



Family and Community Services Legislation Amendment Act 2000

No. 70, 2000



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

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Family and Community Services Legislation Amendment Act 2000

No. 70, 2000

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

[Assented to 27 June 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services
Legislation Amendment Act 2000*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Part 2 of Schedule 1 is taken to have commenced on 1 July 1998.

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- (3) Part 3 of Schedule 1 commences, or is taken to have commenced, on 1 July 2000.
 - (4) Item 18 of Schedule 3 commences, or is taken to have commenced, on 1 March 2000, immediately after the commencement of Schedule 10 to the *Further 1998 Budget Measures Legislation Amendment (Social Security) Act 1999*.
 - (5) Item 1 of Schedule 4 commences, or is taken to have commenced, on 20 March 2000, immediately after the commencement of Part 3 of the *Social Security (Administration) Act 1999*.
 - (6) Items 2 and 3 of Schedule 4 commence on 20 March 2000, immediately after the commencement of Schedule 2 to the *Social Security (Administration) Act 1999* or on the day on which this Act receives the Royal Assent, whichever is the later.
 - (7) Items 4, 5, 6 and 7 of Schedule 4 commence, or are taken to have commenced, on 20 March 2000, immediately after the commencement of Schedule 1 to the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to double orphan pension

Part 1—Amendments commencing on Royal Assent

Social Security Act 1991

1 Section 994 (note 6)

Repeal the note.

2 At the end of section 996

Add:

- (2) For the purposes of this Division, a person is a long-term prisoner if:
 - (a) the person has been charged with an offence punishable by imprisonment for life or for a term of at least 10 years; and
 - (b) the person has not been convicted of the offence; and
 - (c) the person is in custody; and
 - (d) the person is not serving a sentence of imprisonment for life or for a term of 10 years or more imposed as a result of conviction of another offence.

Part 2—Amendments taken to have commenced on 1 July 1998

Social Security Act 1991

3 Section 1010

Repeal the section, substitute:

1010 Rate of double orphan pension

- (1) Subject to subsection (2), the rate of double orphan pension is a daily rate calculated by dividing \$37.90 by 14.
- (2) If the current family allowance rate in respect of a child is less than the prior family allowance rate in respect of the child, the rate calculated under subsection (1) in relation to the child is increased by an amount equal to the difference between the prior family allowance rate and the current family allowance rate.
- (3) Subsection (2) does not have effect in relation to a child at any time at which double orphan pension in respect of the child is payable to an approved care organisation.
- (4) In this section:

current family allowance rate, in relation to a child, means the rate at which family allowance is payable in respect of the child.

prior family allowance rate, in relation to a child, means the rate at which family allowance was payable in respect of the child immediately before the child became a double orphan.

4 Section 1190 (table item 16, column 2)

Omit “Rate of double orphan pension”, substitute “Rate of double orphan pension calculated under subsection 1010(1)”.

5 Application

The amendments made by this Part:

- (a) apply only in relation to a child who became a double orphan on or after 1 July 1998; and

- (b) do not affect the operation, on and after 1 July 1998, of the *Social Security Act 1991*, as in force immediately before 1 July 1998, in relation to a child who became a double orphan before 1 July 1998.

Part 3—Amendment commencing on 1 July 2000

Social Security Act 1991

6 Section 1010

Repeal the section, substitute:

1010 Rate of double orphan pension

- (1) Subject to subsections (2) and (3), the rate of double orphan pension is a daily rate calculated by dividing \$37.90 by 14.
- (2) If, in the case of a child who became a double orphan before 1 July 2000, the current family tax benefit rate in respect of the child is less than the prior family allowance rate in respect of the child, the rate calculated under subsection (1) in relation to the child is increased by an amount equal to the difference between the prior family allowance rate and the current family tax benefit rate.
- (3) If, in the case of a child who becomes a double orphan on or after 1 July 2000, the current family tax benefit rate in respect of the child is less than the prior family tax benefit rate in respect of the child, the rate calculated under subsection (1) in relation to the child is increased by an amount equal to the difference between the prior family tax benefit rate and the current family tax benefit rate.
- (4) Subsections (2) and (3) do not have effect in relation to a child at any time at which double orphan pension in respect of the child is payable to an approved care organisation.
- (5) In this section:

current family tax benefit rate, in relation to a child, means the rate represented by so much of an individual's Part A rate of family tax benefit as relates to the child.

prior family allowance rate, in relation to a child, means the rate at which family allowance was payable in respect of the child immediately before the child became a double orphan.

prior family tax benefit rate, in relation to a child, means the rate represented by so much of an individual's Part A rate of family tax benefit as related to the child immediately before the child became a double orphan.

7 Application

The amendment made by item 6:

- (a) applies only in relation to a child who became a double orphan on or after 1 July 1998; and
- (b) does not affect the operation, on and after 1 July 2000, of the *Social Security Act 1991*, as in force immediately before 1 July 1998, in relation to a child who became a double orphan before 1 July 1998.

Schedule 2—Amendments relating to bonuses for older Australians

A New Tax System (Bonuses for Older Australians) Act 1999

1 Subparagraph 12(2)(d)(i)

Omit “1 July 2000”, substitute “30 June 2000”.

2 Subparagraph 12(2)(d)(ii)

Repeal the subparagraph, substitute:

- (ii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 29 June 2000, his or her partner died during that period and he or she is not receiving a disqualifying payment on 30 June 2000;

3 Subparagraph 12(2)(d)(iii)

Omit “1 July 2000”, substitute “30 June 2000”.

4 Subparagraph 41(2)(d)(i)

Omit “1 July 2000”, substitute “30 June 2000”.

5 Subparagraph 41(2)(d)(ii)

Repeal the subparagraph, substitute:

- (ii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 29 June 2000, his or her partner died during that period and he or she is not receiving a disqualifying payment on 30 June 2000;

6 Subparagraph 41(2)(d)(iii)

Omit “1 July 2000”, substitute “30 June 2000”.

Schedule 3—Miscellaneous amendments

Social Security Act 1991

1 Section 3 (index of definitions)

Omit:

AEIS payment

23(1)

2 Subsection 7(7)

Repeal the subsection.

3 Paragraph 8(8)(ta)

Repeal the paragraph.

4 Subsection 11(11)

Repeal the subsection.

5 Subsection 17(3)

Omit “, on or after 9 February 1988” (wherever occurring).

6 Subsection 23(1) (definition of *AEIS payment*)

Repeal the definition.

7 Subsection 23(1) (definition of *specified foreign country*)

Repeal the definition.

8 Sections 26 and 27

Repeal the sections.

9 Section 38

Repeal the section.

10 Subsection 38A(2)

Repeal the subsection.

11 Subsection 38A(3)

Omit “or (2)”.

12 Subparagraph 315(1)(a)(ii)

Omit “on or after 17 February 1989”.

13 Paragraph 602(b)

Omit “that began on or after 1 January 1990”.

14 Subsection 694(3)

Omit “of 4 weeks”.

15 Sub-subparagraph 1035(1)(c)(ii)(C)

Repeal the sub-subparagraph, substitute:

- (C) the person is undertaking job search activities under an agreement between the Secretary and a service provider nominated by the Secretary to the Employment Department;

16 Sub-subparagraph 1035(1)(ca)(ii)(C)

Omit “Health”.

17 Paragraph 1061PE(4)(a)

After “Service”, insert “or an appropriate medical practitioner who has a detailed knowledge of the person’s physical condition”.

18 Subparagraph 1061PZG(1)(b)(iii)

Repeal the subparagraph, substitute:

- (iii) an income support supplement under the Veterans’ Entitlements Act granted on the ground set out in subparagraph 45A(1)(b)(iii) of that Act;

19 Point 1067G-H14A

Omit “If the person”, substitute “Subject to point 1067G-H14C, if the person”.

20 After point 1067G-H14B

Insert:

Start of income maintenance period where liquid assets test waiting period applies

1067G-H14C If a person to whom point 1067G-H14A applies is subject to a liquid assets test waiting period, the income maintenance period is taken to have started on the day on which the liquid assets test waiting period started.

21 Point 1067L-D9

Omit “If the person”, substitute “Subject to point 1067L-D10A, if the person”.

22 After point 1067L-D10

Insert:

Start of income maintenance period where liquid assets test waiting period applies

1067L-D10A If a person to whom point 1067L-D10 applies is subject to a liquid assets test waiting period, the income maintenance period is taken to have started on the day on which the liquid assets test waiting period started.

23 Point 1068-G7AKA

Omit “If the person”, substitute “Subject to point 1068-G7AKC, if the person”.

24 After point 1068-G7AKB

Insert:

Start of income maintenance period where liquid assets test waiting period applies

1068-G7AKC If a person to whom point 1068-G7AKA applies is subject to a liquid assets test waiting period, the income maintenance period is taken to have started on the day on which the liquid assets test waiting period started.

25 Section 1108

Omit “, on or after 1 June 1984”.

26 Subsection 1109(1)

Omit “, on or after 1 June 1984,”.

27 Paragraphs 1109(1A)(a) and (1B)(a)

Omit “, on or after 1 June 1984,”.

28 Paragraph 1110(1)(a)

Omit “, on or after 1 June 1984,”.

29 Section 1112

Repeal the section.

30 Paragraph 1124A(2)(a)

Omit “before 1 March 1991”.

31 Paragraph 1125(2)(a)

Omit “before 1 March 1991”.

32 Paragraph 1125A(2)(a)

Omit “before 1 March 1991”.

33 Paragraph 1126(2)(a)

Omit “before 1 March 1991”.

34 Section 1128

Repeal the section.

35 Section 1167

Omit “section 710, and”.

36 Section 1167 (note 3)

Repeal the note.

37 Section 1168 (example 2)

Omit “subsection (3B)”, substitute “subsections (4) and (5)”.

38 Section 1171

Omit “section 710, and”.

39 Section 1171 (note 3)

Repeal the note.

40 Subparagraph 1179(4)(a)(iii)

Repeal the subparagraph, substitute:

- (iii) if a lump sum compensation payment is received on or after 20 March 1997—the new lump sum preclusion period;

41 Subparagraph 1179(5)(c)(iii)

Repeal the subparagraph, substitute:

- (iii) if a lump sum compensation payment is received on or after 20 March 1997—the new lump sum preclusion period;

42 Part 3.15 (heading)

Repeal the heading, substitute:

Part 3.15—New Enterprise Incentive Scheme

43 Section 1186

Omit “or the scheme known as the Aboriginal Employment Incentive Scheme (AEIS)”.

44 Section 1186 (note)

Omit “and the Aboriginal Employment Incentive Scheme (AEIS)”.

45 Paragraphs 1187(1)(b), (1A)(b) and (3)(a)

Omit “or AEIS”.

Note: The heading to section 1187 is altered by omitting “**or Aboriginal Employment Incentive Scheme (AEIS)**”.

46 Subsection 1188(1)

Omit “or an AEIS payment”.

47 Subsection 1188(1)

Omit “or the AEIS payment”.

48 Paragraph 1188(2)(a)

Omit “or an AEIS payment”.

49 Paragraph 1188(2)(b)

Omit “or the AEIS payment”.

50 Subsection 1188(2)

Omit “or of the AEIS payment”.

51 Subsections 1210(4), (5) and (6)

Repeal the subsections.

52 Sections 1215, 1216 and 1216A

Repeal the sections.

53 Subclauses 96A(1) and (2) of Schedule 1A

Omit “Schedule 14A”, substitute “Schedule 16”.

54 Subclause 96A(3) of Schedule 1A

Repeal the subclause, substitute:

(3) In this clause:

***amending Act** means the *Social Security and Veterans’ Affairs
Legislation Amendment (Family and Other Measures) Act 1997.**

Schedule 4—Amendments of social security administration legislation

Social Security (Administration) Act 1999

1 Paragraph 47(1)(i)

Repeal the paragraph, substitute:

- (i) pension bonus; or
- (j) special employment advance, except where the Secretary has made a determination under subsection 46(2).

2 Clause 31 of Schedule 2

Omit “1 January”, substitute “the first day on which the person is qualified for pensioner education supplement on or after 1 January”.

3 Clause 32 of Schedule 2

Omit “1 July”, substitute “the first day on which the person is qualified for pensioner education supplement on or after 1 July”.

Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999

4 Item 90 of Schedule 1

Repeal the item.

5 Item 98 of Schedule 1

Repeal the item, substitute:

98 Sections 665ZN and 665ZP

Repeal the sections, substitute:

665ZN Need for claim

A person is not qualified for an education entry payment under section 665ZL unless the person has made a claim for the payment.

6 Items 173, 174 and 175 of Schedule 1

Repeal the items.

7 Saving

In spite of section 7 of the *Acts Interpretation Act 1901*, sections 665I, 665J and 665ZM of the *Social Security Act 1991*, as in force immediately before the commencement of items 90 and 98 of Schedule 1 to the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999*, have the same effect, and are to be taken always to have had the same effect, as they would have had if items 90 and 98 had not been enacted.

Schedule 5—Repeal of redundant provisions

Social Security Act 1991

1 Schedule 1A

The provisions of Schedule 1A listed in this Schedule are repealed.

2 Divisions 1 and 2 of Part 2

3 Clause 20

4 Subclause 21(1)

5 Clauses 23, 24, 25 and 25A

6 Clause 29

7 Clause 31

8 Clauses 33, 34, 34A and 35

9 Clauses 37, 39 and 40

10 Clauses 50 and 51

11 Clause 53

12 Subclause 54(6)

13 Clause 55

14 Clauses 57, 58, 59, 60, 61 and 62

15 Clauses 64, 65 and 66

16 Clauses 68, 69 and 69A

17 Clauses 70, 71, 72 and 73

18 Clauses 76, 77, 78 and 79

19 Clauses 81, 81A and 84

20 Clause 87

21 Clauses 89, 90, 91, 92, 93, 94 and 95

*[Minister's second reading speech made in—
House of Representatives on 9 March 2000
Senate on 13 April 2000]*

(24/00)
