as the Secretary allows in special circumstances.
- (3) For the purposes of paragraph (2)(e), the ***birth registration requirement*** is the requirement that:
- (a) the birth of the child has been registered in accordance with the registration law; or
  - (b) the individual, or the individual's partner, has applied to have the birth of the child registered in accordance with the registration law.
- (4) Any further period allowed by the Secretary under subparagraph (2)(e)(ii) must end no later than the end of the second income year after the relevant income year.

*Child entrusted to care of individual or individual's partner*

- (5) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
- (a) neither the individual, nor the individual's partner, is a parent of the child on that day; and
  - (b) on or before that day, the child became entrusted to the care of the individual or the individual's partner; and
  - (c) the child is aged less than one on that day; and
  - (d) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
  - (e) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (d) are satisfied.

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- (6) However, subclause (5) does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if the child is not an FTB child of the individual for a continuous period of at least 13 weeks beginning on the first day that paragraphs (5)(a) to (d) are satisfied.

*Adoption*

- (7) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
- (a) on or before that day, the child became entrusted to the care of the individual or the individual's partner; and
  - (b) it is an authorised party that entrusts the child to the care of the individual or the individual's partner; and
  - (c) the authorised party does so as part of the process for the adoption of the child by the individual or the individual's partner; and
  - (d) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
  - (e) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (d) are satisfied; and
  - (f) that day occurs before the end of the period of 12 months beginning on the day the child became entrusted to the care of the individual or the individual's partner.

*Exceptions*

- (8) This clause does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if parental leave pay is payable to the individual for that child.
- (9) This clause does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if:
- (a) parental leave pay is payable to a person (other than the individual) for that child; and



- (b) the person and the individual are members of a couple for:
  - (i) if the person has a PPL period, and has a continuous PPL period, for the child, and the total number of week days in that PPL period and the person's continuous flexible period for the child is at least 65—at least 13 weeks; or
  - (ii) if the person has a PPL period, and has a continuous PPL period, for the child, and the total number of week days in that PPL period and the person's continuous flexible period for the child is less than 65—a period equal to the total number of those week days; or
  - (iii) otherwise—the whole of the person's PPL period for the child.
- (10) If:
  - (a) under this clause, an amount of newborn supplement is added in relation to an individual and an FTB child of the individual for a period of 13 weeks; and
  - (b) the individual is a member of a couple throughout that period; and
  - (c) throughout that period there is no determination in force under section 28 or 29 in relation to both members of the couple and that child;then this clause does not apply in relation to the other member of that couple and that child.
- (11) An amount of newborn supplement is not to be added under this clause for a day or days in relation to an individual and an FTB child of the individual in the circumstances prescribed in a legislative instrument under subclause (12).
- (12) The Minister may, by legislative instrument, prescribe circumstances for the purposes of either or both of subsection 58AA(3) and subclause (11) of this clause.
- (13) The circumstances, in relation to an individual and an FTB child of the individual, must relate to one or more of the following:

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- (a) the payability of parental leave pay to another individual for that child;
- (b) the addition of newborn supplement under this clause in relation to another individual and that child;
- (c) the individual being a member of a couple or a former member of a couple.

*Definition*

- (14) In this clause:

*parent* includes a relationship parent.

**35B Annualised rate of newborn supplement**

*General rule*

- (1) Subject to this clause, the amount of newborn supplement for an individual in respect of an FTB child is as follows:

- (a) if subclause 35A(2) applies and the child is the first child born alive to the woman who gave birth to the child—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

- (b) if subclause 35A(5) applies and the child is the first child that becomes entrusted to the care of the individual, or the individual's partner, in the circumstances mentioned in paragraphs 35A(5)(b) and (c)—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

- (c) if subclause 35A(7) applies and the child is the first child that becomes entrusted to the care of the individual, or the individual's partner, in the circumstances mentioned in paragraphs 35A(7)(a) to (c)—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(d) otherwise—the amount worked out using the formula:

$$\$500.50 \times \frac{365}{91}$$

Note: The amount of the newborn supplement added under this Division forms part of the calculation of an individual's annual rate of family tax benefit, which is then converted to a daily rate of family tax benefit: see subsection 58(3). That daily rate, to the extent it relates to the newborn supplement, is paid for a maximum of 13 weeks: see clause 35A.

*Multiple children cases*

(2) If 2 or more children are born during the same multiple birth (including any stillborn child) and subclause 35A(2) applies in relation to an individual and one or more of those children (each of whom is a **qualifying child**), the amount of newborn supplement for the individual in respect of each qualifying child is the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(3) If subclause 35A(5) applies in relation to an individual and 2 or more children who become entrusted to the care of the individual, or the individual's partner, as part of the same entrustment to care process, the amount of newborn supplement for the individual in respect of each child is the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(4) If subclause 35A(7) applies in relation to an individual and 2 or more children who become entrusted to the care of the individual,

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or the individual's partner, as part of the same adoption process, the amount of newborn supplement for the individual in respect of each child is the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

## **Division 2—Multiple birth allowance**

### **36 Eligibility for multiple birth allowance**

- (1) An amount by way of multiple birth allowance is to be added in working out an individual's maximum rate under clause 3, or an individual's Method 2 base rate under clause 25, if:
  - (a) the individual has 3 or more FTB children; and
  - (b) at least 3 of those children were born during the same multiple birth and satisfy the requirements of subclause (2).
- (2) For the purposes of paragraph (1)(b), the requirements of this subclause are satisfied by a child if:
  - (a) the child is under the age of 16 years; or
  - (b) the child has turned 16 and is a senior secondary school child.

### **37 Rate of multiple birth allowance**

The amount of the multiple birth allowance is:

- (a) if the number of the FTB children born during the same multiple birth who satisfy the requirements of subclause 36(2) is 3—\$2,467.40; and
- (b) if the number of the FTB children born during the same multiple birth who satisfy the requirements of subclause 36(2) is 4 or more—\$3,292.30.

### **38 Sharing multiple birth allowance (determinations under section 59A)**

If the Secretary has made a determination under section 59A in respect of an FTB child of the individual, multiple birth allowance under this Division is to be dealt with in accordance with the determination.

## Division 2A—FTB Part A supplement

### 38A Rate of FTB Part A supplement

- (1A) Despite any other provision of this clause, the amount of the FTB Part A supplement to be added in working out an individual's maximum rate under clause 3, or an individual's Method 2 base rate under clause 25, is nil if the individual's adjusted taxable income is more than \$80,000.

Note: If the individual is a member of a couple, the individual's adjusted taxable income includes the adjusted taxable income of the individual's partner: see clause 3 of Schedule 3.

- (1) The amount of the FTB Part A supplement to be added in working out an individual's maximum rate under clause 3, or an individual's Method 2 base rate under clause 25, is:
- (a) if the individual has one FTB child—the applicable supplement amount for that child; or
  - (b) if the individual has 2 or more FTB children—the sum of the applicable supplement amounts for each of those children.
- (2) For the purposes of subclause (1), the **applicable supplement amount** for an FTB child of the individual is:
- (a) if the individual has a shared care percentage for the FTB child—the individual's shared care percentage of the FTB gross supplement amount; or
  - (b) in any other case—the FTB gross supplement amount.
- (3) For the purposes of subclause (2), the **FTB gross supplement amount** is \$600.
- (4) To avoid doubt, when the FTB gross supplement amount is indexed on a 1 July under Part 2 of Schedule 4, the amount, as it stood before that indexation, continues to apply in working out an individual's maximum rate under clause 3, or an individual's Method 2 base rate under clause 25, for the income year ending just before that 1 July.

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## **Division 2AA—Energy supplement (Part A)**

### **Subdivision A—Energy supplement (Part A—Method 1)**

#### **38AA Energy supplement (Part A—Method 1)**

- (1) The amount of the energy supplement (Part A) to be added in working out an individual's maximum rate under clause 3 is worked out using the following table. Subject to clauses 38AB to 38AE, work out the FTB energy child amount for each FTB child of the individual. The energy supplement (Part A) is the sum of the FTB energy child amounts.

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<b>Energy supplement (Part A—Method 1)</b>		
<b>Item</b>	<b>Category of FTB child</b>	<b>FTB energy child amount</b>
1	FTB child who is under 13 years of age	\$91.25
2	FTB child who has reached 13 years of age	\$116.80

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Note: For certain individuals, energy supplement (Part A) is not to be added in working out the Part A rate: see clause 6A.

- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then the Secretary must review the instalment determination taking into account this Subdivision: see section 105B of the Family Assistance Administration Act.

#### **38AB Base FTB energy child amount**

For the purposes of this Division, the **base FTB energy child amount** for an FTB child of an individual is the amount that would be the FTB energy child amount under subclause 38AF(2) if the individual's energy supplement (Part A) were being worked out under Subdivision B and clause 38AG did not apply.

Clause 38AC

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**38AC FTB energy child amount—recipient of other periodic payments**

The FTB energy child amount for an FTB child of an individual is the base FTB energy child amount (see clause 38AB) if:

- (a) the individual or the individual's partner is receiving a periodic payment under a law of the Commonwealth and the law provides for an increase in the rate of payment by reference to an FTB child of the individual; or
- (b) the individual or the individual's partner is receiving a periodic payment under a scheme administered by the Commonwealth and the scheme provides for an increase in the rate of payment by reference to an FTB child of the individual.

**38AD Effect of certain maintenance rights**

- (1) The FTB energy child amount for an FTB child of an individual is the base FTB energy child amount (see clause 38AB) if:
  - (a) the individual or the individual's partner is entitled to claim or apply for maintenance for the child; and
  - (b) the Secretary considers that it is reasonable for the individual or partner to take action to obtain maintenance; and
  - (c) the individual or partner does not take action that the Secretary considers reasonable to obtain maintenance.
- (2) Subclause (1) does not apply to maintenance that is:
  - (a) a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and
  - (b) not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*).

**38AE Sharing family tax benefit (shared care percentages)**

If an individual has a shared care percentage for an FTB child of the individual, the FTB energy child amount for the child, in working out the individual's energy supplement (Part A), is the



individual's shared care percentage of the FTB energy child amount that would otherwise apply to the child.

## **Subdivision B—Energy supplement (Part A—Method 2)**

### **38AF Energy supplement (Part A—Method 2)**

- (1) The amount of the energy supplement (Part A) to be added in working out an individual's Method 2 base rate under clause 25 is the sum of the FTB energy child amounts, worked out under subclause (2) of this clause and clause 38AG, for each FTB child of the individual.

Note: For certain individuals, energy supplement (Part A) is not to be added in working out the Part A rate: see clause 25C.

- (2) For the purposes of subclause (1), the ***FTB energy child amount***, for an FTB child of the individual, is \$36.50.
- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then the Secretary must review the instalment determination taking into account this Subdivision: see section 105B of the Family Assistance Administration Act.

### **38AG Sharing family tax benefit (shared care percentages)**

If an individual has a shared care percentage for an FTB child of the individual, the FTB energy child amount for the child, in working out the individual's energy supplement (Part A), is the individual's shared care percentage of the FTB energy child amount that would otherwise apply to the child.

## Division 2B—Rent assistance

### Subdivision A—Rent assistance

#### 38B Rent assistance children

- (1) An individual's eligibility for, and rate of, rent assistance is affected by whether an FTB child, or a regular care child, of the individual is also a rent assistance child of the individual.
- (2) An FTB child of an individual is a *rent assistance child* of the individual if the FTB child rate for the child:
  - (a) exceeds the base FTB child rate (see clause 8); or
  - (b) would exceed the base FTB child rate but for clause 11.
- (3) A regular care child of an individual is a *rent assistance child* of the individual.

#### 38C Eligibility for rent assistance

- (1) An amount by way of rent assistance for a period is to be added in working out an individual's maximum rate if:
  - (a) the individual has at least one rent assistance child; and
  - (b) the individual's claim for family tax benefit is not a claim to which subclause (2) applies; and
  - (ba) neither the individual nor the individual's partner is receiving payments of incentive allowance under clause 36 of Schedule 1A to the *Social Security Act 1991*; and
  - (c) the individual is not an ineligible homeowner; and
  - (d) the individual is not an aged care resident; and
  - (e) the individual pays, or is liable to pay, rent (other than Government rent); and
  - (f) if the individual has at least one FTB child and is not a relevant shared carer—the rent is payable at a rate of more than:

- (i) if the individual is not a member of a couple—  
\$3,073.30 per year; or
  - (ii) if the individual is a member of a couple but is not  
partnered (partner in gaol) or a member of an illness  
separated couple, a respite care couple or a temporarily  
separated couple—\$4,547.90 per year; or
  - (iii) if the individual is partnered (partner in gaol) or is a  
member of an illness separated couple or a respite care  
couple—\$3,073.30 per year; or
  - (iv) if the individual is a member of a temporarily separated  
couple—\$3,073.30 per year; and
- (fa) if the individual is a relevant shared carer, or has only one or  
more regular care children (but no FTB children)—the rent is  
payable at a rate of more than:
- (i) if the individual is not a member of a couple—  
\$2,332.35 per year; or
  - (ii) if the individual is a member of a couple but is not  
partnered (partner in gaol) or a member of an illness  
separated couple, a respite care couple or a temporarily  
separated couple—\$3,806.95 per year; or
  - (iii) if the individual is partnered (partner in gaol) or is a  
member of an illness separated couple or a respite care  
couple—\$2,332.35 per year; or
  - (iv) if the individual is a member of a temporarily separated  
couple—\$2,332.35 per year; and
- (g) if the individual is outside Australia:
- (i) the person was paying rent (other than Government  
rent) for accommodation in Australia immediately  
before the individual left Australia; and
  - (ii) the person continues to pay rent for the same  
accommodation while outside Australia.
- (2) This subclause applies to an individual's claim for family tax  
benefit if:

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- (a) the claim is for family tax benefit for a past period that occurs in the first or second income year before the one in which the claim is made; and
  - (b) when the claim is made the individual:
    - (i) is eligible for family tax benefit; and
    - (ii) is not prevented by section 9 of the *A New Tax System (Family Assistance) (Administration) Act 1999* from making an effective claim for payment of family tax benefit by instalment; and
  - (c) the claim is not accompanied by a claim for family tax benefit by instalment.
- (3) Paragraph (2)(c) does not apply if, at the time the claim for payment of family tax benefit for a past period is made, subsection 32AE(2) of the Family Assistance Administration Act applies in respect of the individual or subsection 32AE(5) of that Act applies in respect of the individual's partner.

**38D Rate of rent assistance payable to individual who has at least one FTB child and who is not a relevant shared carer**

The rate of rent assistance payable to an individual who has at least one FTB child and who is not a relevant shared carer is worked out using the following table. Work out the individual's family situation and calculate Rate A for the individual using the corresponding formula in column 2. This will be the individual's rate of rent assistance but only up to the individual's maximum rent assistance rate. The individual's maximum rent assistance rate is Rate B, worked out using column 3.

**Rent assistance payable to individual who has at least one FTB child and who is not a relevant shared carer**

**(Part A—Method 1)**

Column 1 Family situation	Column 2 Rate A	Column 3 Rate B	
		Column 3A	Column 3B
		1 or 2 rent assistance children	3 or more rent assistance children
1 Not member of a couple	$\frac{(\text{Annual rent} - \$3,073.30)}{4} \times 3$	\$3,084.25	\$3,485.75
2 Member of a couple other than a person who is partnered (partner in gaol) or a member of an illness separated couple, a respite care couple or a temporarily separated couple	$\frac{(\text{Annual rent} - \$4,547.90)}{4} \times 3$	\$3,084.25	\$3,485.75
3 Person who is partnered (partner in gaol) or a member of an illness separated couple or a respite care couple	$\frac{(\text{Annual rent} - \$3,073.30)}{4} \times 3$	\$3,084.25	\$3,485.75

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Clause 38E

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**Rent assistance payable to individual who has at least one FTB child and who is not a relevant shared carer**

**(Part A—Method 1)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	
<b>Family situation</b>	<b>Rate A</b>	<b>Rate B</b>	
		<b>Column 3A</b>	<b>Column 3B</b>
		<b>1 or 2 rent assistance children</b>	<b>3 or more rent assistance children</b>
4 Member of a temporarily separated couple	$\frac{(\text{Annual rent} - \$3,073.30)}{4} \times 3$	\$3,084.25	\$3,485.75

**38E Rate of rent assistance payable to individual who is a relevant shared carer or who has only one or more regular care children**

The rate of rent assistance payable to an individual who is a relevant shared carer, or who has only one or more regular care children (but no FTB children), is the higher of:

- (a) the rate of rent assistance that would be payable to that individual if that individual's rate were worked out using clause 38D; and
- (b) the rate of rent assistance worked out using the following table.

In working out rent assistance, work out the individual's family situation using column 1 and calculate Rate A for the individual using the corresponding formula in column 2. This will be the individual's rate of rent assistance in accordance with the table but only up to Rate B specified in column 3.

## Clause 38F

**Rent assistance payable to individual who is a relevant shared carer or who has only one or more regular care children****(Part A—Method 1 or 3)**

	<b>Column 1 Family situation</b>	<b>Column 2 Rate A</b>	<b>Column 3 Rate B</b>
1	Not member of a couple	$\frac{(\text{Annual rent} - \$2,332.35)}{4} \times 3$	\$2,638.95
2	Member of a couple other than a person who is partnered (partner in gaol) or a member of an illness separated couple, a respite care couple or a temporarily separated couple	$\frac{(\text{Annual rent} - \$3,806.95)}{4} \times 3$	\$2,478.35
3	Person who is partnered (partner in gaol) or a member of an illness separated couple or a respite care couple	$\frac{(\text{Annual rent} - \$2,332.35)}{4} \times 3$	\$2,638.95
4	Member of a temporarily separated couple	$\frac{(\text{Annual rent} - \$2,332.35)}{4} \times 3$	\$2,478.35

**38F Annual rent**

*Annual rent* in the tables in clauses 38D and 38E is the annual rate of rent paid or payable by the individual whose rate is being calculated.

Clause 38G

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**38G Rent paid by a member of a couple**

If an individual is a member of a couple and is living with his or her partner in their home, any rent paid or payable by the partner is to be treated as paid or payable by the individual.

**38H Rent paid by a member of an illness separated, respite care or temporarily separated couple**

If an individual is a member of an illness separated, respite care or temporarily separated couple, any rent that the individual's partner pays or is liable to pay in respect of the premises occupied by the individual is to be treated as paid or payable by the individual.

**Subdivision B—Offsetting for duplicate rent assistance**

**38J Offsetting for duplicate rent assistance under family assistance and social security law**

*When this clause applies*

- (1) This clause applies if:
- (a) a decision (the **social security decision**) was made that rent assistance was to be included when calculating an individual's, or an individual's eligible partner's, rate of social security payment for a day; and
  - (b) when the social security decision was made, no decision (the **family assistance decision**) to make a determination that includes, or to vary a determination to include, rent assistance when calculating the individual's Part A rate of family tax benefit for that day had been made; and
  - (c) after the social security decision was made, the family assistance decision was made; and
  - (d) the day mentioned in paragraphs (a) and (b) comes before the day on which the family assistance decision was made.

Note: For the definition of **eligible partner** see subclause (5).



*Part A rate to be reduced*

- (2) The individual's Part A rate for that day (as calculated or recalculated because of the making of the family assistance decision) is to be reduced:
- (a) first, by the individual's annual social security RA amount for that day (see subclause (3)); and
  - (b) then, by the individual's eligible partner's annual social security RA amount for that day (see subclause (4)).
- However, it is not to be reduced to less than:
- (c) if it has been calculated for the first time under clause 3 or 28A because of the making of the family assistance decision—nil; and
  - (d) if it has been recalculated under clause 3 or 28A because of the making of the family assistance decision—the Part A rate as it was immediately before the recalculation.
- (3) The ***individual's annual social security RA amount*** for that day is the amount worked out as follows:

*Method statement*

- Step 1. Work out the rate (if any) of social security payment (the ***actual payment***) that was payable to the individual for that day.
- Step 2. Work out the rate (if any) of social security payment (the ***notional payment***) that would have been payable to the individual for that day if rent assistance were not included when calculating the rate of the individual's social security payment for that day.
- Step 3. Subtract the notional payment from the actual payment. The difference is the ***individual's daily social security RA amount*** for that day.

Clause 38J

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Step 4. Multiply the individual's daily social security RA amount for that day by 365. The result is the **individual's annual social security RA amount** for that day.

- (4) The **individual's eligible partner's annual social security RA amount** for that day is the amount worked out as follows:

*Method statement*

Step 1. Work out the rate (if any) of social security payment (the **actual payment**) that was payable to the individual's eligible partner for that day.

Step 2. Work out the rate (if any) of social security payment (the **notional payment**) that would have been payable to the eligible partner for that day if rent assistance were not included when calculating the rate of the eligible partner's social security payment for that day.

Step 3. Subtract the notional payment from the actual payment. The difference is the **eligible partner's daily social security RA amount** for that day.

Step 4. Multiply the eligible partner's daily social security RA amount for that day by 365. The result is the **individual's eligible partner's annual social security RA amount** for that day.

- (5) For the purposes of this clause, an individual is the **eligible partner** of another individual if both individuals are members of a couple (other than an illness separated couple, a respite care couple or a temporarily separated couple).

**38K Offsetting for duplicate rent assistance under family assistance and veterans' entitlements law**

*When this clause applies*

- (1) This clause applies if:
- (a) a decision (the ***veterans' entitlements decision***) was made that rent assistance was to be included when calculating an individual's, or an individual's eligible partner's, rate of service pension, income support supplement or veteran payment for a day; and
  - (b) when the veterans' entitlements decision was made, no decision (the ***family assistance decision***) to make a determination that includes, or to vary a determination to include, rent assistance when calculating the individual's Part A rate of family tax benefit for that day had been made; and
  - (c) after the veterans' entitlements decision was made, the family assistance decision was made; and
  - (d) the day mentioned in paragraphs (a) and (b) comes before the day on which the family assistance decision was made.

Note: For the definition of ***eligible partner*** see subclause (5).

*Part A rate to be reduced*

- (2) The individual's Part A rate for that day (as calculated or recalculated because of the making of the family assistance decision and as reduced (if at all) under clause 38J) is to be reduced:
- (a) first, by the individual's annual veterans' entitlements RA amount for that day (see subclause (3)); and
  - (b) then, by the individual's eligible partner's annual veterans' entitlements RA amount for that day (see subclause (4)).

However, it is not to be reduced to less than:

- (c) if it has been calculated for the first time under clause 3 or 28A because of the making of the family assistance decision—nil; and

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- (d) if it has been recalculated under clause 3 or 28A because of the making of the family assistance decision—the Part A rate as it was immediately before the recalculation.
- (3) The *individual's annual veterans' entitlements RA amount* for that day is the amount worked out as follows:

*Method statement*

- Step 1. Work out the rate (if any) of service pension, income support supplement or veteran payment (the *actual payment*) that was payable to the individual for that day.
- Step 2. Work out the rate (if any) of service pension, income support supplement or veteran payment (the *notional payment*) that would have been payable to the individual for that day if rent assistance were not included when calculating the rate of the individual's service pension, income support supplement or veteran payment for that day.
- Step 3. Subtract the notional payment from the actual payment. The difference is the *individual's provisional veterans' entitlements RA amount* for that day.
- Step 4. Divide the individual's provisional veterans' entitlements RA amount for that day by 364, then multiply it by 365. The result is the *individual's annual veterans' entitlements RA amount* for that day.

- (4) The *individual's eligible partner's annual veterans' entitlements RA amount* for that day is the amount worked out as follows:

*Method statement*

- Step 1. Work out the rate (if any) of service pension, income support supplement or veteran payment (the *actual*

*payment*) that was payable to the individual's eligible partner for that day.

- Step 2. Work out the rate (if any) of service pension, income support supplement or veteran payment (the *notional payment*) that would have been payable to the eligible partner for that day if rent assistance were not included when calculating the amount of the eligible partner's service pension, income support supplement or veteran payment for that day.
- Step 3. Subtract the notional payment from the actual payment. The difference is the *eligible partner's provisional veterans' entitlements RA amount* for that day.
- Step 4. Divide the eligible partner's provisional veterans' entitlements RA amount for that day by 364, then multiply it by 365. The result is the *individual's eligible partner's annual veterans' entitlements RA amount* for that day.

- (5) For the purposes of this clause, an individual is the *eligible partner* of another individual if both individuals are members of a couple (other than an illness separated couple or a respite care couple).

## Division 2C—Income test

### 38L Application of income test to pension and benefit recipients and their partners

If an individual, or an individual's partner, is receiving a social security pension, a social security benefit, a service pension, income support supplement or a veteran payment:

- (a) the individual's income excess is nil; and
- (b) the individual's income tested rate is the same as the individual's maximum rate.

### 38M Income test

This is how to work out an individual's reduction for adjusted taxable income if clause 38L does not apply to the individual:

*Method statement*

- Step 1. Work out the individual's **income free area** using clause 38N.
- Step 2. Work out whether the individual's adjusted taxable income exceeds the individual's income free area.
- Step 3. If the individual's adjusted taxable income does not exceed the individual's income free area, the individual's **income excess** is nil.
- Step 4. If the individual's adjusted taxable income exceeds the individual's income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 5. The individual's **reduction for adjusted taxable income** is 20% of the income excess.

**38N Income free area**

An individual's *income free area* is \$40,000.

### **Division 3—Certain recipients of pensions under the Veterans' Entitlements Act**

#### **39 Rate of benefit for certain recipients of pensions under the Veterans' Entitlements Act**

- (1) In this clause:

**30 June 2000 rate**, in relation to an individual, means the amount worked out according to subclause (6).

**dependant** has the same meaning as in Division 5 of Part II of the *Income Tax Rates Act 1986* as that Act applied to the income year that commenced on 1 July 1999.

**family tax assistance person** means:

- (a) if the Secretary is satisfied in relation to an individual as described in subparagraph (2)(a)(iii)—the individual; or
- (b) if the Secretary is not so satisfied—the individual's partner.

**partner**, in relation to an individual, means the person who:

- (a) was the partner of that individual immediately before 1 July 2000; and
- (b) has continued, at all times on and after that day, to be the partner of the individual.

**special Part A rate**, in relation to an individual, means the amount worked out according to subclause (7).

- (2) Subject to subclause (3), this clause applies to an individual if:
- (a) one or more of the following subparagraphs are satisfied:
    - (i) immediately before 1 July 2000, the individual or the individual's partner was receiving family allowance under Part 2.17 of the *Social Security Act 1991*;
    - (ii) immediately before 1 July 2000, the individual or the individual's partner was receiving family tax payment under Part 2.17AA of that Act;



- (iii) the Secretary is satisfied that Schedule 7 to the *Income Tax Rates Act 1986* applied to the individual or the individual's partner, in respect of the income year that commenced on 1 July 1999, in accordance with subsection 20C(2) of that Act or would have so applied if sections 20E, 20F and 20H of that Act had not been enacted; and
- (b) the individual or the individual's partner was receiving, immediately before 1 July 2000, and has continued, at all times on and after that day, to receive:
  - (i) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to the individual or partner as a veteran; or
  - (ii) a pension under Part II of that Act payable to the individual or partner as the widow or widower of a deceased veteran; or
  - (iii) a pension under Part IV of that Act payable to the individual or partner as a member of the Forces or as a member of a Peacekeeping Force; or
  - (iv) a pension under Part IV of that Act payable to the individual or partner as the widow or widower of a deceased member of the Forces or as the widow or widower of a deceased member of a Peacekeeping Force; and
- (c) neither the individual nor the individual's partner was receiving, immediately before 1 July 2000, or has received at any time on or after that day:
  - (i) a social security pension; or
  - (ii) a social security benefit; or
  - (iii) a service pension; or
  - (iv) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*; and
- (d) at all times on and after 1 July 2000:
  - (i) the individual or the individual's partner has been eligible for family tax benefit or would have been so eligible if the individual or partner had not been receiving a pension referred to in paragraph (b); and

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- (ii) the individual's or partner's Part A rate of family tax benefit has been, or would have been, greater than nil; and
  - (e) the individual's adjusted taxable income for the purposes of this Act (other than Part 4 of this Schedule) for an income year that commenced on or after 1 July 2000 until 1 July 2007 (inclusive) has exceeded the individual's income free area under clause 19 of this Schedule; and
  - (ea) the individual's adjusted taxable income for the purposes of this Act (other than Part 4 of this Schedule) for the income year that commenced on 1 July 2008 and every succeeding income year has exceeded the individual's income free area under clause 38N of this Schedule; and
  - (f) the individual's Part A rate worked out according to Part 2, 3 or 3A of this Schedule is not, and never has been, equal to, or greater than, the individual's 30 June 2000 rate.
- (3) Subparagraph (2)(a)(iii) cannot be satisfied in relation to an individual unless the individual or the individual's partner had, immediately before 1 July 2000, at least one dependant.
- (4) In spite of any other provision of this Schedule, the Part A rate of an individual to whom this clause applies is the individual's saved Part A rate.
- (5) An individual's saved Part A rate is the lower of:
- (a) the individual's 30 June 2000 rate; and
  - (b) the individual's special Part A rate.
- (6) The 30 June 2000 rate for an individual is worked out using the following method statement.

*Method statement*

Step 1. If the individual or the individual's partner was receiving family allowance, but not family tax payment, immediately before 1 July 2000, the fortnightly rate of that family allowance is the individual's **fortnightly rate**.

- Step 2. If the individual or the individual's partner was receiving family tax payment, but not family allowance, immediately before 1 July 2000, the individual's or partner's fortnightly Part A rate of family tax payment immediately before 1 July 2000 is the individual's ***fortnightly rate***.
- Step 3. If the individual or the individual's partner was receiving family allowance and family tax payment immediately before 1 July 2000, add the following amounts:
- (a) the individual's or partner's fortnightly rate of family allowance immediately before 1 July 2000;
  - (b) the individual's or partner's fortnightly Part A rate of family tax payment immediately before 1 July 2000.
- The result is the individual's ***fortnightly rate***.
- Step 4. From the individual's fortnightly rate subtract any amount of guardian allowance included in the individual's or the individual's partner's family allowance by virtue of Module F of the Family Allowance Rate Calculator in section 1069 of the *Social Security Act 1991*, as in force immediately before 1 July 2000: the result is the individual's ***net fortnightly rate***.
- Step 5. Divide the individual's net fortnightly rate by 14. If the result is not a whole number of cents or dollars or a whole number of dollars and a whole number of cents, round the result upwards to the nearest cent and multiply the rounded amount by 365: the result of the multiplication is the individual's ***annual rate***.

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Step 6. If neither the individual nor the individual's partner was receiving family allowance or family tax payment immediately before 1 July 2000, the individual's **annual rate** is nil.

Step 7. If either or both of subparagraphs (2)(a)(i) and (ii) are satisfied but subparagraph (2)(a)(iii) is not satisfied, the individual's annual rate is his or her **30 June 2000 rate**.

Step 8. If subparagraph (2)(a)(iii) is satisfied but subparagraph (2)(a)(ii) is not satisfied, add the following amounts:

- (a) the individual's annual rate;
- (b) the individual's 1999-2000 family tax assistance component.

The result is the individual's **30 June 2000 rate**.

- (7) An individual's special Part A rate is the individual's Part A rate of family tax benefit worked out:
- (a) in accordance with Part 2, 3 or 3A of this Schedule; and
  - (b) as if neither the individual nor the individual's partner was receiving a pension referred to in paragraph (2)(b).
- (8) An individual's 1999-2000 family tax assistance component is the amount worked out according to the formula:

$\$200 \times \text{Number of dependants}$

where:

**number of dependants** is the total number of dependants the family tax assistance person had on 30 June 2000.

## **Division 4—Reduction for family tax benefit advance**

### **40 Reduction for family tax benefit advance**

- (1) Subject to subclause (2) and clauses 43 and 44, the amount by which an individual's Part A rate is to be reduced under clause 5 or 25A to repay a family tax benefit advance is worked out using the following formula:

$$\frac{\text{Amount of unrepaid family tax benefit advance}}{\text{Remaining days in the repayment period}} \times 365$$

#### *Member of a couple in a blended family*

- (2) If a determination under section 28 that an individual is eligible for a percentage (the **section 28 percentage**) of the family tax benefit for FTB children of the individual is in force, the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A to repay the family tax benefit advance is worked out using the following formula:

$$\frac{\text{Amount worked out under subclause (1)}}{\text{Section 28 percentage}}$$

#### *Meaning of repayment period*

- (3) The **repayment period** in relation to a family tax benefit advance that is paid to an individual:
- (a) begins on:
    - (i) the first day of the instalment period after the individual is paid the family tax benefit advance; or
    - (ii) if it is not practicable for the reduction to start on the day referred to in subparagraph (i)—the first day on which it is practicable to reduce the individual's Part A rate; or

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Clause 41

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- (iii) if the determination of the individual's entitlement to the family tax benefit advance is a determination referred to in subsection 35B(3) of the Family Assistance Administration Act (regular family tax benefit advances)—the day the determination is made; or
  - (iv) such other day determined by the Secretary under this Division; and
- (b) is a period of 182 days or such other period determined by the Secretary under this Division.

**41 Standard reduction**

- (1) Subject to subclause (2), the **standard reduction** for a family tax benefit advance is the amount worked out using the following formula:

$$\frac{\text{Original amount of the family tax benefit advance}}{\text{Original repayment period}} \times 365$$

*Member of a couple in a blended family*

- (2) If a determination under section 28 that an individual is eligible for a percentage (the **section 28 percentage**) of the family tax benefit for FTB children of the individual is in force, the **standard reduction** for a family tax benefit advance paid to the individual is the amount worked out using the following formula:

$$\frac{\text{Amount worked out under subclause (1)}}{\text{Section 28 percentage}}$$

*Meaning of original repayment period*

- (3) The **original repayment period** for a family tax benefit advance is a period of 182 days, unless the Secretary has determined a different period for the advance under clause 42 or 51.

#### **42 Secretary determines shorter repayment period**

When determining an individual's entitlement to a family tax benefit advance under section 35A of the Family Assistance Administration Act, the Secretary may determine that the repayment period for the family tax benefit advance is a period of less than 182 days, if the Secretary is satisfied that it is appropriate to determine the shorter repayment period having regard to:

- (a) circumstances affecting the individual's eligibility for family tax benefit; and
- (b) circumstances affecting the rate of family tax benefit that the individual is entitled to be paid.

#### **43 Part A rate insufficient to cover reduction—single family tax benefit advance**

- (1) This clause applies if:
  - (a) under clause 5 or 25A, the individual's Part A rate is to be reduced to repay a family tax benefit advance (the ***unrepaid advance***); and
  - (b) the individual's Part A rate is not to be reduced under clause 5 or 25A to repay any other family tax benefit advance; and
  - (c) the amount by which the individual's Part A rate would be reduced under clause 5 or 25A to repay the unrepaid advance would exceed the amount of the individual's Part A rate before reduction (the ***unreduced Part A rate***), if the amount were worked out under clause 40.
- (2) Subject to clause 45, the Secretary must determine that the number of days in the repayment period for the unrepaid advance is to be increased so that the individual's Part A rate is reduced under clause 5 or 25A by an amount that is no more than the individual's unreduced Part A rate.
- (3) If the individual's unreduced Part A rate later exceeds the amount by which the individual's Part A rate would be reduced under

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**Clause 44**

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clause 40, the Secretary may determine that the number of days in the repayment period for the unrepaid advance is to be decreased.

- (4) However, the amount by which the individual's Part A rate is to be reduced as a result of a determination under subclause (3) must be no more than the standard reduction.

Note: The individual may also request that the Secretary determine a shorter or longer repayment period under clause 46 or 47.

**44 Part A rate insufficient to cover reduction—multiple family tax benefit advances**

- (1) This clause applies if:
- (a) under clause 5 or 25A, the individual's Part A rate is to be reduced to repay more than one family tax benefit advance (the ***unrepaid advances***); and
  - (b) the sum of the amounts by which the individual's Part A rate would be reduced under clause 5 or 25A to repay the unrepaid advances would exceed the amount of the individual's Part A rate before reduction (the ***unreduced Part A rate***), if the amounts were worked out under clause 40.
- (2) Subject to clause 45, the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A to repay the unrepaid advances is worked out using the following method statement:

*Method statement*

- Step 1. Take each advance, in the order in which the advances were paid.
- Step 2. If the unreduced Part A rate, less any amounts by which the individual's Part A rate has been reduced under a previous application of this step, equals or exceeds the standard reduction for the advance, the individual's Part A rate is to be reduced by an amount equal to the standard reduction.



Step 3. If the unreduced Part A rate, less any amounts by which the individual's Part A rate has been reduced under a previous application of step 2, does not equal or exceed the standard reduction for the advance (but is greater than nil), the Secretary must determine that the number of days in the repayment period for the advance is to be increased so that the individual's Part A rate is reduced by an amount that is no more than the remainder.

Step 4. If the unreduced Part A rate, less any amounts by which the individual's Part A rate has been reduced under a previous application of step 2 or step 3, is nil, the Secretary must determine that the repayment period for the advance is to be suspended while the determination is in force.

- (3) The Secretary may vary a determination made under step 3 of the method statement in subclause (2).
- (4) The Secretary may revoke a determination made under step 4 of the method statement in subclause (2).
- (5) Subject to clause 45, if the Secretary revokes a determination made under step 4 of the method statement in subclause (2) in relation to a family tax benefit advance, the Secretary must determine the number of days remaining in the repayment period for the advance.
- (6) The Secretary must not vary a determination under subclause (3), or make a determination under subclause (5), in relation to a family tax benefit advance so that the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A to repay the advance is more than the standard reduction.

#### **45 Part A rate insufficient to cover reduction—discretion to create FTB advance debt**

- (1) The Secretary may, instead of making a determination under subclause 43(2), step 3 of the method statement in subclause 44(2)

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or under subclause 44(5), determine that the amount of unrepaid family tax benefit advance is to be a debt.

Note: See subsection 71A(7) of the Family Assistance Administration Act.

- (2) However, the Secretary must not make a determination under subclause (1) unless the individual's Part A rate before reduction under clause 5 or 25A is less than the amount that would, under clause 26, be the FTB child rate if:
  - (a) the individual's Part A rate were required to be worked out using Part 3 of this Schedule; and
  - (b) clause 27 did not apply.

**46 Changing the repayment period—individual requests shorter period**

*Request for shorter repayment period*

- (1) The Secretary may determine that the number of days in a repayment period for a family tax benefit advance paid to an individual is to be decreased if:
  - (a) the individual has made a request in accordance with subclause (2) for a shorter repayment period; and
  - (b) the Secretary is satisfied that the individual would not suffer severe financial hardship if the number of days in the repayment period were decreased as determined.
- (2) The request must be made in a form and manner, contain any information, and be accompanied by any documents, required by the Secretary.

*Request for variation of the determination*

- (3) On the request of the individual, the Secretary may, in writing, vary the determination so as to increase the number of days in the repayment period.
- (4) However, the Secretary must not vary the determination under subclause (3) if, as a result of the variation, the amount by which

the individual's Part A rate is to be reduced under clause 5 or 25A would be less than the standard reduction.

Note: If, after a variation under subclause (3), the reduction in the individual's Part A rate under clause 5 or 25A would cause the individual to suffer severe financial hardship, the individual may request a longer repayment period under clause 47.

#### **47 Changing the repayment period—individual requests longer period**

##### *Request for longer repayment period*

- (1) The Secretary may determine that the number of days in a repayment period for a family tax benefit advance paid to an individual is to be increased if:
  - (a) the individual has made a request in accordance with subclause (2) for a longer repayment period; and
  - (b) the Secretary is satisfied that:
    - (i) special circumstances relevant to the repayment of the advance exist in relation to the individual that could not reasonably have been foreseen at the time of the individual's request for a family tax benefit advance; and
    - (ii) the individual would suffer severe financial hardship if the number of days in the repayment period were not increased as determined.
- (2) The request must be made in a form and manner, contain any information, and be accompanied by any documents, required by the Secretary.

##### *Secretary may vary the determination*

- (3) The Secretary may, in writing, vary the determination so as to reduce the number of days in the repayment period but only if:
  - (a) the Secretary is satisfied that the individual would not suffer severe financial hardship because of the variation; and

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- (b) the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A, as a result of the variation, is not greater than the standard reduction.

**48 Changing the repayment period—recalculation of amount of unrepaid family tax benefit advance**

- (1) This clause applies if, during the repayment period for a family tax benefit advance, the amount of the family tax benefit advance that is unrepaid is increased, due to a variation in a determination, or a variation or substitution of a decision on review (other than a variation under subsection 28(2) or (6) of the Family Assistance Administration Act), so that the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A is an amount that is more than the standard reduction.
- (2) The Secretary must determine that the number of days in a repayment period is to be increased so that the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A is an amount that is no more than the standard reduction.

Note: The individual may also request that the Secretary determine a shorter or longer repayment period under clause 46 or 47.

**49 Suspension of repayment period**

*Request for suspension of repayment period*

- (1) The Secretary may determine that the repayment period for a family tax benefit advance paid to an individual is to be suspended while the determination is in force.
- (2) However, the Secretary may only make a determination under subclause (1) if:
  - (a) the individual has made a request in accordance with subclause (3) for the repayment period to be suspended; and
  - (b) the Secretary is satisfied that:
    - (i) special circumstances relevant to the repayment of the advance exist in relation to the individual that could not

reasonably have been foreseen at the time of the individual's request for a family tax benefit advance;  
and

- (ii) the individual would suffer severe financial hardship if the individual's Part A rate were to be reduced for that period.
- (3) The request must be made in a form and manner, contain any information, and be accompanied by any documents, required by the Secretary.

*Secretary may revoke the suspension*

- (4) The Secretary may in writing, at any time, revoke the determination, but only if the Secretary is satisfied that the individual would not suffer severe financial hardship from the individual's Part A rate being reduced under clause 5 or 25A as a result of the revocation.

*Determination of repayment period on revocation of suspension*

- (5) If the Secretary revokes the determination, the Secretary must determine the number of days remaining in the repayment period so that the amount by which the individual's Part A rate is to be reduced under clause 5 or 25A is an amount that is no more than the standard reduction.

Note: The individual may also request that the Secretary determine a shorter or longer repayment period under clause 46 or 47.

## **50 Repayment of family tax benefit advance by another method**

- (1) The Secretary may determine that an individual may repay all or part of an amount of unrepaid family tax benefit advance by a method other than by reduction under clause 5 or 25A if:
- (a) the individual has made a request in accordance with subclause (2); and
  - (b) the method is acceptable to both the individual and the Secretary.

Clause 51

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- (2) The request must be made in a form and manner, contain any information, and be accompanied by any documents, required by the Secretary.

**51 Recalculation of amount of unrepaid family tax benefit advance**

- (1) This clause applies if:
- (a) an individual is paid a family tax benefit advance (the *old advance*); and
  - (b) the individual's Part A rate has been reduced under clause 5 or 25A to repay the old advance; and
  - (c) the repayment period for the old advance has expired; and
  - (d) due to a variation in a determination, or a variation or substitution of a decision on review (other than a variation under subsection 28(2) or (6) of the Family Assistance Administration Act), the reduction in the individual's Part A rate under clause 5 or 25A has not been sufficient to repay the old advance; and
  - (e) at the time of the variation of the determination, or the variation or substitution of the decision on review:
    - (i) the individual is entitled to be paid family tax benefit by instalment; and
    - (ii) the individual's Part A rate is greater than nil (before reduction under clause 5 or 25A).

Note: If a variation or review occurs during the repayment period for a family tax benefit advance, the Secretary may be required to make a determination under clause 48.

- (2) The Secretary must determine that the individual is to be taken to have been paid a family tax benefit advance (the *new advance*) equal to the amount of the old advance left unrepaid on the day on which the Part A rate is recalculated.
- (3) If an individual is taken to have been paid a new advance under subclause (2), the individual is taken to have repaid the old advance.

- (4) The Secretary must determine the repayment period for the new advance and the day on which the repayment period is to begin.
- (5) The Secretary must not make a determination under subclause (4) that would cause the individual to suffer severe financial hardship.
- (6) The Secretary may vary or revoke a determination made under subclause (2) or (4), if a subsequent variation in the determination, or a variation or substitution of the decision on review, occurs.

Clause 1

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## **Schedule 2—Amounts of child care subsidy and additional child care subsidy**

Note: See Division 6 of Part 4A.

### **Part 1—Amount of child care subsidy**

#### **1 Amount of child care subsidy**

If an individual is eligible for CCS for at least one session of care provided by an approved child care service to a child in a week, work out the amount of child care subsidy for the individual for the week, for sessions of care provided by the service to the child, using the following method statement.

*Method statement*

Step 1. Work out the individual's activity test result, in relation to the child, for the CCS fortnight that includes the week (see clause 11 of this Schedule).

If the activity test result is zero, the amount of child care subsidy for the individual for the week, for the sessions of care provided by the service to the child, is nil.

Otherwise, go to step 3.

Step 3. Identify all the sessions of care:

- (a) provided by the service to the child in the week;  
and
- (b) for which the individual is eligible for CCS.

Step 4. Work out the hourly rate of CCS for the individual for each of those sessions of care (see clause 2).



If the applicable percentage is 0% for each of those sessions of care, the amount of child care subsidy for the individual for the week, for those sessions, is nil.

Otherwise, go to step 5.

Step 5. Work out:

- (a) the activity-tested amount of CCS for those sessions of care (see clause 4); and
- (b) if at least one of those sessions of care is a session of care to which clause 4A applies—the adjusted activity-tested amount of CCS for those sessions of care (see clause 4A).

If paragraph (b) applies, go to step 7.

Otherwise, go to step 6.

Step 6. The amount of CCS for the individual for the week, for the sessions of care identified in step 3, is the activity-tested amount.

Step 7. If at least one of the sessions of care identified in step 3 is a session of care to which clause 4A applies, the amount of CCS for the individual for the week, for the sessions of care, is the adjusted activity-tested amount.

Note: An individual who is receiving CCS by fee reduction might have a lower amount passed on than the amount worked out under this method statement, because of a withholding amount in relation to the payment. See sections 67EB and 201A of the Family Assistance Administration Act.

## 2 Hourly rate of CCS

- (1) For the purposes of step 4 of the method statement in clause 1, the **hourly rate of CCS** for the individual, for a session of care

**Schedule 2** Amounts of child care subsidy and additional child care subsidy  
**Part 1** Amount of child care subsidy

Clause 2

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provided by the service to the child in the week, is the individual's applicable percentage (see clause 3) of the lower of:

- (a) the hourly session fee for the individual; and
  - (b) the CCS hourly rate cap for the session;
- rounded to the nearest cent (rounding 0.5 cents upwards).

Note: If the applicable percentage for a session of care is 0% (see table item 6 of subclause 3(1)), the hourly rate of CCS for the individual for the session of care is nil.

- (2) The **hourly session fee** for an individual, for a session of care provided to a child, is the amount the individual or the individual's partner is liable to pay for the session of care:
  - (a) divided by the number of hours in the session of care; and
  - (b) reduced by:
    - (i) the hourly rate of any payment (other than a payment mentioned in subclause (2A)) which the individual benefits from in respect of that session; and
    - (ii) the amount per hour of any reimbursement fringe benefit in respect of the session of care (see subclause (5)).
- (2A) Subparagraph 2(2)(b)(i) does not apply to the following payments:
  - (a) CCS;
  - (b) ACCS;
  - (c) a payment prescribed by the Minister's rules.
- (3) Work out the **CCS hourly rate cap** for a session of care using the following table.

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<b>CCS hourly rate cap</b>		
<b>Item</b>	<b>If the session of care is provided by:</b>	<b>the CCS hourly rate cap is:</b>
1	a centre-based day care service	\$11.98
2	a family day care service	\$11.10
3	an outside school hours care service	\$10.48
4	an in home care service	\$32.58

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**CCS hourly rate cap**

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Item	If the session of care is provided by:	the CCS hourly rate cap is:
5	a type of service prescribed by the Minister's rules	the dollar amount prescribed by the Minister's rules

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Note: The dollar amounts referred to in the table are indexed under Schedule 4 and reflect the indexation applied on 1 July 2019.

- (4) The Minister's rules may prescribe criteria for determining by which of the types of service mentioned in the table in subclause (3) any particular session of care is provided.
- (5) A **reimbursement fringe benefit** in respect of a session of care is the amount by which an individual or the individual's partner is reimbursed by a person in respect of the individual's or partner's liability to pay for the session of care, if the reimbursement:
- (a) is a fringe benefit within the meaning of the *Fringe Benefits Tax Assessment Act 1986*; or
  - (b) would be such a fringe benefit but for paragraph (g) of the definition of **fringe benefit** in subsection 136(1) of that Act.

### 3 Applicable percentage

- (1) An individual's **applicable percentage** for a session of care provided to a child in a CCS fortnight is determined by the following table.

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**Applicable percentage**

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Item	If the individual's adjusted taxable income for the income year in which the CCS fortnight starts is:	Then the applicable percentage for the individual is:
1	equal to or below the lower income threshold	85%
2	above the lower income threshold and below the second income threshold	see subclause (2)

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Clause 3

<b>Applicable percentage</b>		
<b>Item</b>	<b>If the individual's adjusted taxable income for the income year in which the CCS fortnight starts is:</b>	<b>Then the applicable percentage for the individual is:</b>
3	equal to or above the second income threshold and below the third income threshold	50%
4	equal to or above the third income threshold and below the fourth income threshold	see subclause (3)
5	equal to or above the fourth income threshold and below the upper income threshold	20%
6	equal to or above the upper income threshold	0%

- (2) If table item 2 applies, work out the individual's **applicable percentage** for the session of care using the following formula and rounding the result to 2 decimal places:

$$85 - \left( \frac{\text{Individual's adjusted taxable income} - \text{Lower income threshold}}{3,000} \right)$$

- (3) If table item 4 applies, work out the individual's **applicable percentage** for the session of care using the following formula and rounding the result to 2 decimal places:

$$50 - \left( \frac{\text{Individual's adjusted taxable income} - \text{Third income threshold}}{3,000} \right)$$

- (4) In this Act:

**fourth income threshold** means the lower income threshold plus \$274,290.

**lower income threshold** means \$65,710.

Note: This amount is indexed under Schedule 4.

***second income threshold*** means the lower income threshold plus \$105,000.

***third income threshold*** means the lower income threshold plus \$184,290.

***upper income threshold*** means the lower income threshold plus \$284,290.

#### **4 Activity-tested amount of CCS**

- (1) For the purposes of step 5 of the method statement in clause 1, the ***activity-tested amount*** of CCS, for the sessions of care identified in step 3 of the method statement, is the amount worked out by:
  - (a) for each session of care—multiplying the hourly rate of CCS for the session by the number of hours in the session, up to the lower of:
    - (i) the balance of the activity test result worked out under subclause (2) in relation to the session; and
    - (ii) if the Secretary is satisfied that it is appropriate, for the CCS fortnight, to have regard to an election (if any) made under subclause (3)—the number determined in accordance with the election; and
  - (b) adding the results together.
- (2) The balance of the activity test result, in relation to a particular session of care, is the individual's activity test result in relation to the child for the CCS fortnight, reduced (but not below zero) by:
  - (a) the number of hours (if any) for which either of the following is entitled to be paid CCS or ACCS for sessions of care provided to the child in the CCS fortnight:
    - (i) the individual;
    - (ii) if the individual was a member of a couple on each day in the CCS fortnight—the individual's partner; and
  - (b) the number of hours in any earlier sessions of care identified in step 3 of the method statement.

Clause 4A

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- (3) If a circumstance prescribed by the Minister's rules exists in relation to an individual, the individual may, in a form and manner approved by the Secretary, give the Secretary a written election for the purposes of subparagraph (1)(a)(ii).

**4A Adjusted activity-tested amount of CCS**

- (1) This clause applies in relation to a session of care if the amount (the *actual fee*) the individual or the individual's partner is liable to pay for the session of care is less than the sum of:
- (a) the activity-tested amount of CCS for the individual for the session; and
  - (b) the amount of a payment prescribed by the Minister's rules for the purposes of paragraph 2(2A)(c) which the individual benefits from in respect of the session.
- (2) For the purposes of step 5 of the method statement in clause 1, the *adjusted activity-tested amount* of CCS, for the sessions of care identified in step 3 of the method statement, is the sum of:
- (a) for each session of care to which this clause applies—the amount worked out by reducing the activity-tested amount of CCS for the session by the excess amount; and
  - (b) for each session of care to which this clause does not apply—the activity-tested amount of CCS for the session.
- (3) For the purposes of paragraph (2)(a), the *excess amount*, in relation to a session of care, is:
- (a) an amount equal to the difference between:
    - (i) the sum of the amounts mentioned in paragraphs (1)(a) and (b) for the session; and
    - (ii) the actual fee for the session; or
  - (b) if another method for working out the amount is prescribed by the Minister's rules—an amount worked out in accordance with that method.

## **Part 2—Amount of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for an individual**

### **5 Amount of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for an individual**

If an individual is eligible for ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for at least one session of care provided by an approved child care service to a child in a week, work out the amount of ACCS for the individual for the week, for sessions of care provided by the service to the child, using the method statement in clause 1 with the following modifications:

- (a) read references to CCS as references to the kind of ACCS the individual is eligible for (except in subclause 4(2));
- (c) at steps 4 and 5, use the hourly rate of ACCS (see clause 6) instead of the hourly rate of CCS.

### **6 Hourly rate of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent)**

- (1) For the purposes of paragraph 5(c), the *hourly rate of ACCS* for the individual, for a session of care provided by the service to the child in the week, is 100% of the lower of:
  - (a) the hourly session fee for the individual (see subclause 2(2)); and
  - (b) the ACCS hourly rate cap for the session.
- (2) The *ACCS hourly rate cap* for a session of care provided by a service to a child is the following percentage of the CCS hourly rate cap (see subclause 2(3)) for the session:
  - (a) 120%;

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**Part 2** Amount of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent) for an individual

Clause 6

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- (b) if a higher percentage applies under the Secretary's rules and paragraph (c) does not apply—that higher percentage;
  - (c) if the Secretary is satisfied that exceptional circumstances exist in relation to an individual or the individual's partner, or the service, and makes a written determination to that effect that applies to the session—the higher percentage specified in the determination.
- (3) A determination made under paragraph (2)(c) is not a legislative instrument.



## **Part 3—Amount of ACCS (transition to work)**

### **7 Amount of ACCS (transition to work)**

If an individual is eligible for ACCS (transition to work) for at least one session of care provided by an approved child care service to a child in a week, work out the amount of ACCS (transition to work) for the individual for the week, for sessions of care provided by the service to the child, using the method statement in clause 1 with the following modifications:

- (a) read references to CCS as references to ACCS (transition to work) (except in subclause 4(2));
- (c) at step 4, work out the hourly rate of CCS for the individual using 95% instead of the applicable percentage in clause 3.

## **Part 4—Amount of ACCS (child wellbeing) for an approved provider**

### **8 Amount of ACCS (child wellbeing) for an approved provider**

If an approved provider is eligible for ACCS (child wellbeing) for at least one session of care provided by an approved child care service of the provider to a child in a week, work out the amount of ACCS (child wellbeing) for the provider for the week, for sessions of care provided by the service to the child, using the following method statement.

*Method statement*

- Step 1. Work out the provider's deemed activity test result for the child and service for the CCS fortnight that includes the week (see clause 16).
- Step 2. Identify all the sessions of care:
  - (a) provided by the service to the child in the week; and
  - (b) for which the provider is eligible for ACCS (child wellbeing).
- Step 3. Work out the hourly rate of ACCS for the provider for each of those sessions of care (see clause 9).
- Step 4. Work out the activity-tested amount of ACCS for those sessions of care (see clause 10).
- Step 5. The amount of ACCS (child wellbeing) for the provider for the week, for the sessions of care identified in step 2, is the activity-tested amount.

## 9 Hourly rate of ACCS for a provider

- (1) For the purposes of step 3 of the method statement in clause 8, the **hourly rate of ACCS** for the provider, for a session of care provided to a child in a week, is 100% of the lower of:
  - (a) the hourly session fee for the provider; and
  - (b) the ACCS hourly rate cap for the session (see subclause 6(2)).
- (2) The **hourly session fee** for a provider, for a session of care provided to a child, is the amount the provider would ordinarily charge an individual who is eligible for CCS for the session of care:
  - (a) divided by the number of hours in the session of care; and
  - (b) reduced by the hourly rate of any payment (other than CCS or ACCS) which the provider benefits or would have benefitted from in respect of that session.

## 10 Activity-tested amount of ACCS for an approved provider

- (1) For the purposes of step 4 of the method statement in clause 8, the **activity-tested amount** of ACCS, for the sessions of care identified in step 2 of the method statement, is the amount worked out by:
  - (a) for each session of care—multiplying the hourly rate of ACCS for the session by the number of hours in the session up to the balance of the deemed activity test result worked out under subclause (2) in relation to the session; and
  - (b) adding the results together.
- (2) The balance of the deemed activity test result, in relation to a particular session of care, is the provider's deemed activity test result for the child and the service for the CCS fortnight, reduced (but not below zero) by:
  - (a) the number of hours (if any) for which the provider is entitled to be paid ACCS for sessions of care provided to the child by the service in the CCS fortnight; and
  - (b) the number of hours in any earlier sessions of care identified in step 2 of the method statement.

## Part 5—Activity test

### Division 1—Individual's activity test result

#### 11 Individual's activity test result

- (1) For the purposes of working out an amount of CCS or ACCS for an individual in relation to sessions of care provided to a child, an individual's *activity test result*, in relation to the child, for a CCS fortnight is:
  - (a) the highest of:
    - (i) the result specified in item 1 of the following table for the amount; and
    - (ii) any other result specified in any other table item for the amount that applies to the individual in relation to the child; or
  - (b) if the individual is a member of a couple on the first day of the CCS fortnight—the lower of the following:
    - (i) the result worked out in accordance with paragraph (a) for the individual in relation to the child;
    - (ii) the result worked out in accordance with paragraph (a) for the individual's partner in relation to the child, assuming that any estimate of adjusted taxable income that applies for the individual also applies for the partner for the purposes of the low income result in clause 13.

<b>Individual's activity test result</b>			
<b>Item</b>	<b>Results for amount of CCS</b>	<b>Results for amount of ACCS (child wellbeing), ACCS (temporary financial hardship) or ACCS (grandparent)</b>	<b>Results for amount of ACCS (transition to work)</b>
1	recognised activity result in clause 12	100	recognised activity result in clause 12
2	low income result in clause 13		
3	Minister's rules result in clause 14	Minister's rules result in clause 14	Minister's rules result in clause 14
4	child wellbeing result in clause 15		child wellbeing result in clause 15
5	exceptional circumstances result in this clause	exceptional circumstances result in this clause	exceptional circumstances result in this clause

Note: See subclause (5) for an individual eligible for both CCS and ACCS in the same CCS fortnight.

*Exceptional circumstances result*

- (2) The **exceptional circumstances result** is the result specified in a determination made under paragraph (3)(b).
- (3) The exceptional circumstances result applies to an individual for a CCS fortnight, in relation to a particular child, if the Secretary:
  - (a) is satisfied that exceptional circumstances exist in relation to the individual, the individual's partner or the child; and
  - (b) makes a written determination to that effect that applies to the child.
- (4) A determination made under paragraph (3)(b) is not a legislative instrument.

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**Part 5** Activity test

**Division 1** Individual's activity test result

Clause 12

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*Individual eligible for CCS and ACCS in same CCS fortnight*

- (5) If an individual is eligible for an amount of:
- (a) CCS or ACCS (transition to work) for sessions of care provided to a child in a week of a CCS fortnight; and
  - (b) ACCS (child wellbeing) or ACCS (temporary financial hardship) for sessions of care provided to the child in the other week (whether the first or second week) of the CCS fortnight;
- the individual's activity test result for the CCS fortnight, in relation to the child, is the activity test result for the amount referred to in paragraph (b).

**12 Recognised activity result**

- (1) The **recognised activity result** for an individual for a CCS fortnight, in relation to any child, is the result specified in the following table for the individual's circumstances in the CCS fortnight.

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<b>Recognised activity result</b>		
<b>Item</b>	<b>If an individual engages in this many hours of recognised activity in the CCS fortnight:</b>	<b>The result is:</b>
1	fewer than 8	0
2	at least 8 and no more than 16	36
3	more than 16 and no more than 48	72
4	more than 48	100

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Note: The number of hours of recognised activity for an individual to be counted towards the recognised activity result may be affected by Minister's rules made for the purposes of subclause (4), or a Secretary's determination made under subclause (5).

*What is recognised activity*

- (2) An individual engages in **recognised activity** if the individual engages in any one or more of the following:
- (a) paid work (whether or not as an employee);
-

- (b) a training course for the purpose of improving the individual's work skills or employment prospects, or both;
- (c) an approved course of education or study;
- (d) an activity prescribed by the Minister's rules, in circumstances (if any) prescribed by those rules;
- (e) an activity determined for the individual by the Secretary under subclause (5), in circumstances (if any) specified in the determination.

Note 1: The definition of *paid work* in section 3B does not apply in relation to paragraph (2)(a) of this clause. For the purposes of that paragraph, *paid work* has its ordinary meaning.

Note 2: For *approved course of education or study*, see subsection 541B(5) of the *Social Security Act 1991* and subsection 3(1) of this Act.

*Associated activities*

- (3) An individual who engages in recognised activity mentioned in any of paragraphs (2)(a) to (d) is taken also to engage in recognised activity of that kind while:
  - (a) engaging in other activity prescribed by the Minister's rules as being associated with recognised activity of that kind; or
  - (b) taking leave or another break from, or otherwise not performing, recognised activity of that kind in circumstances prescribed by the Minister's rules (whether or not the individual has engaged in recognised activity of that kind during the CCS fortnight).

*Hours during which activities are engaged in*

- (4) For the purposes of working out the recognised activity result for an individual who engages in recognised activity mentioned in any of paragraphs (2)(a) to (d) during a CCS fortnight, the Minister's rules may prescribe either or both of the following:
  - (a) how to work out a number of hours of recognised activity of that kind that is taken to be counted towards the activity in that fortnight (which may be more or less than the actual number of hours during which the individual engaged in the activity during the fortnight);

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**Part 5** Activity test

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Clause 13

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- (b) a maximum number of hours that are to be counted towards the activity in that fortnight (including a maximum number of hours taken to be so counted by the operation of rules made for the purposes of paragraph (a)).

*Secretary's determination*

- (5) The Secretary may, in writing, make a determination for an individual for the purposes of paragraph (2)(e). The determination may also provide for any matter covered by Minister's rules that may be made for the purposes of subclause (3) or (4) in relation to the individual.
- (6) A determination made under subclause (5) is not a legislative instrument.

*Changes in the number of hours of recognised activity*

- (7) In working out the recognised activity result, a change in the number of hours of recognised activity in which an individual engages in a CCS fortnight is to be disregarded until the CCS fortnight immediately after the CCS fortnight in which the change occurs.

**13 Low income result**

- (1) The **low income result** is 24.
- (2) The low income result applies to an individual for a CCS fortnight, in relation to any child, if, on the first day of the CCS fortnight:
- (a) there is an estimate of adjusted taxable income that, under section 67DB of the Family Assistance Administration Act, the Secretary is permitted to use for the purposes of making a determination under Division 3 of Part 3A of that Act for the individual; and
- (b) the estimate is equal to or below the lower income threshold.

Note: The meaning of this provision for members of couples is affected by section 67DE of the Family Assistance Administration Act.



**14 Minister's rules result**

- (1) The **Minister's rules result** is the result prescribed by, or worked out by a method prescribed by, the Minister's rules.
- (2) The Minister's rules result applies to an individual for a CCS fortnight, in relation to:
  - (a) a particular child—if a circumstance prescribed by the rules exists and the application of the rules in the circumstance is limited to the particular child; and
  - (b) any child—if a circumstance prescribed by the rules exists and the application of the rules in the circumstance is not limited to a particular child.
- (3) Minister's rules made for the purposes of subclause (2) may prescribe circumstances in relation to any or all of the following:
  - (a) individuals;
  - (b) individuals' partners;
  - (c) children.

**15 Child wellbeing result**

- (1) The **child wellbeing result** is 100.
- (2) The child wellbeing result applies to an individual for a CCS fortnight, in relation to a particular child, if:
  - (a) the individual is eligible for CCS for a session of care provided to the child in a CCS fortnight; and
  - (b) on the first day of the CCS fortnight, it has been less than 18 months since an extended child wellbeing period for the child ended.
- (3) An **extended child wellbeing period** for a child is a period of at least 6 months during which instruments of either or both of the following kinds were continuously in effect in relation to the child:
  - (a) a certificate given by an approved provider under section 85CB;
  - (b) a determination made by the Secretary under section 85CE.

## Division 2—Provider's deemed activity test result

### 16 Provider's deemed activity test result

- (1) For the purposes of working out an amount of ACCS (child wellbeing) under Part 4 of this Schedule for sessions of care provided to a child by an approved child care service, the provider's *deemed activity test result*, for the child and the service, for a CCS fortnight, is the highest of the following:
  - (a) 100;
  - (b) if a circumstance prescribed by the Minister's rules exists in relation to the child, the provider or the service and paragraph (c) does not apply—the result prescribed by, or worked out by a method prescribed by, the Minister's rules;
  - (c) if the Secretary is satisfied that exceptional circumstances exist in relation to the child, the provider or the service and makes a written determination to that effect that applies to the session—the result specified in the determination.
- (2) Minister's rules made for the purposes of paragraph (1)(b) may prescribe circumstances in relation to any or all of the following:
  - (a) children;
  - (b) approved providers;
  - (c) approved child care services.
- (3) A determination made under paragraph (1)(c) is not a legislative instrument.

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## Schedule 3—Adjusted taxable income

Note: See section 3.

### 1 Adjusted taxable income relevant to family tax benefit, schoolkids bonus and child care subsidy

An individual's adjusted taxable income is relevant to eligibility for, and the rate or amount of, family tax benefit, schoolkids bonus and child care subsidy.

### 2 Adjusted taxable income

- (1) For the purposes of this Act and subject to subclause (2), an individual's *adjusted taxable income* for a particular income year is the sum of the following amounts (*income components*):
- (a) the individual's taxable income for that year, disregarding the individual's assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for that year;
  - (b) the individual's adjusted fringe benefits total for that year;
  - (c) the individual's target foreign income for that year;
  - (d) the individual's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for that year;
  - (e) the individual's tax free pension or benefit for that year;
  - (f) the individual's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for that year;
- less the amount of the individual's deductible child maintenance expenditure for that year.
- (2) If an individual dies before the end of a particular income year, the individual's adjusted taxable income for that year is to be calculated in accordance with the following formula:

Clause 3

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$$\text{Income of individual to date of death} \times \frac{\text{Number of days in income year}}{\text{Number of days individual was alive during income year}}$$

where:

*income of individual to date of death* means the amount that would, but for the operation of this subclause, have been the amount of adjusted taxable income of the individual for the particular income year in which the individual died if, so far as that particular individual is concerned, that year had comprised only those days preceding the individual's death.

**3 Adjusted taxable income of members of a couple—family tax benefit and schoolkids bonus**

- (1A) This clause applies in relation to working out eligibility for, and the rate of, family tax benefit and schoolkids bonus.
- (1) For the purposes of this Act (other than Part 4 of Schedule 1), if an individual is a member of a couple, the individual's adjusted taxable income for an income year includes the adjusted taxable income for that year of the individual's partner.
- (2) For the purposes of Part 4 of Schedule 1, if an individual is a member of a couple, the individual's adjusted taxable income for an income year is:
- (a) for the purposes of Subdivision AA of Division 1 of Part 4 of Schedule 1:
    - (i) the individual's adjusted taxable income for that year; or
    - (ii) the adjusted taxable income for that year of the individual's partner if it is more than the individual's adjusted taxable income for that year; and
  - (b) for the purposes of the other provisions of Part 4 of Schedule 1:
    - (i) the individual's adjusted taxable income for that year; or

- (ii) the adjusted taxable income for that year of the individual's partner if it is less than the individual's adjusted taxable income for that year.

### **3AA Adjusted taxable income of members of a couple—child care subsidy**

- (1) This clause applies in relation to working out eligibility for, and the rate of, child care subsidy for the purposes of this Act in relation to a child care decision.
- (2) If an individual is a member of a couple with a TFN determination person on the first Monday (an ***applicable Monday***) of any CCS fortnight in an income year, the individual's adjusted taxable income for that year is taken to include:
  - (a) if the individual is a member of the same couple on all applicable Mondays in the year—the TFN determination person's adjusted taxable income for that year; or
  - (b) in any other case—an amount equal to the percentage of the TFN determination person's adjusted taxable income for that year that corresponds to the percentage of applicable Mondays in that year:
    - (i) on which the TFN determination person was a member of that couple; and
    - (ii) that was included in a week for which a determination under section 67CD of the Family Assistance Administration Act about the individual's entitlement to be paid CCS or ACCS was made.
- (3) This clause is subject to clause 3A.

### **3A Working out adjusted taxable income in certain cases where individuals cease to be members of a couple**

If:

- (a) an individual is a member of a couple with another individual (***partner A***) for a period or periods during an income year but not at the end of the income year; and

Clause 3A

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- (b) for any period during the income year while the individual was a member of that couple, the Secretary had determined the individual's entitlement to family assistance by way of family tax benefit or child care subsidy on the basis that a particular amount was the individual's adjusted taxable income (the *current ATI amount*); and
- (c) that amount differs from the amount of the individual's adjusted taxable income as finally determined in respect of the income year by the Secretary (the *final ATI amount*); and
- (d) the individual's entitlement to family assistance of that kind, for the total period, or for the total of the periods, that the individual was a member of that couple, would be less if worked out using the final ATI amount than if worked out using the current ATI amount as determined from time to time; and
- (e) if the current ATI amount at any time was based on an estimate provided by the individual and is less than the final ATI amount:
  - (i) at the time when the estimate was provided—the individual did not know, and had no reason to suspect, that the estimate was incorrect; and
  - (ii) if, after the estimate was provided and before ceasing to be a member of the couple, the individual knew or had reason to suspect that the estimate was incorrect—the individual provided a revised estimate as soon as practicable after knowing or suspecting that the estimate was incorrect;

then, despite the final determination of that adjusted taxable income by the Secretary, the individual's adjusted taxable income during any period during the income year:

- (f) that the individual and partner A were a couple; and
  - (g) that a particular current ATI amount applied;
- is to be taken to be that particular current ATI amount.

#### 4 Adjusted fringe benefits total

An individual's **adjusted fringe benefits total** for an income year is the amount worked out using the formula:

$$\begin{array}{l} \text{Section 57A employer} \\ \text{fringe benefits total} \end{array} + \begin{array}{l} \text{Other employer} \\ \text{fringe benefits total} \end{array}$$

where:

**other employer fringe benefits total** is the amount that is the sum of the following:

- (a) each of the individual's reportable fringe benefits amounts for the income year under section 135P of the *Fringe Benefits Tax Assessment Act 1986*;
- (b) each of the individual's reportable fringe benefits amounts for the income year under section 135Q of the *Fringe Benefits Tax Assessment Act 1986*, to the extent that section relates to the individual's employment by an employer described in section 58 of that Act.

**section 57A employer fringe benefits total** is the amount that is the sum of each of the individual's individual quasi-fringe benefits amounts for the income year under section 135Q of the *Fringe Benefits Tax Assessment Act 1986*, to the extent that section relates to the individual's employment by an employer described in section 57A of that Act.

#### 5 Target foreign income

- (1) An individual's **target foreign income** for an income year is:
  - (a) the amount of the individual's foreign income (as defined in section 10A of the *Social Security Act 1991*) for the income year that is neither:
    - (i) taxable income; nor
    - (ii) received in the form of a fringe benefit (as defined in the *Fringe Benefits Tax Assessment Act 1986*, as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act*

Clause 5

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1986) in relation to the individual as an employee (as defined in the *Fringe Benefits Tax Assessment Act 1986*) and a year of tax; and

- (b) any amount of income that is not covered by paragraph (a) that is exempt from tax under section 23AF or 23AG of the *Income Tax Assessment Act 1936*, reduced (but not below nil) by the total amount of losses and outgoings (except capital losses and outgoings) incurred by the individual in deriving that exempt income.
- (2) If it is necessary, for the purposes of this Act, to work out an amount of foreign income expressed in a foreign currency received in an income year, the amount in Australian currency is to be worked out using the market exchange rate for 1 July in that income year.
  - (3) If there is no market exchange rate for 1 July in the income year (for example, because of a national public holiday), the market exchange rate to be used is the market exchange rate that applied on the last working day immediately before that 1 July.
  - (4) For the purposes of this clause, the appropriate market exchange rate on a particular day for a foreign currency is:
    - (a) if there is an on-demand airmail buying rate for the currency available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use that rate—that rate; or
    - (b) in any other case:
      - (i) if there is another rate of exchange for the currency, or there are other rates of exchange for the currency, available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use the other rate or one of the other rates—the rate so determined; or
      - (ii) otherwise—a rate of exchange for the currency available from another source at the start of business in Sydney on that day that the Secretary determines it is appropriate to use.



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**7 Tax free pension or benefit**

For the purposes of this Schedule, the following payments received in an income year are tax free pensions or benefits for that year:

- (a) a disability support pension under Part 2.3 of the *Social Security Act 1991*;
- (c) a carer payment under Part 2.5 of the *Social Security Act 1991*;
- (d) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to a veteran;
- (da) a pension under Part IV of the *Veterans' Entitlements Act 1986* payable to a member of the Forces or a member of a Peacekeeping Force;
- (e) an invalidity service pension under Division 4 of Part III of the *Veterans' Entitlements Act 1986*;
- (f) a partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986*;
- (g) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to the widow or widower of a deceased veteran;
- (ga) a pension under Part IV of the *Veterans' Entitlements Act 1986* payable to the widow or widower of a deceased member of the Forces or the widow or widower of a deceased member of a Peacekeeping Force;
- (h) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*;
- (haaa) a veteran payment under an instrument made under Part IIIAA of the *Veterans' Entitlements Act 1986*;
- (ha) a Special Rate Disability Pension under Part 6 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*;
- (hb) a payment of compensation under section 68, 71 or 75 of the *Military Rehabilitation and Compensation Act 2004*;
- (hc) a payment of the weekly amount mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004* (including a reduced weekly amount

Clause 8

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- because of a choice under section 236 of that Act) or of a lump sum mentioned in subsection 236(5) of that Act;
- to the extent to which the payment:
- (i) is exempt from income tax; and
  - (j) is not a payment by way of bereavement payment, pharmaceutical allowance, rent assistance, language, literacy and numeracy supplement, remote area allowance or energy supplement; and
  - (k) if the payment is a payment under the *Social Security Act 1991*—does not include tax-exempt pension supplement (within the meaning of subsection 20A(6) of that Act); and
  - (l) if the payment is a payment under the *Veterans' Entitlements Act 1986*—does not include tax-exempt pension supplement (within the meaning of subsection 5GA(5) of that Act).

## 8 Deductible child maintenance expenditure

### *Deductible child maintenance expenditure*

- (1) For the purposes of this Schedule, if an individual incurs an amount of child maintenance expenditure during an income year, 100% of the amount of the expenditure is the ***individual's deductible child maintenance expenditure*** in respect of that year.

### *Child maintenance expenditure*

- (2) For the purposes of this clause, an individual incurs ***child maintenance expenditure*** if:
  - (a) the individual (the ***payer***) pays a payment (either one-off or periodic) or provides benefits; and
  - (b) the payment or benefits are paid or provided in respect of the payer's natural, adopted or relationship child; and
  - (c) the payment or benefits are paid or provided to another individual other than the payer's partner (if any) for the maintenance of the child.

*Amount of child maintenance expenditure*

- (3) For the purposes of this clause, if an individual incurs child maintenance expenditure, the amount of the child maintenance expenditure incurred by the individual is the amount of the payment paid or the value of the benefits to the individual who provided them.

*Value of a benefit provided*

- (4) For the purposes of subclause (3), the **value of a benefit**, in relation to the individual providing the benefit, has the meaning set out in subclauses (5) and (6).

*Value of benefit where provider is a party to a child support agreement*

- (5) If:
- (a) an individual providing a benefit is a party to a child support agreement under the *Child Support (Assessment) Act 1989*; and
  - (b) the agreement contains:
    - (i) non-periodic payment provisions (within the meaning of that Act) under which the individual is providing child support to another individual for a child; and
    - (ii) a statement that the annual rate of child support payable under any relevant administrative assessment is to be reduced by a specified amount that represents an annual value of the child support to be provided; and
  - (c) the individual provides the support;
- the value of the benefit provided by the individual is the specified amount.

*Value of benefit where provider is not a party to a child support agreement*

- (6) If an individual providing a benefit is not a party to a child support agreement under the *Child Support (Assessment) Act 1989*, the

**Schedule 3** Adjusted taxable income

Clause 8

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value of the benefit provided by the individual is the cost of the benefit to the individual.

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## **Schedule 4—Indexation and adjustment of amounts**

Note: See section 85.

### **Part 1—Preliminary**

#### **1 Analysis of Schedule**

This Schedule provides for:

- (a) the indexation, in line with CPI (Consumer Price Index) increases, of the amounts in column 1 of the table at the end of clause 3; and
- (c) the adjustment of other amounts in line with the increases in the amounts indexed under the *Social Security Act 1991*.

#### **2 Indexed and adjusted amounts**

The following table sets out:

- (a) each monetary amount that is to be indexed or adjusted under this Schedule; and
- (b) the abbreviation used in this Schedule for referring to that amount; and
- (c) the provision or provisions in which that amount is to be found.

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<b>Indexed and adjusted amounts</b>			
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Description of amount</b>	<b>Abbreviation</b>	<b>Provisions in which amount specified</b>
1	FTB child rate (Part A—Method 1)	FTB child rate (A1)	[Schedule 1—subclause 7(1)—table—column 2—all amounts]

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**Schedule 4** Indexation and adjustment of amounts  
**Part 1** Preliminary

Clause 2

<b>Indexed and adjusted amounts</b>			
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Description of amount</b>	<b>Abbreviation</b>	<b>Provisions in which amount specified</b>
2	Reduction in FTB child rate (Part A—Method 1)	Reduction in FTB child rate (A1)	[Schedule 1—subclauses 7(2) and (3)—all amounts]
4	Rent threshold rate for rent assistance for family tax benefit (Part A—Methods 1 and 3)	FTB RA rent threshold (A1 and A3)	[Schedule 1—subparagraphs 38C(1)(f)(i), (ii), (iii) and (iv)] [Schedule 1—subparagraphs 38C(1)(fa)(i), (ii), (iii) and (iv)] [Schedule 1—clause 38D—table—column 2—all amounts] [Schedule 1—clause 38E—table—column 2—all amounts]
5	Maximum rent assistance for family tax benefit (Part A—Methods 1 and 3)	FTB RA maximum (A1 and A3)	[Schedule 1—clause 38D—table—column 3—all amounts] [Schedule 1—clause 38E—table—column 3—all amounts]
6	FTB child rate (Part A—Method 2)	FTB child rate (A2)	[Schedule 1—subclause 26(2)]
7	Reduction in FTB child rate (Part A—Method 2)	Reduction in FTB child rate (A2)	[Schedule 1—subclauses 26(3) and (4)—all amounts]
7A	Newborn supplement for family tax benefit (Part A)	newborn supplement	[Schedule 1—paragraphs 35B(1)(a), (b), (c) and (d) and subclauses 35B(2), (3) and (4)—the dollar amount in the formula]

Clause 2

<b>Indexed and adjusted amounts</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	
<b>Description of amount</b>	<b>Abbreviation</b>	<b>Provisions in which amount specified</b>	
7B	Upfront payment of family tax benefit	newborn upfront payment	subsections 58AA(1) and (1A)
8	Multiple birth allowance for family tax benefit (Part A)	FTB MBA (A)	[Schedule 1—clause 37—paragraphs (a) and (b)]
8A	FTB gross supplement amount for family tax benefit (Part A)	FTB gross supplement amount (A)	[Schedule 1—subclause 38A(3)]
9	Standard rate of family tax benefit (Part B)	FTB standard rate (B)	[Schedule 1—clause 30—table—column 2—all amounts]
9A	FTB (B) gross supplement amount for family tax benefit (Part B)	FTB gross supplement amount (B)	[Schedule 1—subclause 31A(2)]
10	Standard rate of family tax benefit payable to an approved care organisation	FTB standard ACO rate	[subsection 58(2A)]
11	Basic higher income free area for family tax benefit (Part A)	FTB basic HIFA (A)	[Schedule 1—clause 2—table—column 1]
13	Income free area for family tax benefit (Part A—Methods 1 and 3)	FTB free area (A1 and A3)	[Schedule 1—clause 38N]
14	Income free area for family tax benefit (Part B)	FTB free area (B)	[Schedule 1—clause 33]
15	Standard basic maintenance income free area for family tax benefit (Part A—Method 1)	FTB basic MIFA (A1)	[Schedule 1—clause 22—table—column 2—items 1 and 3]

**Schedule 4** Indexation and adjustment of amounts  
**Part 1** Preliminary

Clause 2

<b>Indexed and adjusted amounts</b>			
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Description of amount</b>	<b>Abbreviation</b>	<b>Provisions in which amount specified</b>
16	Double basic maintenance income free area for family tax benefit (Part A—Method 1)	FTB double basic MIFA (A1)	[Schedule 1—clause 22—table—column 2—item 2]
17	Additional maintenance income free area for family tax benefit (Part A—Method 1)	FTB additional MIFA (A1)	[Schedule 1—clause 22—table—column 3—all amounts]
17AA	Income limit for family tax benefit (Part B)	FTB income limit (B)	[Schedule 1—subclause 28B(1)]
17AD	Income limit for stillborn baby payment	stillborn baby payment income limit	[paragraph 36(1)(e)]
18	Lower income threshold for CCS	CCS lower income threshold	subclause 3(4) of Schedule 2 definition of <b><i>lower income threshold</i></b>
19	CCS hourly rate cap	CCS hourly rate cap	subclause 2(3) of Schedule 2



## Part 2—Indexation

### 3 CPI Indexation Table

- (1) An amount referred to in the following table is to be indexed under this Part on each indexation day for the amount, using the reference quarter and base quarter for the amount and indexation day and rounding off to the nearest multiple of the rounding amount:

<b>CPI indexation</b>					
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>	
<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>	
1	FTB child rate (A1) and reduction in FTB child rate (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
4	FTB RA maximum (A1 and A3)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$3.65

**Schedule 4** Indexation and adjustment of amounts  
**Part 2** Indexation

Clause 3

<b>CPI indexation</b>					
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
	<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>
5	FTB RA rent threshold (A1 and A3)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$3.65
6	FTB child rate (A2) and reduction in FTB child rate (A2)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
7A	newborn supplement	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2012)	\$0.91

Clause 3

<b>CPI indexation</b>					
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
	<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>
7B	newborn upfront payment	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2012)	\$1.00
8	FTB MBA (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
8A	FTB gross supplement amount (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2002)	\$3.65

**Schedule 4** Indexation and adjustment of amounts  
**Part 2** Indexation

Clause 3

<b>CPI indexation</b>					
	<b>Column 1 Amount</b>	<b>Column 2 Indexation day(s)</b>	<b>Column 3 Reference quarter (most recent before indexation day)</b>	<b>Column 4 Base quarter</b>	<b>Column 5 Rounding base</b>
9	FTB standard rate (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
9A	FTB gross supplement amount (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2004)	\$3.65
10	FTB standard ACO rate	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65

Clause 3

<b>CPI indexation</b>					
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
	<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>
11	FTB basic HIFA (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00
13	FTB free area (A1 and A3)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2005)	\$73.00
14	FTB free area (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2003)	\$73.00

**Schedule 4** Indexation and adjustment of amounts  
**Part 2** Indexation

Clause 3

<b>CPI indexation</b>					
	<b>Column 1 Amount</b>	<b>Column 2 Indexation day(s)</b>	<b>Column 3 Reference quarter (most recent before indexation day)</b>	<b>Column 4 Base quarter</b>	<b>Column 5 Rounding base</b>
15	FTB basic MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$10.95
16	FTB double basic MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$21.90
17	FTB additional MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65

Clause 3

<b>CPI indexation</b>					
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
	<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>
17AA	FTB income limit (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2007)	\$1.00
17AD	stillborn baby payment income limit	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2015)	\$1.00
18	CCS lower income threshold	first day of first CCS fortnight of income year	December	highest December quarter before reference quarter (but not earlier than December quarter 2015)	\$1.00

**Schedule 4** Indexation and adjustment of amounts  
**Part 2** Indexation

Clause 3

<b>CPI indexation</b>					
	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
	<b>Amount</b>	<b>Indexation day(s)</b>	<b>Reference quarter (most recent before indexation day)</b>	<b>Base quarter</b>	<b>Rounding base</b>
19	CCS hourly rate cap	first day of first CCS fortnight of income year	December	highest December quarter before reference quarter (but not earlier than December quarter 2015)	\$0.01

*Highest quarter*

- (2) A reference in the table in subclause (1) to the highest of a group of quarters is a reference to the quarter in that group that has the highest index number.

*No indexation of certain FTB rates and reductions on 1 July 2017 and 1 July 2018*

- (3) The FTB child rate (A1), the FTB child rate (A2), the reduction to those rates, the FTB standard rate (B) and the FTB standard ACO rate are not to be indexed on 1 July 2017 and 1 July 2018.

*First indexation of stillborn baby payment income limit*

- (4A) The first indexation under subclause (1) of the stillborn baby payment income limit is to take place on 1 July 2017.

*Indexation rules for certain income limits for certain years*

- (7) The FTB basic HIFA (A) is not to be indexed on 1 July 2019 and 1 July 2020.



- (7A) For the purposes of working out the indexed amount for the FTB basic HIFA (A) on 1 July 2021, the current figure for the FTB basic HIFA (A) immediately before that day is taken to be \$98,988.
- (7B) The FTB income limit (B) is not to be indexed on 1 July 2019 and 1 July 2020.

*No indexation of FTB gross supplement amount (A) and (B) for certain years*

- (8) The FTB gross supplement amount (A) and the FTB gross supplement amount (B) are not to be indexed on 1 July 2011, 1 July 2012, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016.

### **3A One-off 6-month indexation of FTB gross supplement amount (B) for 2005-2006 income year**

The FTB gross supplement amount (B) is to be indexed under this Part on the indexation day, using the reference quarter, base quarter and indexation day and rounding off to the nearest multiple of the rounding base, where:

*base quarter* means June quarter 2004.

*indexation day* means 1 July 2005.

*reference quarter* means December quarter 2004.

*rounding base* means \$3.65.

## **4 Indexation of amounts**

- (1) If an amount is to be indexed under this Part on an indexation day, this Act has effect as if the indexed amount were substituted for that amount on that day.
- (2) This is how to work out the indexed amount for an amount that is to be indexed under this Part on an indexation day:

Clause 5

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*Method statement*

- Step 1. Use clause 5 to work out the indexation factor for the amount on the indexation day.
- Step 2. Work out the current figure for the amount immediately before the indexation day.
- Step 3. Multiply the current figure by the indexation factor: the result is the ***provisional indexed amount***.
- Step 4. Use clause 6 to round off the provisional indexed amount: the result is the indexed amount.

**5 Indexation factor**

- (1) Subject to subclauses (2) and (3) and clauses 10 and 11, the indexation factor for an amount that is to be indexed under this Part on an indexation day is:

$$\frac{\text{Index number for most recent reference quarter}}{\text{Index number for base quarter}}$$

worked out to 3 decimal places.

- (2) If an indexation factor worked out under subclause (1) would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the indexation factor is to be increased by 0.001.
- (3) If an indexation factor worked out under subclauses (1) and (2) would be less than 1, the indexation factor is to be increased to 1.
- (4) Subject to subclause (5), if at any time (whether before or after the commencement of this clause), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this clause.

- (5) If at any time (whether before or after the commencement of this clause) the Australian Statistician changes the index reference period for the Consumer Price Index, regard is to be had, for the purposes of applying this clause after the change takes place, only to index numbers published in terms of the new index reference period.

## **6 Rounding off indexed amounts**

- (1) If a provisional indexed amount is a multiple of the rounding base, the provisional indexed amount becomes the indexed amount.
- (2) If a provisional indexed amount is not a multiple of the rounding base, the indexed amount is the provisional indexed amount rounded up or down to the nearest multiple of the rounding base.
- (3) If a provisional indexed amount is not a multiple of the rounding base but is a multiple of half the rounding base, the indexed amount is the provisional indexed amount rounded up to the nearest multiple of the rounding base.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
A New Tax System (Family Assistance) Act 1999	80, 1999	8 July 1999	1 July 2000 (s 2(1), (2))	
A New Tax System (Compensation Measures Legislation Amendment) Act 1999	68, 1999	8 July 1999	Sch 4: 1 July 2000 (s 2(4))	—
<b>as amended by</b>				
Compensation Measures Legislation Amendment (Rent Assistance Increase) Act 2000	93, 2000	30 June 2000	Sch 1 (item 5): 1 July 2000 (s 2)	—
A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999	83, 1999	8 July 1999	Sch 2: 1 July 2000 (s 2(5))	—
A New Tax System (Family Assistance and Related Measures) Act 2000	45, 2000	3 May 2000	Sch 1: 1 July 2000 (s 2(2), (3)) Sch 5 and 6: 1 July 2000 (s 2(4))	Sch 5 and 6
Social Security and Veterans' Entitlements Legislation Amendment (Miscellaneous Matters) Act 2000	94, 2000	30 June 2000	Sch 8: 20 Sept 2000 (s 2(8)(a))	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family and Community Services (2000 Budget and Related Measures) Act 2000	138, 2000	24 Nov 2000	Sch 2 (items 1–6): 1 Jan 2001 (s 2(2)(b))	—
Family Law Amendment Act 2000	143, 2000	29 Nov 2000	Sch 3 (items 1A–1D): 27 Dec 2000 (s 2(1))	—
Family and Community Services Legislation Amendment (New Zealand Citizens) Act 2001	18, 2001	30 Mar 2001	Sch 2 (items 1–12): 30 Mar 2001 (s 2(1))	—
Child Support Legislation Amendment Act 2001	75, 2001	30 June 2001	Sch 1A (items 18–21): 1 Dec 2001 (s 2(1B)(a)) Sch 4: 1 July 2001 (s 2(2)(a))	—
Family and Community Services Legislation Amendment Act 2003	30, 2003	15 Apr 2003	s 4 and Sch 2 (items 1–13): Royal Assent Sch 2 (items 52–71): 1 July 2000 (s 2(1) item 8) Sch 2 (items 73–82) and Sch 2A: 1 July 2000	s 4



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003	35, 2003	24 Apr 2003	Sch 1, 1A, 2, 4, 5 and 6: 20 Sept 2003 Sch 3: 22 May 2003 Remainder: Royal Assent	s. 4
<b>as amended by</b>				
Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003	122, 2003	5 Dec 2003	Sch 7 (item 2): 19 Sept 2003 (s 2(1) item 5)	—
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005	154, 2005	14 Dec 2005	Sch 23 (item 6): Royal Assent	—
Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003	122, 2003	5 Dec 2003	Schedule 6 (items 1–6): 1 July 2004	Sch. 6 (item 6)
Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004	52, 2004	27 Apr 2004	Schedule 3 (item 8): 1 July 2004 ( <i>see s. 2</i> )	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance Legislation Amendment (More Help for Families—Increased Payments) Act 2004	59, 2004	26 May 2004	Sch 1 (items 1–8, 11), Sch 2 (items 1–11, 43–48), Sch 3 and 4: 1 July 2004 (s 2(1) items 2, 3, 7) Sch 2 (items 49, 50): 1 July 2006 (s 2(1) item 4) Sch 2 (items 51, 52): 1 July 2008 (s 2(1) item 5 and gaz 2008, No S139) Sch 2 (items 53, 54): never commenced (s 2(1) item 6)	Sch 1 (item 11), Sch 2 (items 3, 8, 44, 46, 48, 50, 52, 54), Sch 3 (item 3) and Sch 4 (items 3, 4)
Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004	60, 2004	26 May 2004	26 May 2004	Sch. 3 (item 1 (am. by 108, 2006, Sch. 8 (items 94, 95)))
<b>as amended by</b> Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) Act 2006	108, 2006	27 Sept 2006	Schedule 8 (items 94, 95): Royal Assent	—
Veterans' Entitlements (Clarke Review) Act 2004	100, 2004	30 June 2004	Schedule 2 (items 29, 30, 43(2)): 20 Sept 2004	Sch. 2 (item 43(2))

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004	132, 2004	8 Dec 2004	Schedule 4 (items 1–13, 44): 1 Jan 2005	Sch. 4 (item 44)
Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Act 2005	11, 2005	22 Feb 2005	Sch 1: 1 July 2004 (s 2(1) item 2)	Sch 1 (item 4)
Family and Community Services and Veterans' Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Act 2005	29, 2005	21 Mar 2005	Schedule 1: 1 Jan 2005 Schedule 2: 1 July 2005 Remainder: Royal Assent	Sch. 1 (item 10) and Sch. 2 (item 6)
Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Act 2005	61, 2005	26 June 2005	Schedule 1 (items 1–9, 12), Schedule 2 (items 1, 2, 4–6), Schedule 3 (items 2, 3) and Schedule 4 (items 1–5, 26): 1 July 2005 Schedule 2 (item 7) and Schedule 3 (item 1): Royal Assent Schedule 3 (item 4): 1 Jan 2005	Sch. 1 (item 12), Sch. 2 (items 4–7), Sch. 3 (item 3) and Sch. 4 (item 26)
Statute Law Revision Act 2005	100, 2005	6 July 2005	Schedule 1 (item 6): Royal Assent	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family and Community Services Legislation Amendment (Welfare to Work) Act 2005	150, 2005	14 Dec 2005	Schedule 1 (items 1–8, 17) and Schedule 2 (items 1–14, 35): Royal Assent	Sch. 1 (item 17) and Sch. 2 (item 35)
Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Act 2006	36, 2006	3 May 2006	Sch 1: repealed before commencing (s 2(1) item 2) Sch 3: 1 July 2005 (s 2(1) item 4) Sch 7 (items 1, 7): 4 May 2006 (s 2(1) item 8)	Sch 1 (items 3, 4), Sch 3 (item 3) and Sch 7 (item 7)
<b>as amended by</b>				
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006	82, 2006	30 June 2006	Sch 1 (item 5): 30 June 2006 (s 2(1) item 3)	—
Family Law Amendment (Shared Parental Responsibility) Act 2006	46, 2006	22 May 2006	Sch 9 (item 1): repealed on commencement (s 2(1) item 10)	—
<b>as amended by</b>				
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Sch 2 (item 9): 1 July 2006 (s 2(1) item 34)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006	64, 2006	22 June 2006	Schedule 14 (items 1–3): 1 July 2006	—
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006	82, 2006	30 June 2006	Sch 1 (items 1–4), Sch 2, 5 and Sch 12 (items 1, 2): 1 July 2006 (s 2(1) items 2, 4, 6, 12 and 13) Sch 9: 1 July 2005 (s 2(1) item 9)	Sch 1 (items 3, 4), Sch 5 (items 9, 10) and Sch 9 (item 8)
Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) Act 2006	108, 2006	27 Sept 2006	Schedule 1 and Schedule 8 (items 1–39): Royal Assent	Sch. 1 (item 9)
Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006	146, 2006	6 Dec 2006	Sch 2 (items 1, 2, 116), Sch 5 (items 30, 59–63) and Sch 8 (items 1–5, 7–13, 15–19, 21–91, 145, 146, 147(1)–(3), 148–157): 1 July 2008 (s 2(1) items 3, 3B, 8, 9, 13, 15, 17, 19) Sch 5 (items 73, 73A, 74(1)–(5), 75(1)–(5), 76) and Sch 8 (items 6, 14, 20): 6 Dec 2006 (s 2(1) items 10, 14, 16, 18)	Sch 2 (item 116), Sch 5 (items 73, 73A, 74(1)–(5), 75(1)–(5), 76) and Sch 8 (items 145, 146, 147(1)–(3), 157)

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008	63, 2008	30 June 2008	Sch 6 (items 16, 17): 6 Dec 2006 (s 2(1) item 21)	—
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007	82, 2007	21 June 2007	Sch 1 (item 102), Sch 5 (items 1–4, 23) and Sch 7 (item 3): 1 July 2008 (s 2(1) items 7, 17, 18, 21, 24) Sch 5 (items 5–14): 1 July 2006 (s 2(1) item 19) Sch 5 (items 15–22), Sch 6 (items 1, 7–24, 37) and Sch 7 (items 1, 2): 1 July 2007 (s 2(1) items 20, 22, 23)	Sch 5 (items 6, 8, 14, 22), Sch 6 (items 7, 10, 37) and Sch 7 (item 2)
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Act 2007	113, 2007	28 June 2007	Schedule 1 (items 1–11, 23, 24): 1 July 2007	Sch. 1 (items 23, 24)

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007	118, 2007	28 June 2007	Sch 1 (items 1–5, 91–102) and Sch 3 (items 1, 2): 29 June 2007 (s 2(1) items 2, 4)	Sch 1 (items 91–102)
<b>as amended by</b>				
Family Assistance Legislation Amendment (Child Care) Act 2010	34, 2010	13 Apr 2010	Sch 1 (item 29) and Sch 5 (item 8): 13 Apr 2010 (s 2(1) items 2, 8) Sch 5 (items 1–3): 29 June 2007 (s 2(1) item 6) Sch 5 (items 4–7): 16 May 2009 (s 2(1) item 7) Sch 6: 14 Apr 2010 (s 2(1) item 9)	Sch 5 (item 8) and Sch 6 (item 2)
<b>as amended by</b>				
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011	79, 2011	25 July 2011	Sch 1 (item 35): 16 May 2009 (s 2(1) item 3)	—
Family Assistance Legislation Amendment (Child Care Rebate) Act 2011	25, 2011	21 Apr 2011	Sch 2 (item 15): 26 July 2011 (s 2(1) item 27) Sch 3 (items 9, 10): never commenced (s 2(1) item 32)	Sch 3 (item 10)

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Social Security and Other Legislation Amendment (Miscellaneous Measures) Act 2011	91, 2011	4 Aug 2011	Sch 2 (item 2): 21 Apr 2011 (s 2(1) item 4)	—
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011	79, 2011	25 July 2011	Sch 1 (item 33): 26 July 2011 (s 2(1) item 2)	—
Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007	130, 2007	17 Aug 2007	18 Aug 2007 (s 2)	—
Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Act 2007	183, 2007	28 Sept 2007	1 Jan 2008 (s 2)	Sch 5 (item 5)
Family Assistance Legislation Amendment (Child Care Budget and Other Measures) Act 2008	53, 2008	25 June 2008	Sch 1 (items 1–13, 63): 7 July 2008 (s 2(1) item 2) Sch 2 (items 1–12, 32–40) and Sch 5 (item 5): 1 July 2008 (s 2(1) items 4, 8) Sch 5 (items 1–4, 27, 28): 25 June 2008 (s 2(1) items 7, 11)	Sch 1 (item 63), Sch 2 (items 5, 32–35, 36–40) and Sch 5 (items 27, 28)



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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Family Assistance Legislation Amendment (Child Care) Act 2009	50, 2009	24 June 2009	Sch 1 (items 15, 39): 24 June 2009 (s 2(1) item 2)	—
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008	63, 2008	30 June 2008	s 4 and Sch 6 (item 6): 30 June 2008 (s 2(1) items 1, 13) Sch 1 (items 1–7), Sch 2 (items 35, 36) and Sch 6 (items 1–5, 7–9, 9A–9C): 1 July 2008 (s 2(1) items 2, 4, 10–12, 14, 15, 15A) Sch 2 (items 1–15, 22, 23, 37–42, 44): 1 Jan 2009 (s 2(1) items 3, 5)	s 4, Sch 1 (item 7), Sch 2 (items 22(1), 36, 44) and Sch 6 (item 9C)
<b>as amended by</b>				
Family Assistance and Other Legislation Amendment Act 2013	70, 2013	27 June 2013	Sch 3 (items 42–44, 46, 57): 28 June 2013 (s 2(1) item 10)	Sch 3 (item 57)
Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008	115, 2008	21 Nov 2008	Sch 2 (items 1–3): 1 Mar 2009 (s 2(1) item 3)	—
Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008	131, 2008	1 Dec 2008	Sch 3 (items 1–4) and Sch 4: 1 Dec 2008 (s 2)	Sch 4

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Act 2008	143, 2008	9 Dec 2008	Sch 1 (items 1–9, 12, 13, 14(1), (2)): 1 Jan 2009 (s 2(1) items 2–4)	Sch 1 (items 12, 13, 14(1), (2))
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 6 (items 11, 12, 17–20): 1 July 2009 (s 2(1) item 14)	—
Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Act 2008	149, 2008	11 Dec 2008	Sch 1 (items 1, 2, 34): 11 Dec 2008 (s 2)	Sch 1 (item 34)
Household Stimulus Package Act (No. 2) 2009	4, 2009	18 Feb 2009	Sch 3 (items 1–3) and Sch 4: 18 Feb 2009 (s 2(1) item 5)	Sch 4
Tax Laws Amendment (2009 Measures No. 1) Act 2009	27, 2009	26 Mar 2009	Sch 3 (items 19–21, 102(1), (2)(a)): 27 Mar 2009 (s 2(1) item 5)	Sch 3 (item 102(1), (2)(a))
Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009	35, 2009	27 May 2009	Sch 2: 30 June 2009 (s 2(1) item 3)	—
Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Act 2009	48, 2009	24 June 2009	Sch 1 (items 1, 13): 1 July 2009 (s 2(1) items 2, 4)	Sch 1 (item 13)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance Legislation Amendment (Child Care) Act 2009	50, 2009	24 June 2009	Sch 1 (items 1–10, 15–22, 42, 43), Sch 2 (items 1–10, 20–22) and Sch 5 (items 1, 3): 24 June 2009 (s 2(1) items 2, 5)	Sch 1 (items 42, 43), Sch 2 (items 20–22) and Sch 5 (item 3)
Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Act 2009	60, 2009	29 June 2009	Sch 14 (items 1, 2, 4, 5): 30 June 2009 (s 2(1) items 15, 17) Sch 14 (item 3): 3 July 2009 (s 2(1) item 16)	—
Family Assistance Legislation Amendment (Participation Requirement) Act 2009	129, 2009	10 Dec 2009	Sch 1 (items 1–10, 13, 14): 1 Jan 2010 (s 2(1) item 2)	Sch 1 (items 13, 14)
<b>as amended by</b> Social Security and Family Assistance Legislation Amendment (Weekly Payments) Act 2010	45, 2010	14 Apr 2010	Sch 3: 1 Jan 2010 (s 2(1) item 3)	—
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010	38, 2010	13 Apr 2010	Sch 7 (items 1–7): 14 Apr 2010 (s 2(1) item 12)	—
Social Security and Family Assistance Legislation Amendment (Weekly Payments) Act 2010	45, 2010	14 Apr 2010	Sch 1 (items 6–8): 14 Apr 2010 (s 2(1) item 2)	Sch 1 (items 7, 8)

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Child Support and Family Assistance Legislation Amendment (Budget and Other Measures) Act 2010	65, 2010	28 June 2010	Sch 2 (items 1–21, 100–112) and Sch 4 (item 1): 1 July 2010 (s 2(1) items 2, 5)	Sch 2 (items 100–112)
Paid Parental Leave (Consequential Amendments) Act 2010	105, 2010	14 July 2010	Sch 1 (items 1, 2) and Sch 2 (items 1–4): 1 Oct 2010 (s 2(1) items 2, 14) Sch 1 (items 3–18): 1 Jan 2011 (s 2(1) items 3–6)	Sch 2 (items 1–4)
<b>as amended by</b>				
Family Assistance and Other Legislation Amendment Act 2013	70, 2013	27 June 2013	Sch 3 (items 54–57): 28 June 2013 (s 2(1) item 10)	Sch 3 (item 57)
Family Assistance Legislation Amendment (Child Care Rebate) Act 2011	25, 2011	21 Apr 2011	Sch 1 (items 1–8, 77, 78): 22 Apr 2011 (s 2(1) items 2, 24)	Sch 1 (items 77, 78)
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Act 2011	34, 2011	26 May 2011	Sch 5 (items 1–15, 17): 26 May 2011 (s 2(1) item 4)	Sch 5 (item 17)
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Election Commitments and Other Measures) Act 2011	50, 2011	27 June 2011	Sch 2 (items 1–12, 17(1)–(4)): 1 Jan 2012 (s 2(1) items 7–9)	Sch 2 (item 17(1)–(4))

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance and Other Legislation Amendment Act 2011	52, 2011	28 June 2011	Sch 1: 1 Jan 2012 (s 2(1) item 2) Sch 2 (items 1, 2): 30 June 2011 (s 2(1) item 3)	Sch 1 (item 6)
<b>as amended by</b>				
Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012	98, 2012	29 June 2012	Sch 3 (items 15, 16, 17(1)): 1 Jan 2013 (s 2(1) item 10)	Sch 3 (item 17(1))
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Act 2011	53, 2011	28 June 2011	Sch 1 (items 1–8, 17, 20), Sch 2 (items 1–4) and Sch 5 (items 1–18): 1 July 2011 (s 2(1) items 2, 4)	Sch 1 (items 17, 20), Sch 2 (item 4) and Sch 5 (items 7, 17)
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011	79, 2011	25 July 2011	Sch 2 (items 1–3): 22 Aug 2011 (s 2(1) item 4)	Sch 2 (item 3)

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### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance Legislation Amendment (Child Care Budget Measures) Act 2011	96, 2011	15 Sept 2011	15 Sept 2011 (s 2)	Sch 1 (item 5)
<b>as amended by</b>				
Family Assistance Legislation Amendment (Child Care Measures) Act 2014	66, 2014	30 June 2014	Sch 1 (item 7): 1 July 2014 (s 2)	—
Clean Energy (Household Assistance Amendments) Act 2011	141, 2011	29 Nov 2011	Sch 2 (items 1–3, 15–32, 34–46), Sch 8 (items 1–5, 17) and Sch 10 (item 1): 14 May 2012 (s 2(1) items 6, 16, 18)	Sch 2 (items 34–36, 42) and Sch 8 (item 17)
<b>as amended by</b>				
Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012	98, 2012	29 June 2012	Sch 3 (item 24): 1 Jan 2013 (s 2(1) item 10)	—

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance and Other Legislation Amendment Act 2012	49, 2012	26 May 2012	Sch 1 (items 1, 2, 7–14, 52), Sch 3 (items 1, 2) and Sch 6 (items 7–10): 1 July 2012 (s 2(1) items 2, 7, 12) Sch 2 (items 1, 5): 1 Sept 2012 (s 2(1) items 3, 5) Sch 2 (items 2, 6) and Sch 6 (items 1, 2, 5, 6): 26 May 2012 (s 2(1) items 4, 6, 9, 11) Sch 6 (items 3, 4, 12, 13): 1 Jan 2012 (s 2(1) items 10, 14) Sch 6 (item 11): 1 Jan 2005 (s 2(1) item 13) Sch 6 (items 14–25): 14 May 2012 (s 2(1) item 15)	Sch. 1 (item 52), Sch. 2 (items 5, 6) and Sch. 6 (items 4, 6, 10, 13, 25)
<b>as amended by</b>				
Family Assistance and Other Legislation Amendment Act 2013	70, 2013	27 June 2013	Sch 1 (item 11): 1 July 2013 (s 2(1) item 6)	—
Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012	50, 2012	26 May 2012	Sch 1 (items 1, 2, 24) and Sch 2 (items 1–12, 19–21): 27 May 2012 (s 2(1) items 2, 4)	Sch 1 (item 24) and Sch. 2 (items 19–21)

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012	98, 2012	29 June 2012	Sch 2 (items 1–13, 88(1)–(3)) and Sch 3 (items 1–13, 17–23, 25, 26): 1 Jan 2013 (s 2 (1) items 3, 9, 10) Sch4 and Sch 5 (items 1–13): 1 July 2012 (s 2(1) item 11) Sch 7 (items 1–14): 30 June 2012 (s 2(1) item 13)	Sch 2 (item 88(1)–(3)), Sch 3 (items 17, 23, 26), Sch 4 (item 11), Sch 5 (item 13) and Sch. 7 (item 14)
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012	154, 2012	17 Nov 2012	Sch 5 (items 1–59) and Sch 6 (items 2–6): 17 Nov 2012 (s 2(1) items 5, 8) Sch 6 (item 1): 1 July 2012 (s 2(1) item 7)	Sch 6 (item 4)



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance and Other Legislation Amendment Act 2013	70, 2013	27 June 2013	Sch 1 (items 1–3B, 8) and Sch 3 (items 58, 59, 63–65): 1 July 2013 (s 2(1) items 2, 11, 13) Sch 2 (items 1–3): 1 Jan 2012 (s 2(1) item 7) Sch 2A (items 1–10, 16–27, 67): 1 Mar 2014 (s 2(1) items 9A, 9C) Sch 2B (items 1, 2, 5–14, 54, 55) and Sch 3 (items 1–33, 35(1), 36–39, 57, 60–62): 28 June 2013 (s 2(1) items 9E, 9G, 10, 12) Sch 2B (items 3, 4): 28 June 2013 (s 2(1) item 9F)	Sch 1 (item 8), Sch 2 (item 3), Sch 2A (item 67), Sch 2B (items 54, 55) and Sch 3 (items 35(1), 57, 62)
Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Act 2013	99, 2013	28 June 2013	Sch 3 (items 17, 53): 1 July 2013 (s 2(1) item 2)	Sch 3 (item 53)

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Services and Other Legislation Amendment Act 2014	14, 2014	31 Mar 2014	Sch 3 (items 1–30, 36(1)–(4)): 1 May 2014 (s 2(1) item 3A) Sch 9 (items 6–9): 31 Mar 2014 (s 2(1) item 5A) Sch 10 (items 1–5, 8): 1 July 2014 (s 2(1) item 6) Sch 12 (items 74–84): 1 Mar 2014 (s 2(1) item 10)	Sch 3 (item 36(1)–(4)) and Sch 10 (item 8)
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (item 2): 24 June 2014 (s 2(1) item 2)	—
Family Assistance Legislation Amendment (Child Care Measures) Act 2014	66, 2014	30 June 2014	Sch 1 (items 1, 3–6): 1 July 2014 (s 2)	—
Minerals Resource Rent Tax Repeal and Other Measures Act 2014	96, 2014	5 Sept 2014	Sch 9 (items 1A–1M): 5 Sept 2014 (s 2(1) item 8) Sch 9 (items 1–14, 24): 31 Dec 2016 (s 2(1) item 9)	Sch 9 (item 24)
Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014	116, 2014	3 Nov 2014	Sch 2 (items 1, 2, 9): 1 Dec 2014 (s 2(1) item 2)	Sch 2 (item 9)
Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Act 2014	122, 2014	26 Nov 2014	Sch 1 (items 139–188): 20 Sept 2014 (s 2(1) item 2) Sch 9: 1 July 2015 (s 2(1) item 8)	Sch 9 (item 10)

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 51, 52): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
<b>as amended by</b>				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2 (items 1–3): 24 Mar 2016 (s 2(1) item 2)	—
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 5 (items 1, 2) and Sch 9: 1 July 2015 (s 2(1) items 16, 22)	Sch 9
Passports Legislation Amendment (Integrity) Act 2015	122, 2015	10 Sept 2015	Sch 1 (items 69, 70): 8 Oct 2015 (s 2(1) item 2)	—
Australian Immunisation Register (Consequential and Transitional Provisions) Act 2015	139, 2015	12 Nov 2015	Sch 1 (item 1): 1 Jan 2016 (s 2(1) item 2)	—
Social Services Legislation Amendment (No Jab, No Pay) Act 2015	158, 2015	26 Nov 2015	Sch 1: 1 Jan 2016 (s 2(1) item 2) Remainder: 26 Nov 2015 (s 2(1) item 1)	Sch 1 (item 19)
Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Act 2015	173, 2015	11 Dec 2015	Sch 2: 1 July 2016 (s 2(1) item 3) Remainder: 11 Dec 2015 (s 2(1) item 1)	Sch 2 (item 10)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 5 (item 1): 10 Mar 2016 (s 2(1) item 6)	—

*A New Tax System (Family Assistance) Act 1999*

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Compilation No. 109

Compilation date: 01/01/2022

Registered: 04/02/2022

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Services Legislation Amendment (Family Measures) Act 2016	17, 2016	8 Mar 2016	Sch 1 (items 1–26, 31) and Sch 2: 1 July 2016 (s 2(1) items 1, 2)	Sch 1 (item 31) and Sch 2 (item 8)
Omnibus Repeal Day (Autumn 2015) Act 2016	47, 2016	5 May 2016	Sch 5 (items 6–8, 66): 6 May 2016 (s 2(1) items 5, 7)	Sch 5 (item 66)
Budget Savings (Omnibus) Act 2016	55, 2016	16 Sept 2016	Sch 13 (items 1, 17) and Sch 15 (items 1, 5): 1 Jan 2017 (s 2(1) items 15, 17) Sch 17 (item 1): 16 Sept 2016 (s 2(1) item 19) Sch 19 (items 1, 5): 1 July 2018 (s 2(1) item 21) Sch 21 (items 1–25): 20 Mar 2017 (s 2(1) item 23) Sch 21 (items 132, 133): 1 July 2017 (s 2(1) item 24) Sch 21A: 1 July 2016 (s 2(1) item 24A)	Sch 13 (item 17), Sch 15 (item 5), Sch 19 (item 5), Sch 21 (item 5) and Sch 21A (item 2)
Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017	22, 2017	4 Apr 2017	Sch 1 (items 1–49): 2 July 2018 (s 2(1) item 2) Sch 3 (items 1, 2) and Sch 4: 5 Apr 2017 (s 2(1) items 3, 5)	Sch 4
Social Services Legislation Amendment Act 2017	33, 2017	12 Apr 2017	Sch 4: 12 Apr 2017 (s 2(1) item 5)	—

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Australian Immunisation Register and Other Legislation Amendment Act 2017	81, 2017	16 Aug 2017	Sch 2: 17 Aug 2017 (s 2(1) item 1)	Sch 2 (item 2)
Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017	132, 2017	13 Dec 2017	Sch 1 (item 22): 1 July 2018 (s 2(1) item 2)	—
Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Act 2018	17, 2018	28 Mar 2018	Sch 2 (items 24–34, 494): 1 May 2018 (s 2(1) items 3, 4) Sch 2 (items 495, 496): 1 July 2018 (s 2(1) item 5) Sch 2 (items 497, 498): 2 July 2018 (s 2(1) item 6)	—
Social Services Legislation Amendment (Welfare Reform) Act 2018	26, 2018	11 Apr 2018	Sch 1 (items 1, 342–354) and Sch 3 (items 1, 98–111): 20 Mar 2020 (s 2(1) items 2, 5)	Sch 1 (items 342–354) and Sch 3 (items 98–111)
Home Affairs and Integrity Agencies Legislation Amendment Act 2018	31, 2018	9 May 2018	Sch 2 (items 13–25, 284): 11 May 2018 (s 2(1) items 3, 7)	Sch 2 (item 284)

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018	36, 2018	22 May 2018	Sch 1 (items 1–21, 39) and Sch 2 (items 1, 2): 23 May 2018 (s 2(1) items 2, 7) Sch 2 (items 3, 5–16, 22–26): 1 July 2018 (s 2(1) items 8–10) Sch 2 (items 27, 28): 2 July 2018 (s 2(1) item 11)	Sch 1 (item 39), Sch 2 (items 2, 22, 24, 26) and Sch 2 (item 28)
Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018	168, 2018	10 Dec 2018	Sch 3 (items 1, 2): 1 Jan 2019 (s 2(1) item 2) Sch 5 (items 1–3, 8–11): 1 July 2019 (s 2(1) item 3)	Sch 5 (items 3, 11)
Family Assistance Legislation Amendment (Extend Family Assistance to ABSTUDY Secondary School Boarding Students Aged 16 and Over) Act 2019	73, 2019	20 Sept 2019	Sch 1 (items 1–5, 8): 1 Jan 2020 (s 2(1) item 1)	Sch 1 (item 8)
Family Assistance Legislation Amendment (Building on the Child Care Package) Act 2019	125, 2019	12 Dec 2019	Sch 1 (items 1–32): 16 Dec 2019 (s 2(1) item 2) Sch 1 (items 89, 90): 13 July 2020 (s 2(1) item 4)	—
Coronavirus Economic Response Package Omnibus Act 2020	22, 2020	24 Mar 2020	Sch 4 (items 1, 2) and Sch 9 (items 1–7): 25 Mar 2020 (s 2(1) items 4, 6)	Sch 9 (item 7)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Paid Parental Leave Amendment (Flexibility Measures) Act 2020	53, 2020	16 June 2020	Sch 1 (items 1–5): 1 July 2020 (s 2(1) item 2)	—
Family Assistance Legislation Amendment (Improving Assistance for Vulnerable and Disadvantaged Families) Act 2020	84, 2020	7 Sept 2020	Sch 1 (items 1–5): 1 July 2021 (s 2(1) item 2)	—
Social Services and Other Legislation Amendment (Coronavirus and Other Measures) Act 2020	97, 2020	13 Nov 2020	Sch 1 (items 1, 2): 14 Nov 2020 (s 2(1) item 2) Sch 5 (items 1–4): 1 Jan 2021 (s 2(1) item 5)	Sch 5 (item 4)
Services Australia Governance Amendment Act 2020	104, 2020	20 Nov 2020	Sch 1 (items 1–3, 66): 1 Feb 2020 (s 2(1) item 2)	Sch 1 (item 66)
Family Assistance Legislation Amendment (Early Childhood Education and Care Coronavirus Response and Other Measures) Act 2021	26, 2021	26 Mar 2021	Sch 1 (item 1): 27 Mar 2021 (s 2(1) item 2) Sch 1 (item 30): 1 July 2021 (s 2(1) item 3)	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance Legislation Amendment (Child Care Subsidy) Act 2021	86, 2021	27 Aug 2021	Sch 1 (items 1–16): 10 Dec 2021 (s 2(1) item 2) Sch 2 (items 1–9): <u>7 Mar 2022 (s 2(1) item 3)</u> Sch 2 (items 13, 14): <u>awaiting commencement (s 2(1) item 4)</u>	Sch 1 (item 16) and Sch 2 (items 9, 14)
Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021	142, 2021	13 Dec 2021	Sch 1 (items 1, 2): 1 Jan 2022 (s 2(1) item 2)	Sch 1 (item 2)



## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 2A.....	ad No 59, 2015
<b>Part 2</b>	
<b>Division 1</b>	
s 3 .....	am No 83, 1999; No 45, 2000; No 138, 2000; No 18, 2001; No 75, 2001; No 30, 2003; No 35, 2003 (as am by No 122, 2003); No 59, 2004; No 60, 2004; No 100, 2004; No 132, 2004; No 61, 2005; No 150, 2005; No 46, 2006; No 64, 2006; No 82, 2006; No 108, 2006; No 146, 2006; No 82, 2007; No 113, 2007; No 63, 2008; No 131, 2008; No 144, 2008; No 149, 2008; No 4, 2009; No 50, 2009; No 60, 2009; No 129, 2009; No 38, 2010; No 65, 2010; No 105, 2010; No 34, 2011; No 50, 2011; No 53, 2011; No 141, 2011; No 49, 2012; No 50, 2012; No 98, 2012; No 154, 2012; No 70, 2013; No 14, 2014; No 116, 2014; No 96, 2014; No 59, 2015; No 122, 2015; No 139, 2015; No 158, 2015; No 17, 2016; No 55, 2016; No 22, 2017; No 17, 2018; No 31, 2018; No 36, 2018; No 104, 2020
	ed C94
	am No 168, 2018
	ed C96
	am No 125, 2019; No 22, 2020; No 53, 2020; No 97, 2020; No 86, 2021 (Sch 2 items 1, 2)
s 3AA.....	ad No 149, 2008
	am No 38, 2010; No 22, 2017; No 17, 2018
s. 3A.....	ad. No. 45, 2000
s 3B.....	ad No 61, 2005
	am No 150, 2005; No 36, 2006; No 82, 2006; No 22, 2017
s. 3C.....	ad. No. 34, 2011
<b>Division 2</b>	
s 4 .....	am No 108, 2006; No 22, 2017
s 5 .....	rep No 158, 2016

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 6 .....	am No 146, 2006; No 49, 2012; No 158, 2015; No 22, 2017; No 81, 2017; No 36, 2018
s 7 .....	am. No. 108, 2006 rep No 158, 2016
<b>Division 3</b>	
s 8 .....	am No 45, 2000; No 108, 2006; No 22, 2017
s 9 .....	am No 108, 2006 rep No 45, 2000 am No 125, 2019
s 10 .....	am No 83, 1999 rs No 45, 2000 am No 108, 2006; No 118, 2007; No 79, 2011 rs No 22, 2017 am No 125, 2019; No 22, 2020
s 10A.....	ad No 45, 2000 am No 108, 2006 rep No 22, 2017
s 11 .....	am No 45, 2000; No 108, 2006; No 118, 2007 rep No 22, 2017
s 12 .....	am No 30, 2003 rep No 22, 2017
s 13 .....	am No 83, 1999 rep No 22, 2017
s 14 .....	am No 150, 2005; No 108, 2006 rep No 22, 2017
s 15 .....	am No 108, 2006 rep No 22, 2017
s 16 .....	am No 150, 2005; No 108, 2006 rep No 22, 2017
s 17 .....	am No 150, 2005; No 108, 2006 rep No 22, 2017

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 17A.....	ad No 150, 2005 rep No 22, 2017
s 17B.....	ad No 129, 2009 am No 34, 2011 rep No 14, 2014
s 18 .....	am No 108, 2006; No 118, 2007 rep No 22, 2017
s. 19 .....	am. No. 115, 2008; No. 38, 2010
<b>Part 3</b>	
Part 3 heading.....	rs No 22, 2017
<b>Division 1</b>	
<b>Subdivision A</b>	
s. 21 .....	am. No. 45, 2000; No 94, 2000; No. 18, 2001; No. 122, 2003; No. 146, 2006; No 53, 2011; No 141, 2011; No. 49, 2012; No 98, 2012; No 17, 2016
s. 22 .....	am. No. 45, 2000; Nos. 18 and 75, 2001; Nos. 82 and 146, 2006; No. 129, 2009; No. 65, 2010; Nos. 34 and 52, 2011; No. 98, 2012; No 14, 2014
s 22A.....	ad No 45, 2000 am. No. 30, 2003; No. 29, 2005; Nos. 34 and 50, 2011; No 14, 2014; No 73, 2019
s. 22B.....	ad. No. 50, 2011 am. No. 50, 2011; No 70, 2013; No 14, 2014
s. 23 .....	am. No. 45, 2000; No. 146, 2006; No. 144, 2008; No. 129, 2009; No. 98, 2012
s. 24 .....	am. No. 83, 1999; No. 122, 2003; No. 146, 2006; No. 98, 2012; No 14, 2014; No 17, 2016
s. 25 .....	rs. No. 45, 2000 am. No. 75, 2001 rs. No. 146, 2006 am. No. 65, 2010
s. 25A.....	ad. No. 63, 2008

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 65, 2010
s. 26 .....	am. No. 146, 2006
s. 27 .....	rs. No. 146, 2006
	am. No. 65, 2010
s. 28 .....	am. No. 45, 2000; No. 144, 2008
s. 29 .....	am. No. 45, 2000
	rep. No. 45, 2000
s. 30 .....	am. No. 83, 1999
	rep. No. 45, 2000
<b>Subdivision B</b>	
s. 31 .....	am. No. 146, 2006; Nos. 34 and 52, 2011; Nos. 49 and 98, 2012; No 14, 2014
s. 32 .....	am. No. 146, 2006; No. 49, 2012
s. 33 .....	am. No. 83, 1999; No. 45, 2000; No. 146, 2006
<b>Subdivision C</b>	
s. 34 .....	am. No. 129, 2009; Nos. 34 and 52, 2011; No. 98, 2012; No 14, 2014
s. 35 .....	am. No. 45, 2000; No. 30, 2003; No. 29, 2005; No. 34, 2011; No. 50, 2011; No. 14, 2014; No. 73, 2019
<b>Subdivision D</b>	
s. 35A.....	ad. No. 65, 2010
	am. No. 98, 2012; No. 36, 2018
s. 35B.....	ad. No. 65, 2010
	am. No. 98, 2012; No. 36, 2018
s. 35C.....	ad. No. 65, 2010
	am. No. 98, 2012; No. 36, 2018
s. 35D.....	ad. No. 65, 2010
	rep. No. 36, 2018
s. 35E.....	ad. No. 65, 2010
	am. No. 36, 2018
s. 35F.....	ad. No. 65, 2010
	rs. No. 36, 2018

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 35FA .....	ad No 36, 2018
s. 35G.....	ad. No. 65, 2010
s 35GA.....	ad No 36, 2018
s. 35H.....	ad. No. 65, 2010
s 35J.....	ad No 65, 2010
	am No 36, 2018
s 35K.....	ad No 65, 2010
	am No 36, 2018
s 35L.....	ad No 65, 2010
	am No 98, 2012
	rs No 36, 2018
s. 35M.....	ad. No. 65, 2010
s. 35N.....	ad. No. 65, 2010
<b>Subdivision E</b>	
Subdivision E heading .....	rs No 36, 2018
s 35P .....	ad No 65, 2010
	rs No 36, 2018
s 35PA .....	ad No 36, 2018
s 35Q.....	ad No 65, 2010
	rs No 36, 2018
s 35QA.....	ad No 36, 2018
s 35R.....	ad No 65, 2010
	rs No 36, 2018
s 35S .....	ad No 65, 2010
<b>Subdivision F</b>	
s 35T .....	ad No. 65, 2010
s 35U.....	ad No. 65, 2010
	am No 60, 2015
Division 1A.....	ad. No. 50, 2012
	rep No 96, 2014
s. 35UA.....	ad. No. 50, 2012

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 154, 2012; No 70, 2013; No 96, 2014 rep No 96, 2014
s. 35UB.....	ad. No. 50, 2012 am. No. 154, 2012; No 70, 2013 rep No 96, 2014
s. 35UC.....	ad. No. 50, 2012 rep No 96, 2014
s. 35UD.....	ad. No. 50, 2012 am. No. 154, 2012; No 70, 2013 rep No 96, 2014
s. 35UE.....	ad. No. 50, 2012 am. No. 154, 2012; No 70, 2013; No 96, 2014 rep No 96, 2014
s. 35UF.....	ad. No. 50, 2012 am. No. 154, 2012 rep No 96, 2014
s. 35UG.....	ad. No. 50, 2012 rep No 96, 2014
s. 35UH.....	ad. No. 50, 2012 am. No. 154, 2012 rep No 96, 2014
s. 35UI.....	ad. No. 154, 2012 rep No 96, 2014
<b>Division 2</b>	
Division 2 heading.....	rs No. 82, 2007
Division 2.....	rs. No. 59, 2004; No 70, 2013
<b>Subdivision A</b>	
s. 36.....	rs. No. 59, 2004 am. No. 61, 2005; No. 146, 2006; No. 82, 2007; Nos. 63 and 144, 2008; No. 105, 2010; No. 53, 2011; No 70, 2013; No 14, 2014 rs No 70, 2013

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 36A.....	ad. No. 105, 2010 rep No 70, 2013
s. 37 .....	rs. No. 59, 2004 am. No. 82, 2007; No. 63, 2008; No. 105, 2010 rs No 70, 2013
<b>Subdivision B</b>	
s. 38 .....	am. No. 30, 2003 rs. No. 59, 2004 am. Nos. 82 and 130, 2007; No. 63, 2008; No. 45, 2010 rs No 70, 2013
Division 3 .....	rep. No. 49, 2012
s. 39 .....	am. No. 45, 2000; No. 59, 2004; No. 146, 2006; No. 82, 2007; Nos. 63 and 143, 2008; No. 105, 2010 rep. No. 49, 2012
s. 40 .....	am. No. 30, 2003 rep. No. 49, 2012
Division 4 .....	rep No 22, 2017
s 41 .....	rs No 45, 2000 rep No 22, 2017
Subdivision A .....	rs No 45, 2000 rep No 22, 2017
s 42 .....	am No 83, 1999 rs No 45, 2000 am No 94, 2000; No 18, 2001; No 122, 2003; No 146, 2006; No 98, 2012; No 158, 2015 rep No 22, 2017
s 43 .....	rs No 45, 2000 am No 108, 2006 rep No 22, 2017
Subdivision B .....	rs No 45, 2000 rep No 22, 2017

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 44 .....	rs No 45, 2000 am No 94, 2000; No 18, 2001; No 122, 2003; No 108, 2006; No 146, 2006; No 98, 2012; No 158, 2015 rep No 22, 2017
Subdivision C .....	rs No 45, 2000 rep No 22, 2017
s 45 .....	am No 83, 1999 rs No 45, 2000 am No 94, 2000; No 18, 2001; No 122, 2003; No 146, 2006; No 98, 2012; No 158, 2015 rep No 22, 2017
Subdivision D .....	rs No 45, 2000 rep No 22, 2017
s 46 .....	am No 83, 1999 rs No 45, 2000 rep No 22, 2017
Subdivision E .....	rs No 45, 2000 rep No 22, 2017
s 47 .....	rs No 45, 2000 am No 158, 2016 rep No 22, 2017
Subdivision F .....	rs No 45, 2000 rep No 22, 2017
s 48 .....	rs No 45, 2000 am No 108, 2006 rep No 22, 2017
s 49 .....	rs No 45, 2000 am No 30, 2003; No 108, 2006 rep No 22, 2017
s 50 .....	rs No 45, 2000 am No 118, 2007

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 22, 2017
s 51 .....	rs No 45, 2000
	am No 108, 2006
	rep No 22, 2017
Subdivision G .....	rs No 45, 2000
	rep No 22, 2017
s 52 .....	am No 83, 1999
	rs No 45, 2000
	am No 30, 2003; No 150, 2005
	rep No 22, 2017
s 53 .....	am No 83, 1999
	rs No 45, 2000
	am No 150, 2005
	rep No 22, 2017
s 54 .....	am No 83, 1999
	rs No 45, 2000
	am No 150, 2005; No 146, 2006
	rep No 22, 2017
s 55 .....	am No 83, 1999
	rs No 45, 2000
	rep No 22, 2017
s 56 .....	rs No 83, 1999; No 45, 2000
	rep No 22, 2017
s 56A.....	ad No 83, 1999
	rep No 45, 2000
s 57 .....	rs No 45, 2000
	am No 30, 2003; No 108, 2006
	rep No 22, 2017
s 57A.....	ad No 45, 2000
	am No 150, 2005; No 108, 2006; No 118, 2007
	rep No 22, 2017

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Compilation No. 109

Compilation date: 01/01/2022

Registered: 04/02/2022

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 57B.....	ad No 45, 2000 am No 108, 2006 rep No 22, 2017
s 57C.....	ad No 45, 2000 am No 108, 2006 rep No 22, 2017
s 57D.....	ad No 45, 2000 rep No 108, 2006
s 57E.....	ad No 45, 2000 rep No 22, 2017
Division 5 heading.....	ad No 113, 2007 rs No 50, 2009 rep No 22, 2017
Division 5.....	rep No 22, 2017
s 57EAA.....	ad No 25, 2011 rep No 22, 2017
s 57EA.....	ad No 53, 2008 am No 50, 2009; No 25, 2011 rep No 22, 2017
s 57F.....	ad No 113, 2007 am No 53, 2008; No 50, 2009 rep No 22, 2017
<b>Division 6</b>	
Division 6.....	ad. No. 141, 2011
<b>Subdivision A</b>	
s 57G.....	ad No 141, 2011 am No 98, 2012; No 17, 2016; No 55, 2016
ss. 57GA–57GD.....	ad. No. 141, 2011
s 57GDA.....	ad No 55, 2016
<b>Subdivision B</b>	
s. 57GE.....	ad. No. 141, 2011

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am. No. 98, 2012; No 14, 2014
s. 57GF .....	ad. No. 141, 2011
s. 57GG.....	ad. No. 141, 2011
<b>Division 7</b>	
Division 7 .....	ad No 116, 2014
s 57GH.....	ad No 116, 2014
s 57GI .....	ad No 116, 2014
	am No 22, 2017
s 57GJ .....	ad No 116, 2014
	am No 31, 2018
s 57GK.....	ad No 116, 2014
	am No 122, 2015; No 31, 2018
s 57GL .....	ad No 116, 2014
	rep No 31, 2018
s 57GM .....	ad No 116, 2014
	am No 104, 2020
s 57GN.....	ad No 116, 2014
s 57GNA.....	ad No 116, 2014
	am No 31, 2018
s 57GO.....	ad No 116, 2014
	am No 31, 2018; No 104, 2020
s 57GP .....	ad No 116, 2014
s 57GQ.....	ad No 116, 2014
	rs No 22, 2017
s 57GR .....	ad No 116, 2014
s 57GS .....	ad No 116, 2014
<b>Part 4</b>	
Part 4 heading.....	rs No 22, 2017
<b>Division 1</b>	
s 58 .....	am. No. 141, 2011; No 122, 2014; No 17, 2016; No 55, 2016
s 58AA.....	ad No 70, 2013

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am No 14, 2014
s. 58A.....	ad. No. 141, 2011
	am No 70, 2013; No 122, 2014; No 55, 2016
s. 59 .....	am. No. 45, 2000
	rs. No. 146, 2006
	am. No. 63, 2008; No. 65, 2010
s. 59A.....	ad. No. 146, 2006
s 61AA.....	ad No 168, 2018
s 61A.....	ad No 53, 2011
	am No 49, 2012; No 70, 2013
	rs No 36, 2018
	am No 17, 2018
s 61B.....	ad No 49, 2012
	am No 70, 2013; No 158, 2015
	rs No 36, 2018
s 61C.....	ad No 36, 2018
s 61D.....	ad No 36, 2018
s. 62 .....	am. No. 122, 2003; No. 141, 2011; No. 98, 2012
	rep No 17, 2016
s. 63 .....	am. No. 122, 2003; No. 146, 2006; No. 141, 2011; Nos. 49 and 98, 2012
	rep No 17, 2016
s. 63AA.....	ad. No. 146, 2006
	am. No. 98, 2012
	rep No 17, 2016
s. 63A.....	ad. No. 94, 2000
	am. No. 122, 2003; Nos. 36 and 146, 2006; No. 82, 2007; No. 98, 2012
	rep No 17, 2016
s. 64 .....	am. No. 146, 2006

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<b>Provision affected</b>	<b>How affected</b>
s 65 .....	am No 146, 2006; No 34, 2011; No 52, 2011; No 49, 2012; No 98, 2012; No 14, 2014; No 97, 2020
Division 1A.....	ad. No. 50, 2012 rep No 96, 2014
s. 65A.....	ad. No. 50, 2012 rep No 96, 2014
s. 65B.....	ad. No. 50, 2012 am. No. 154, 2012; No 70, 2013 rep No 96, 2014
s. 65C.....	ad. No. 50, 2012 am. No. 154, 2012 rep No 96, 2014
s. 65D.....	ad. No. 50, 2012 rep No 96, 2014
s. 65E.....	ad. No. 50, 2012 rs. No. 154, 2012 am No 70, 2013 rep No 96, 2014
s. 65EA .....	ad. No. 154, 2012 rep No 96, 2014
s. 65EB .....	ad. No. 154, 2012 rep No 96, 2014
s. 65F .....	ad. No. 50, 2012 rep No 96, 2014
<b>Division 2</b>	
s 66 .....	am No 83, 1999 rs No 59, 2004 am No 59, 2004; No 82, 2007; No 63, 2008; No 49, 2012 rs No 70, 2013; No 97, 2020
s. 66A.....	ad. No. 105, 2010 rep. No 70, 2013

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Division 3 .....	rep. No. 49, 2012
s. 67 .....	am. No. 83, 1999
	rs. No. 59, 2004
	am. No. 143, 2008
	rep. No. 49, 2012
s. 68 .....	rs. No. 45, 2000; No. 146, 2006
	am. No. 143, 2008
	rep. No. 49, 2012
Division 4 .....	rep No 22, 2017
s 69 .....	rs No 45, 2000
	am No 132, 2004
	rep No 22, 2017
s 70 .....	rs No 45, 2000
	rep No 22, 2017
s 71 .....	am No 83, 1999
	rs No 45, 2000
	rep No 22, 2017
s 72 .....	rs No 45, 2000
	rep No 22, 2017
s 73 .....	rs No 45, 2000
	am No 132, 2004; No 53, 2008
	rep No 22, 2017
s 74 .....	rs No 45, 2000
	rep No 22, 2017
s 75 .....	rs No 45, 2000
	rep No 22, 2017
s 76 .....	ad No 45, 2000
	am No 30, 2003; No 108, 2006
	rep No 22, 2017
s 77 .....	ad No 45, 2000
	rep No 22, 2017

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 78 .....	ad No 45, 2000 rep No 22, 2017
s 79 .....	ad No 45, 2000 rep No 22, 2017
s 80 .....	ad No 45, 2000 am No 30, 2003 rep No 22, 2017
s 81 .....	ad No 45, 2000 am No 30, 2003; No 108, 2006 rep No 22, 2017
s 82 .....	ad No 45, 2000 am No 108, 2006 rep No 22, 2017
s 82A.....	ad No 132, 2004 rep No 22, 2017
s 83 .....	ad No 45, 2000 am No 53, 2008 rep No 22, 2017
s 84 .....	ad No 45, 2000 rs No 108, 2006 rep No 22, 2017
Division 4A heading .....	ad No 113, 2007 rs No 50, 2009 rep No 22, 2017
Division 4A.....	rep No 22, 2017
s 84AAA .....	ad No 25, 2011 rep No 22, 2017
s 84AAB .....	ad No 25, 2011 rep No 22, 2017
s 84AAC .....	ad No 25, 2011 rep No 22, 2017

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 84AAD .....	ad No 25, 2011 rep No 22, 2017
Subdivision A heading .....	rs No 50, 2009 rep No 22, 2017
Subdivision A .....	ad No 53, 2008 rep No 22, 2017
s 84AA .....	ad No 53, 2008 am No 50, 2009; No 25, 2011 rep No 22, 2017
s 84AB .....	ad No 53, 2008 am No 25, 2011 rep No 22, 2017
s 84AC .....	ad No 53, 2008 rep No 22, 2017
Subdivision B heading .....	ad No 53, 2008 rs No 50, 2009 rep No 22, 2017
s 84A .....	ad No 113, 2007 am No 53, 2008; No 50, 2009 rep No 22, 2017
s 84B .....	ad No 113, 2007 am No 53, 2008; No 50, 2009; No 25, 2011 rep No 22, 2017
s 84C .....	ad No 113, 2007 am No 53, 2008 rep No 22, 2017
s 84D .....	ad No 113, 2007 am No 53, 2008 rep No 22, 2017
Subdivision BA .....	ad No 50, 2009 rep No 22, 2017

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 84DA.....	ad No 50, 2009 rep No 22, 2017
s 84DB.....	ad No 50, 2009 am No 25, 2011 rep No 22, 2017
s 84DC.....	ad No 50, 2009 rep No 22, 2017
s 84DD.....	ad No 50, 2009 rep No 22, 2017
Subdivision C heading.....	ad No 53, 2008 rep No 22, 2017
s 84E.....	ad No 113, 2007 am No 53, 2008; No 50, 2009 rep No 25, 2011
s 84A (second occurring).....	ad No 25, 2011 renum No 31, 2014
s 84E (prev s 84A second occurring).....	rep No 22, 2017
s 84F.....	ad No 113, 2007 am No 53, 2008; No 50, 2009; No 25, 2011; No 96, 2011; No 66, 2014; No 47, 2016 rep No 22, 2017
<b>Division 4B</b>	
Division 4B.....	ad. No. 141, 2011
s. 84G.....	ad. No. 141, 2011 am. No. 154, 2012
s 84GA, 84GB.....	ad. No. 141, 2011
<b>Division 5</b>	
Division 5.....	ad. No. 45, 2000
s. 85.....	ad. No. 45, 2000 am. No. 59, 2004; No. 82, 2007; No. 49, 2012; No 70, 2013

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 4A</b>	
Part 4A .....	ad No 22, 2017
<b>Division 1</b>	
s 85AA .....	ad No 22, 2017
s 85AB .....	ad No 22, 2017
<b>Division 2</b>	
s 85BA .....	ad No 22, 2017
	am No 125, 2019; No 26, 2021
s 85BB .....	ad No 22, 2017
<b>Division 3</b>	
<b>Subdivision A</b>	
s 85CA .....	ad No 22, 2017
	am No 125, 2019; No 84, 2020
s 85CB .....	ad No 22, 2017
	am No 125, 2019; No 84, 2020
s 85CC .....	ad No 22, 2017
s 85CD .....	ad No 22, 2017
s 85CE .....	ad No 22, 2017
	am No 125, 2019; No 84, 2020; No 26, 2021
s 85CF .....	ad No 22, 2017
<b>Subdivision B</b>	
s 85CG .....	ad No 22, 2017
s 85CH .....	ad No 22, 2017
s 85CI .....	ad No 22, 2017
<b>Subdivision C</b>	
s 85CJ .....	ad No 22, 2017
	am No 17, 2018; No 125, 2019
<b>Subdivision D</b>	
s 85CK .....	ad No 22, 2017
	am No 26, 2018

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Division 4</b>	
s 85DA .....	ad No 22, 2017
<b>Division 5</b>	
s 85EA .....	ad No 22, 2017
s 85EB .....	ad No 22, 2017
s 85EC .....	ad No 22, 2017
s 85ECA.....	ad No 125, 2019
s 85ED .....	ad No 22, 2017
s 85EE.....	ad No 22, 2017
<b>Division 6</b>	
s 85FA .....	ad No 22, 2017
s 85FB.....	ad No 22, 2017
s 85FC.....	ad No 22, 2017
s 85FD .....	ad No 22, 2017
<b>Division 7</b>	
s 85GA.....	ad No 22, 2017
s 85GB.....	ad No 22, 2017
	am No 125, 2019
<b>Part 5</b>	
Part 5.....	ad. No. 60, 2004
s 86–88.....	ad. No. 60, 2004
<b>Part 6</b>	
Part 6.....	ad. No. 131, 2008
<b>Division 1</b>	
s 89–92.....	ad. No. 131, 2008
<b>Division 2</b>	
s 93 .....	ad No 131, 2008
s 94 .....	ad No 131, 2008
<b>Part 7</b>	
Part 7.....	ad. No. 4, 2009

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 1</b>	
<b>Subdivision A</b>	
s 95–97.....	ad. No. 4, 2009
<b>Subdivision B</b>	
s 98, 99.....	ad. No. 4, 2009
<b>Subdivision C</b>	
s. 100 .....	ad. No. 4, 2009
<b>Division 2</b>	
s 101, 102.....	ad. No. 4, 2009
<b>Part 7A</b>	
Part 7A.....	ad. No. 50, 2012
<b>Division 1</b>	
s. 102A.....	ad. No. 50, 2012
s. 102B.....	ad. No. 50, 2012
s. 102C.....	ad. No. 50, 2012
<b>Division 2</b>	
<b>Subdivision A</b>	
s. 102D.....	ad. No. 50, 2012
s. 102E.....	ad. No. 50, 2012
<b>Subdivision B</b>	
s. 102F.....	ad. No. 50, 2012
s. 102G.....	ad. No. 50, 2012
<b>Division 3</b>	
s. 102H.....	ad. No. 50, 2012
<b>Part 8</b>	
Part 8.....	ad. No. 141, 2011
<b>Division 1</b>	
s. 103 .....	ad. No. 141, 2011
	am. No. 49, 2012
s. 104 .....	ad. No. 141, 2011

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 2</b>	
ss. 105–107 .....	ad. No. 141, 2011
<b>Division 3</b>	
s. 108 .....	ad. No. 141, 2011
	am. Nos. 49 and 154, 2012
<b>Division 4</b>	
s. 109 .....	ad. No. 141, 2011
	am No 70, 2013
<b>Part 9</b>	
Part 9 .....	ad No 22, 2020
<b>Division 1</b>	
s 110 .....	ad No 22, 2020
s 111 .....	ad No 22, 2020
s 112 .....	ad No 22, 2020
<b>Division 2</b>	
s 113 .....	ad No 22, 2020
s 114 .....	ad No 22, 2020
s 115 .....	ad No 22, 2020
<b>Division 3</b>	
s 116 .....	ad No 22, 2020
<b>Part 10</b>	
Part 10 .....	ad No 97, 2020
<b>Division 1</b>	
s 117 .....	ad No 97, 2020
s 118 .....	ad No 97, 2020
s 119 .....	ad No 97, 2020
<b>Division 2</b>	
s 120 .....	ad No 97, 2020
s 121 .....	ad No 97, 2020
s 122 .....	ad No 97, 2020

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 3</b>	
s 123 .....	ad No 97, 2020
<b>Schedule 1</b>	
<b>Part 1</b>	
c 1 .....	am. No. 83, 1999; No. 146, 2006; No. 63, 2008; No 17, 2018
c 2 .....	am No 122, 2014; No 168, 2018
<b>Part 2</b>	
<b>Division 1</b>	
c 3 .....	am No 45, 2000; No 59, 2004; No 61, 2005; No 146, 2006; No 141, 2011; No 70, 2013; No 122, 2014; No 17, 2016; No 55, 2016
c 4 .....	am. No. 53, 2011
cc. 4A, 4B .....	ad. No. 61, 2005
	rep. No. 146, 2006
c 5 .....	am. No. 45, 2000; No. 61, 2005; No. 146, 2006
	rs. No. 53, 2011
c 6 .....	rep. No. 45, 2000
	ad. No. 141, 2011
c 6A .....	ad No 55, 2016
<b>Division 2</b>	
c 7 .....	am No 146, 2006; Nos 50 and 52, 2011; No 98, 2012; No 14, 2014; No 36, 2018
c 10 .....	am. No. 98, 2012
c 11 .....	rs. No. 146, 2006
Division 3 .....	rep. No. 146, 2006
c 12 .....	rep. No. 146, 2006
c 13 .....	am. No. 45, 2000; No. 61, 2005
	rep. No. 146, 2006
c 14 .....	am. No. 45, 2000
	rep. No. 146, 2006
c 14A .....	ad. No. 45, 2000
	rep. No. 146, 2006

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<b>Provision affected</b>	<b>How affected</b>
cc. 15, 16.....	rep. No. 146, 2006
c. 16A.....	ad. No. 45, 2000 rep. No. 146, 2006
Division 4.....	rep. No. 146, 2006
c. 17.....	am. No. 45, 2000; No. 61, 2005 rep. No. 146, 2006
c. 18.....	am. No. 59, 2004; No. 118, 2007 rep. No. 146, 2006
c. 19.....	am. No. 82, 2006 rep. No. 146, 2006
<b>Division 5</b>	
<b>Subdivision A</b>	
Subdivision A heading.....	ad. No. 82, 2006
c. 19A.....	ad. No. 45, 2000
c. 19AA.....	ad. No. 146, 2006
c. 19B.....	ad. No. 45, 2000 am No 17, 2018
c. 20.....	am. No. 45, 2000; Nos. 82 and 146, 2006; No. 82, 2007; No. 48, 2009
c. 20A.....	ad. No. 45, 2000 am. No. 143, 2000; No. 115, 2008
c. 20B.....	ad. No. 146, 2006 am. No. 82, 2007; No. 63, 2008
c. 20C.....	ad. No. 146, 2006 am. No. 82, 2007; No. 63, 2008; No. 98, 2012
c. 20D.....	ad. No. 98, 2012
c. 21.....	rs. No. 45, 2000
c. 22.....	am. No. 30, 2003; No. 146, 2006
c. 24.....	am. Nos. 45 and 143, 2000; No. 30, 2003; No. 115, 2008
<b>Subdivision B</b>	
Subdivision B.....	ad. No. 82, 2006

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<b>Provision affected</b>	<b>How affected</b>
c. 24A .....	ad. No. 82, 2006 am. No. 82, 2007
c. 24B.....	ad. No. 82, 2006
cc. 24C, 24D .....	ad. No. 82, 2006 am. No. 82, 2007
c. 24E.....	ad. No. 82, 2006
c. 24EA.....	ad. No. 82, 2007
<b>Subdivision C</b>	
Subdivision C .....	ad. No. 146, 2006
c. 24F.....	ad. No. 146, 2006 rs. No. 82, 2007
c. 24G.....	ad. No. 146, 2006 am. No. 49, 2012; No 122, 2014
c. 24H.....	ad. No. 146, 2006
c. 24HA.....	ad. No. 49, 2012 am No 122, 2014; No 55, 2016
c. 24J.....	ad. No. 146, 2006
c. 24K.....	ad. No. 146, 2006 am. No. 63, 2008
c. 24L.....	ad. No. 146, 2006 am. No. 49, 2012; No 122, 2014
<b>Subdivision D</b>	
Subdivision D .....	ad. No. 146, 2006
c. 24M.....	ad. No. 146, 2006 rs. No. 82, 2007
c. 24N.....	ad. No. 146, 2006 am. No. 53, 2011; No. 49, 2012; No 70, 2013; No 122, 2014; No 17, 2016
c. 24P.....	ad. No. 146, 2006
c. 24Q.....	ad. No. 146, 2006 rep No 17, 2016

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
c. 24R.....	ad. No. 146, 2006
c. 24RA.....	ad. No. 49, 2012 am No 122, 2014; No 55, 2016
c. 24S.....	ad. No. 146, 2006
<b>Part 3</b>	
<b>Division 1</b>	
c. 25 .....	am No 45, 2000; No 59, 2004; No 146, 2006; No 53, 2011; No 141, 2011; No 70, 2013; No 122, 2014; No 17, 2016; No 55, 2016; No 168, 2018
c. 25A .....	ad. No. 45, 2000 rs. No. 53, 2011
c. 25B.....	ad. No. 141, 2011
c. 25C.....	ad No 55, 2016
c. 25D .....	ad No 168, 2018
<b>Division 2</b>	
c. 26 .....	am No 50, 2011; No 98, 2012; No 36, 2018
c. 27 .....	rs. No. 146, 2006
<b>Part 3A</b>	
Part 3A.....	ad. No. 146, 2006
c. 28A .....	ad. No. 146, 2006
<b>Part 4</b>	
<b>Division 1</b>	
<b>Subdivision AA</b>	
Subdivision AA .....	ad. No. 63, 2008
c. 28B.....	ad. No. 63, 2008 am No. 105, 2010; No 122, 2014; No 17, 2018
c. 28C.....	ad No 105, 2010 am No 53, 2020
c. 28D .....	ad No 173, 2015
<b>Subdivision A</b>	
Subdivision A heading.....	ad. No. 61, 2005

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
c. 29 .....	am. Nos. 29 and 61, 2005; Nos. 34, 50 and 141, 2011; No 122, 2014; No 55, 2016
c 29AA .....	ad No 55, 2016
<b>Subdivision B</b>	
Subdivision B .....	ad. No. 61, 2005
c. 29A .....	ad. No. 61, 2005 am. No. 82, 2006; No. 141, 2011; No 122, 2014; No 55, 2016
c. 29B.....	ad. No. 61, 2005 am. No. 146, 2006
c. 29C.....	ad. No. 61, 2005
c 29D .....	ad No 55, 2016
<b>Division 2</b>	
c. 31 .....	rs. No. 146, 2006
<b>Division 2A</b>	
Division 2A.....	ad. No. 29, 2005
c. 31A .....	ad. No. 29, 2005 am. No. 61, 2005; No. 146, 2006
<b>Division 2B</b>	
Division 2B.....	ad. No. 141, 2011
Division 2B heading .....	rs No 122, 2014
c 31B.....	ad. No. 141, 2011 am No 70, 2013; No 122, 2014; No 55, 2016
c 31C.....	ad. No. 141, 2011 am No 122, 2014
<b>Division 3</b>	
c. 32 .....	am. No. 59, 2004
c. 33 .....	rs. No. 59, 2004
<b>Part 5</b>	
Division 1 .....	rep No 17, 2016
c. 34 .....	am. No. 82, 2006; No. 53, 2011; No. 122, 2014 rep No 17, 2016

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<b>Provision affected</b>	<b>How affected</b>
c. 35 .....	am. No. 82, 2006; No. 122, 2014 rep No 17, 2016
<b>Division 1A</b>	
Division 1A.....	ad No 70, 2013
c 35A .....	ad No 70, 2013 am No 14, 2014; No 53, 2020
c 35B.....	ad No 70, 2013 am No 14, 2014
<b>Division 2</b>	
c. 36 .....	am. No. 183, 2007; Nos. 34, 50 and 53, 2011
c. 37 .....	am. No. 183, 2007
c. 38 .....	rs. No. 146, 2006
<b>Division 2A</b>	
Division 2A.....	ad. No. 59, 2004
c 38A .....	ad No 59, 2004 am No 146, 2006; No 53, 2011; No 55, 2016
<b>Division 2AA</b>	
Division 2AA.....	ad. No. 141, 2011
Division 2AA heading .....	rs No 122, 2014
<b>Subdivision A</b>	
Subdivision A heading.....	rs No 122, 2014
c. 38AA.....	ad. No. 141, 2011 am. No. 98, 2012; No 70, 2013; No 14 and 122, 2014; No 55, 2016
c. 38AB.....	ad. No. 141, 2011 am No 122, 2014
c. 38AC.....	ad. No. 141, 2011 am No 122, 2014
c. 38AD.....	ad. No. 141, 2011 am. No. 98, 2012; No 122, 2014
c. 38AE.....	ad. No. 141, 2011 am No 122, 2014

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Compilation date: 01/01/2022

Registered: 04/02/2022

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<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision B</b>	
Subdivision B heading .....	rs No 122, 2014
c. 38AF .....	ad. No. 141, 2011 am. No. 98, 2012; No 70, 2013; No 122, 2014; No 55, 2016
c. 38AG.....	ad. No. 141, 2011 am No 122, 2014
<b>Division 2B</b>	
Division 2B.....	ad. No. 146, 2006
<b>Subdivision A</b>	
c. 38B.....	ad. No. 146, 2006 am. No. 50, 2011; No 14, 2014; No 17, 2016
c. 38C.....	ad. No. 146, 2006 am. No. 53, 2011
c. 38D .....	ad. No. 146, 2006 am. No. 82, 2007
c 38E–38H .....	ad. No. 146, 2006
<b>Subdivision B</b>	
c 38J.....	ad No 146, 2006
c 38K .....	ad No 146, 2006 am No 17, 2018
<b>Division 2C</b>	
Division 2C.....	ad. No. 146, 2006
c 38L.....	ad No 146, 2006 am No 17, 2018
c 38M.....	ad No 146, 2006
c 38N .....	ad No 146, 2006
<b>Division 3</b>	
c. 39 .....	ad. No. 30, 2003 am. No. 146, 2006
<b>Division 4</b>	
Division 4 .....	ad. No. 53, 2011

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
c. 40 .....	ad. No. 53, 2011
c. 41 .....	ad. No. 53, 2011
c. 42 .....	ad. No. 53, 2011
c. 43 .....	ad. No. 53, 2011
c. 44 .....	ad. No. 53, 2011
c. 45 .....	ad. No. 53, 2011 am. No. 98, 2012
c. 46 .....	ad. No. 53, 2011
c. 47 .....	ad. No. 53, 2011
c. 48 .....	ad. No. 53, 2011
c. 49 .....	ad. No. 53, 2011
c. 50 .....	ad. No. 53, 2011
c. 51 .....	ad. No. 53, 2011
<b>Schedule 2</b>	
Schedule 2 .....	rs No 22, 2017
<b>Part 1</b>	
c 1 .....	rs No 22, 2017 am No 125, 2019; No 86, 2021
c 2 .....	am No 83, 1999; No 45, 2000; No 30, 2003; No 118, 2007; No 53, 2008 rs No 22, 2017 am No 125, 2019; No 86, 2021 ( <u>Sch 2 items 3, 4</u> )
c 3 .....	am No 83, 1999 rs No 22, 2017 ed C109 am <u>No 86, 2021</u>
c 3A .....	ad <u>No 86, 2021</u>
c 3B .....	ad <u>No 86, 2021</u> am <u>No 86, 2021</u>
c 4 .....	am No 138, 2000; No 113, 2007 rs No 22, 2017

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
c 4A .....	ad No 125, 2019
<b>Part 2</b>	
c 5 .....	rs No 22, 2017 am No 125, 2019; No 86, 2021
c 6 .....	rs No 22, 2017
<b>Part 3</b>	
c 7 .....	am No 45, 2000; No 17, 2018 rs No 22, 2017 am No 125, 2019; No 86, 2021 ( <u>Sch 2 item 8</u> )
<b>Part 4</b>	
c 8 .....	am No 45, 2000; No 53, 2008 rs No 22, 2017
c 8A .....	ad No 30, 2003 rep No 22, 2017
c 9 .....	rs No 22, 2017 am No 125, 2019
c 10 .....	rs No 22, 2017
<b>Part 5</b>	
<b>Division 1</b>	
c 11 .....	am No 45, 2000 rs No 22, 2017
c 12 .....	rs No 45, 2000 am No 113, 2007 rep No 53, 2008 ad No 22, 2017
c 13 .....	ad No 22, 2017
c 14 .....	ad No 22, 2017
c 15 .....	ad No 22, 2017
<b>Division 2</b>	
c 16 .....	ad No 22, 2017

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<b>Provision affected</b>	<b>How affected</b>
<b>Schedule 3</b>	
c 1 .....	am No 30, 2003; No 96, 2014 rs No 22, 2017
c 2 .....	am No 45, 2000; No 146, 2006; No 63, 2008; No 27, 2009; No 132, 2017
c 3 .....	am No 63, 2008; No 22, 2017
c 3AA .....	ad No 22, 2017 am No 125, 2019
c 3A .....	ad No 45, 2000 am No 22, 2017
c 4 .....	rs. No. 146, 2006 rs. No. 63, 2008; No 55, 2016
c 5 .....	am. No. 30, 2003 rs. No. 146, 2006
c 6 .....	rep. No. 27, 2009
c 7 .....	am No 30, 2003; No 35, 2003; No 52, 2004; No 100, 2004; No 100, 2005; No 53, 2011; No 141, 2011; No 99, 2013; No 122, 2014; No 17, 2018; No 26, 2018; No 142, 2021
c 8 .....	am. No. 75, 2001; No. 30, 2003; No. 146, 2006; No. 38, 2010
<b>Schedule 4</b>	
Schedule 4 heading .....	am. No. 63, 2008
<b>Part 1</b>	
c 2 .....	am No 83, 1999; No 45, 2000; No 138, 2000; No 59, 2004; No 29, 2005; No 146, 2006; No 82, 2007; No 113, 2007; No 53, 2008; No 63, 2008; No 50, 2009; No 50, 2011; No 141, 2011; No 49, 2012; No 50, 2012; No 98, 2012; No 70, 2013; No 14, 2014; No 96, 2014; No 122, 2014; No 17, 2016; No 22, 2017; No 36, 2018; No 86, 2021

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 2</b>	
c 3 .....	am No 83, 1999; No 45, 2000; No 59, 2004; No 29, 2005; No 82, 2006; No 146, 2006; No 82, 2007; No 113, 2007; No 53, 2008; No 63, 2008; No 35, 2009; No 50, 2009; No 60, 2009; No 50, 2011; No 52, 2011; No 96, 2011; No 141, 2011; No 49, 2012; No 50, 2012; No 70, 2013; No 14, 2014; No 66, 2014; No 96, 2014; No 122, 2014; No 17, 2016; No 47, 2016; No 55, 2016; No 22, 2017; No 33, 2017; No 36, 2018; No 168, 2018; No 125, 2019; No 86, 2021
c. 3A .....	ad. No. 29, 2005
c. 4 .....	am. No. 60, 2009; No. 154, 2012; No 122, 2014
c. 5 .....	am. No. 141, 2011; No 4, 2016
c. 7 .....	am. No. 59, 2004; No. 11, 2005 rep. No. 60, 2009 ad. No. 154, 2012 rep No 122, 2014
Part 3 heading .....	rep. No. 60, 2009
Part 4 heading .....	rs. No. 141, 2011 rep No 47, 2016
Part 4 .....	rep No 47, 2016
c. 8 .....	am. No. 45, 2000 rep. No. 108, 2006
c. 9 .....	ad. No. 68, 1999 (as am. by No. 93, 2000) am. No. 45, 2000 rep No 47, 2016
c. 10 .....	ad. No. 141, 2011 rep No 47, 2016
c. 11 .....	ad. No. 141, 2011 rep No 47, 2016

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**Endnote 5—Editorial changes**

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

**Subclause 3(4) of Schedule 2****Kind of editorial change**

Reordering of definitions

**Details of editorial change**

This compilation was editorially changed to move the definition of *fourth income threshold* in subclause 3(4) of Schedule 2 to the correct alphabetical position.