



Family and Community Services (2000 Budget and Related Measures) Act 2000

No. 138, 2000



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**An Act to make amendments of the social security
law, the family assistance law, and other Acts, and
for related purposes**

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No. 138, 2000

An Act to make amendments of the social security law, the family assistance law, and other Acts, and for related purposes

[Assented to 24 November 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services (2000 Budget and Related Measures) Act 2000*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) The following provisions:
 - (a) Schedule 1, except for items 20 and 21;
 - (b) Schedules 2 and 3;
 - (c) item 1 of Schedule 4;commence on 1 January 2001.
- (3) Item 2 of Schedule 4 commences on 1 March 2001.

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Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Social Security Act 1991

1 Paragraph 8(8)(zf)

Repeal the paragraph, substitute:

(zf) a payment under the ABSTUDY Scheme;

2 After subsection 8(8)

Insert:

(8A) For the purposes of the operation of section 5 in determining whether a person is:

- (a) a student child; or
- (b) a dependent child of another person;

this section has effect as if paragraph (8)(zf) were not included.

3 At the end of Subdivision B of Division 1 of Part 2.2

Add:

47A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

age pension is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and

(b) the payment for which the person is qualified is a payment that:

- (i) is made on the basis that the person is a full-time student; and
- (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
- (iii) relates to a period;

age pension is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), age pension is payable to the person before the person starts the course.

4 After section 103

Insert:

103A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

disability support pension is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:

- (i) is made on the basis that the person is a full-time student; and
- (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
- (iii) relates to a period;

disability support pension is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), disability support pension is payable to the person before the person starts the course.

5 At the end of Subdivision B of Division 1 of Part 2.4

Add:

151A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

wife pension is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and

- (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
 - (iii) relates to a period;
- wife pension is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), wife pension is payable to the person before the person starts the course.

6 At the end of Subdivision B of Division 1 of Part 2.5

Add:

202A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

carer payment is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and
 - (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
 - (iii) relates to a period;

carer payment is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), carer payment is payable to the person before the person starts the course.

7 At the end of Subdivision B of Division 1 of Part 2.7

Add:

321A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

bereavement allowance is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and
 - (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
 - (iii) relates to a period;

bereavement allowance is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), bereavement allowance is payable to the person before the person starts the course.

8 At the end of Subdivision B of Division 1 of Part 2.8

Add:

368A Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

widow B pension is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and
 - (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
 - (iii) relates to a period;

widow B pension is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
-

(b) a payment referred to in subsection (2) may be made in respect of the person;
the Secretary may decide that, in spite of subsection (2), widow B pension is payable to the person before the person starts the course.

9 Paragraph 408CF(4)(a)

Omit “Tertiary”.

10 Paragraph 500V(2)(b)

Omit “Tertiary”.

11 Subsection 500V(3)

Repeal the subsection.

12 After section 500V

Insert:

500VA Exclusion of certain participants in ABSTUDY Scheme

(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
 - (b) the payment is made on the basis that the person is a full-time student; and
 - (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
 - (d) the payment relates to a period;
- pension PP (single) is not payable to the person in respect of any part of the period.

(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and
 - (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and

(iii) relates to a period;
pension PP (single) is not payable to the person in respect of any part of the period.

(3) If:

- (a) a person may enrol in a full-time course of education; and
- (b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), pension PP (single) is payable to the person before the person starts the course.

13 Paragraph 552A(1)(a)

Omit "Tertiary".

14 Paragraph 578A(1)(a)

Omit "Tertiary".

15 Paragraph 614(4)(a)

Omit "Tertiary".

16 Subparagraph 660XCG(1)(a)(i)

Omit "Tertiary".

17 Paragraph 660YCG(1)(a)

Omit "Tertiary".

18 Paragraph 686(5)(a)

Omit "Tertiary".

19 Paragraph 738(1)(c)

Omit "Tertiary".

20 Subparagraph 1067G-F3(c)(i)

Repeal the subparagraph.

21 Paragraph 1068B-B2(c)

Repeal the paragraph.

22 At the end of Schedule 1A

Add:

132 Saving—ABSTUDY recipients

- (1) If, immediately before 1 January 2001, a person was receiving:
 - (a) a relevant pension; and
 - (b) a payment under a provision of the ABSTUDY Scheme made on the basis that the person was a full-time student;this clause applies to the person.
- (2) In spite of the amendments of this Act made by Schedule 1 to the *Family and Community Services (2000 Budget and Related Measures) Act 2000*:
 - (a) the person does not cease to be qualified for the relevant pension by reason only of those amendments; and
 - (b) if the person continues, on and after 1 January 2001, to receive the same payment under the ABSTUDY Scheme, that payment (except where it is a payment of a pensioner education supplement) is to be taken, for the purposes of this Act, to be income paid to, or on behalf of, the person.
- (3) In this clause:

relevant pension means:

 - (a) age pension; or
 - (b) bereavement allowance; or
 - (c) carer payment; or
 - (d) disability support pension; or
 - (e) pension PP (single); or
 - (f) widow B pension; or
 - (g) wife pension.

Schedule 2—Amendments relating to in-home child care

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

non-standard hours in-home care means hours of care provided by an in-home care service at times that are identified in the service's conditions of approval as being non-standard hours of the service.

2 Subsection 3(1)

Insert:

part-time in-home care means standard hours in-home care provided by an in-home care service for a child in a week during which the service provides a total of less than 50 hours of standard hours in-home care for the child.

3 Subsection 3(1)

Insert:

standard hours in-home care means hours of care provided by an in-home care service at times that are identified in the service's conditions of approval as being standard hours of care.

4 Subclause 4(1) of Schedule 2 (cell at table item 1, column headed "Kind of care provided in hour")

Repeal the cell, substitute:

Care other than:

(a) non-standard hours family day care;

or

(b) non-standard hours in-home care;

or

(c) part-time family day care; or

(d) part-time in-home care

5 Subclause 4(1) of Schedule 2 (table items 2 and 3)

Repeal the items, substitute:

- | | | |
|-------|---|--|
| 2 | Part-time family day care or part-time in-home care | The lesser of:
(a) one and a third times the item 1 rate;
and
(b) the ceiling rate worked out under subclause (2) |
| <hr/> | | |
| 3 | Non-standard hours family day care or non-standard hours in-home care | One and a third times the item 1 rate |

6 Clause 2 of Schedule 4 (table item 18)

Omit all the words in column 1, substitute:

- Standard hourly rate of child care benefit for care other than:
- (a) non-standard hours family day care; or
 - (b) non-standard hours in-home care; or
 - (c) part-time family day care; or
 - (d) part-time in-home care

A New Tax System (Family Assistance) (Administration) Act 1999

7 Subsection 3(1) (after paragraph (b) of the definition of *approved child care service*)

Insert:

- (ba) an approved in-home care service; or

8 Subsection 3(1)

Insert:

approved in-home care service means an in-home care service in respect of which an approval as an in-home care service is in force under Division 1 of Part 8.

9 After paragraph 194(1)(b)

Insert:

(ba) an in-home care service;

10 At the end of subsection 209(2)

Add:

; or (d) provides child care under a contract with an approved in-home care service.

Fringe Benefits Tax Assessment Act 1986

11 Subparagraph 47(8)(a)(vii)

Omit “and”, substitute “or”.

12 At the end of paragraph 47(8)(a)

Add:

(viii) an approved in-home care service within the meaning of the *A New Tax System (Family Assistance) (Administration) Act 1999*; and

Schedule 3—Amendment relating to youth allowance

Social Security Act 1991

1 Subsection 547G(2)

Omit “50%”, substitute “75%”.

Schedule 4—Other amendments

Data-matching Program (Assistance and Tax) Act 1990

1 Section 7 (paragraph 7 of step 3)

Omit “2 financial years”, substitute “ 4 financial years”.

Social Security (International Agreements) Act 1999

2 At the end of Part 2

Add:

12A Saving in respect of United Kingdom agreement

On and after 1 March 2001, the social security law has effect, in relation to a person who last became an Australian resident on or before 1 March 2000, as if the agreement the text of which is set out in Schedule 1 had not been terminated.

*[Minister’s second reading speech made in—
House of Representatives on 29 June 2000
Senate on 28 August 2000]*

(130/00)