Social Security Legislation Amendment (Newly Arrived Resident’s Waiting Periods and Other Measures) Act 1997

No. 5, 1997

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An Act to amend the *Social Security Act 1991*, the *Student and Youth Assistance Act 1973*, the *Data‑matching Program (Assistance and Tax) Act 1990*, the *Social Security and Veterans’ Affairs Legislation Amendment Act 1995* and the *Health Insurance Act 1973*, and for related purposes

[*Assented to 4 March 1997*]

The Parliament of Australia enacts:

##### 1 Short title

This Act may be cited as the *Social Security Legislation Amendment (Newly Arrived Resident’s Waiting Periods and Other Measures) Act 1997*.

##### 2 Commencement

(1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 3 is taken to have commenced on 30 June 1996.

(3) Schedule 4 is taken to have commenced on 20 September 1996, immediately after Schedule 5 to the *Social Security and Veterans’ Affairs Legislation Amendment Act 1995*.

(4) Items 6, 7 and 8 of Schedule 5 are taken to have commenced on   
1 July 1995, immediately after the commencement of Schedule 1 to the *Social Security (Parenting Allowance and Other Measures) Legislation Amendment Act 1994*.

##### 3 Application

(1) To avoid doubt, any provision in this Act imposing a waiting period does not apply to:

(a) a person who arrives in Australia under the refugee and humanitarian programs; or

(b) a person who is a family member of a refugee or humanitarian migrant; or

(c) a person who was a family member of a former refugee or humanitarian migrant at the time the former refugee or humanitarian migrant arrived in Australia; or

(d) a person who is an Australian citizen; or

(e) a person who is a family member of an Australian citizen; or

(f) a person who has lawfully been a permanent resident of Australia at any time for a continuous period of not less than two years; or

(g) a person who is a family member of a person who has lawfully been a permanent resident of Australia at any time for a continuous period of not less than two years.

(2) For the purposes of subsection (1), ***family member*** has the same meaning as in subsection 7(6D) of the *Social Security Act 1991*.

##### 4 Effect of the *Racial Discrimination Act 1975*

(1) Without limiting the general operation of the *Racial Discrimination Act 1975* in relation to the provisions of the *Social Security Act 1991*, the provisions of the *Racial Discrimination Act 1975* are intended to prevail over the provisions of this Act.

(2) The provisions of this Act do not authorise conduct that is inconsistent with the provisions of the *Racial Discrimination Act 1975*.

##### 5 Schedule(s)

Subject to subsections 2(2), (3) and (4), 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—Amendment of the Social Security Act 1991, the Student and Youth Assistance Act 1973 and the Health Insurance Act 1973 to extend the newly arrived resident’s waiting period

Part 1—Amendment of the Social Security Act 1991

Division 1—Amendment of definitions

1 After subsection 7(4A)

Insert:

(4B) For the purposes of a newly arrived resident’s waiting period, the day on which a permanent visa is granted to a person or a person becomes the holder of a permanent visa is:

(a) if an initial decision maker decides to grant a visa to the person—that day; or

(b) if:

(i) an initial decision maker decides not to grant a visa to the person; and

(ii) on a review of the decision referred to in subparagraph (i), that decision is set aside (however described) and a visa is granted to the person;

the day on which the initial decision maker decided not to grant the visa to the person.

2 Subsection 7(6)

After “a non-benefit parenting allowance”, insert “, family payment, a maternity allowance, a mobility allowance, a seniors health card”.

3 After subsection 7(6)

Insert:

(6AA) A person also has a qualifying residence exemption for a social security benefit (other than a special benefit), family payment, a non-benefit parenting allowance, a maternity allowance, a mobility allowance, a seniors health card or a youth training allowance if, and only if, the person:

(a) holds a permanent visa and was the former holder of a subclass 820 visa—Extended eligibility (spouse); or

(b) was a family member of a refugee, or former refugee, at the time the refugee or former refugee arrived in Australia; or

(c) holds or was the former holder of a subclass 826 visa—Interdependency; or

(d) holds or was the former holder of a subclass 832 visa—Close ties; or

(e) holds or was the former holder of a subclass 833 visa—Certain unlawful citizens; or

(f) holds or was the former holder of a visa that is in a class of visas determined by the Minister for the purposes of this paragraph.

4 At the end of paragraph 7(6A)(b)

Add:

; or (iii) a family member of the exempt resident, or former exempt resident, at the time the exempt resident or former exempt resident arrived in Australia.

5 Subsection 7(6B) (heading to table)

Omit all the words after “EXEMPTION”.

6 Paragraph 7(6C)(c)

Repeal the paragraph, substitute:

(c) is the holder of a temporary visa, of a class referred to in a declaration of the Minister under subsection 25A(1), that is in force.

7 After subsection 7(6C)

Insert:

(6D) For the purposes of subsections (6AA) and (6A):

***family member***, in relation to a person, means:

(a) a partner of the person; or

(b) a dependent child of the person; or

(c) another person who, in the opinion of the Secretary, should be treated for the purposes of this definition as a person described in paragraph (a) or (b).

(6E) The Minister may, by determination in writing:

(a) set guidelines for the exercise of the Secretary’s power under paragraph (6D)(c); and

(b) may revoke or vary those guidelines.

(6F) A determination made under subsection (6E) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

8 Subsection 23(1) (definition of *newly arrived resident’s waiting period*)

Repeal the definition, substitute:

***newly arrived resident’s waiting period*** means:

(a) a carer pension newly arrived resident’s waiting period under sections 201AA and 201AB; or

(b) a widow allowance newly arrived resident’s waiting period under section 408BA; or

(c) a disability wage supplement newly arrived resident’s waiting period under sections 410A and 410B; or

(e) a newstart allowance newly arrived resident’s waiting period under sections 623A and 623B; or

(f) a sickness allowance newly arrived resident’s waiting period under sections 696B and 696C; or

(g) a special benefit newly arrived resident’s waiting period under sections 732 and 739A; or

(h) a partner allowance newly arrived resident’s waiting period under sections 771HC and 771HNA; or

(i) a parenting allowance newly arrived resident’s waiting period under sections 920 to 922; or

(j) a mobility allowance newly arrived resident’s waiting period under sections 1039AA and 1039AB; or

(k) a seniors health card newly arrived resident’s waiting period under section 1061ZA; or

(l) a youth training allowance newly arrived resident’s waiting period under sections 85 and 101 of the *Student and Youth Assistance Act 1973*.

9 Subsection 23(1) (after paragraph (c) of the definition of *newly arrived resident’s waiting period*)

Insert:

(d) a mature age allowance newly arrived resident’s waiting period under sections 660YCFA and 660YCFB; or

10 Subsection 23(1) (before paragraph (a) of the definition of *waiting period*)

Insert:

(aa) a carer pension newly arrived resident’s waiting period under sections 201AA and 201AB; or

(ab) a widow allowance newly arrived resident’s waiting period under section 408BA; or

(ac) a disability wage supplement newly arrived resident’s waiting period under sections 410A and 410B; or

11 Subsection 23(1) (after paragraph (fe) of the definition of *waiting period*)

Insert:

(ff) a mature age allowance newly arrived resident’s waiting period under sections 660YCFA and 660YCFB; or

12 Subsection 23(1) (after paragraph (k) of the definition of *waiting period*)

Insert:

(ka) a special benefit newly arrived resident’s waiting period under sections 732 and 739A; or

(kb) a partner allowance newly arrived resident’s waiting period under sections 771HC and 771HNA; or

13 Subsection 23(1) (at the end of paragraph (m) of the definition of *waiting period*)

Add:

or (n) a mobility allowance newly arrived resident’s waiting period under sections 1039AA and 1039AB; or

(o) a seniors health card newly arrived resident’s waiting period under section 1061ZA.

Division 2—Carer pension amendments

14 After paragraph 199(1)(a)

Insert:

(aa) the person is subject to a newly arrived resident’s waiting period and that period has not ended (see sections 201AA and 201AB); or

15 After section 201

Insert:

##### 201AA Newly arrived resident’s waiting period

(1) A person who:

(a) enters Australia, on or after the commencement of this section; and

(b) is a person to whom one of the following applies:

(i) the person has not been an Australian resident for a period of, or periods totalling, 104 weeks; or

(ii) the person has applied for a subclass 820 visa—Extended eligibility (spouse), but has not been in Australia for a period of, or periods totalling, 104 weeks after applying for that visa; or

(iii) the person has applied for a subclass 826 visa—Interdependency, but has not been in Australia for a period of, or periods totalling, 104 weeks after applying for that visa; or

(iv) the person has applied for a visa that is in a class of visas determined by the Minister for the purposes of this subparagraph;

is subject to a newly arrived resident’s waiting period.

Note: For ***Australian resident*** see subsection 7(2).

(2) Subsection (1) does not apply to a person who is the holder of:

(a) a subclass 832 visa—Close ties; or

(b) a subclass 833 visa—Certain unlawful non-citizens.

(3) Subsection (1) does not apply to a person who is:

(a) the holder of a subclass 104 visa—Preferential family; and

(b) a special needs relative.

(4) Subsection (1) does not apply to a person who is:

(a) the holder of a subclass 806 visa—Family; and

(b) a special needs relative.

(5) Subsection (1) does not apply to a person who is:

(a) a refugee or a former refugee; or

(b) a family member of a refugee, or former refugee, at the time the refugee or former refugee arrived in Australia.

(6) In this section:

***family member*** has the same meaning as in subsection 7(6D).

***refugee*** has the same meaning as in subsection 7(6B).

***special needs relative*** has the same meaning as in the Migration Regulations.

##### 201AB Duration of newly arrived resident’s waiting period

If a person is subject to a newly arrived resident’s waiting period, the period:

(a) starts on the day on which the person first entered Australia on or after the commencement of this section; and

(b) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Division 3—Widow allowance amendments

16 Subparagraph 408BA(2)(d)(i)

Repeal the subparagraph, substitute:

(i) if the woman entered Australia before 1 April 1996—the woman has been an Australian resident for a continuous period of at least 26 weeks immediately before the day she lodged the claim for the allowance; or

(ia) if the woman entered Australia on or after 1 April 1996—the woman has been an Australian resident for a period of, or periods totalling, 104 weeks before the day she lodged the claim for the allowance; or

17 Subsection 408BA(4)

Omit “If”, substitute “Subject to subsection (4A), if”.

18 After subsection 408BA(4)

Insert:

(4A) Subsection (4) does not apply to subparagraph (2)(d)(ia).

Division 4—Disability wage supplement amendments

19 Subsection 409(1)

Omit “A person”, substitute “Subject to section 410A, a person”.

20 Subsection 410(1)

Omit “A person”, substitute “Subject to section 410A, a person”.

21 After subparagraph 410(1)(d)(ii)

Insert:

(iia) has a qualifying residence exemption for a disability wage supplement; or

22 After section 410

Insert:

##### 410A Person subject to newly arrived resident’s waiting period

(1) A person who, on or after the commencement of this subsection:

(a) enters Australia; and

(b) becomes the holder of a permanent visa;

is subject to a newly arrived resident’s waiting period.

(2) Subsection (1) does not apply to a person:

(a) if the person has already served a newly arrived resident’s waiting period; or

(b) the person has a qualifying residence exemption for a disability wage supplement.

(3) Subsection (1) does not apply to a person who:

(a) has a physical, intellectual or psychiatric impairment; and

(b) the person’s impairment is of 20% or more under the Impairment Tables; and

(c) because of the impairment the person has a continuing inability to work; and

(d) the person first satisfied paragraph (c) while in Australia.

Note: For ***Impairment Tables*** see subsection 23(1).

(4) Subsection (1) does not apply to a person who:

(a) is permanently blind; and

(b) became permanently blind while in Australia.

##### 410B Duration of newly arrived resident’s waiting period

If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) first entered Australia on or after the commencement of this section; or

(b) became the holder of a permanent visa;

whichever day last occurs, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Note: For ***permanent visa*** see subsection 7(1).

Division 5—Newstart allowance amendments

23 Subsection 623A(4)

Repeal the subsection.

24 Subparagraph 623A(5)(c)(i)

After “Australia”, insert “before 1 January 1993”.

25 Subsection 623B(1)

Repeal the subsection, substitute:

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever last occurs.

26 Subsection 623B(3)

Repeal the subsection, substitute:

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before the day on which this subsection commences—26 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after the day on which this subsection commences—104 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(c) if a person:

(i) entered Australia before the day on which this subsection commences; and

(ii) was granted a permanent visa on or after the day on which this subsection commences;

104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before the day on which this subsection commences; and

(ii) entered Australia on or after the day on which this subsection commences;

104 weeks after the day on which the person entered Australia.

Division 6—Mature age allowance amendments

27 After paragraph 660YCA(c)

Insert:

(ca) the person is subject to a newly arrived resident’s waiting period and that period has not ended (see sections 660YCFA and 660YCAB); or

28 After section 660YCF

Insert:

##### 660YCFA Newly arrived resident’s waiting period

(1) Subject to this section, a person who:

(a) has entered Australia on or after 1 January 1993; and

(b) holds a permanent visa;

is subject to a newly arrived resident’s waiting period.

Note: For ***holder*** and ***permanent visa*** see subsection 7(1).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a mature age allowance.

Note: For ***qualifying residence exemption*** see subsections 7(6) and 7(6AA).

(3) Subsection (1) does not apply to a person:

(a) if, immediately before 1 September 1994, the person had held a valid designated temporary entry permit for a continuous period of at least 26 weeks; or

(b) if:

(i) immediately before 1 September 1994, the person had held a valid designated temporary entry permit for a continuous period (***permit period***) of less than 26 weeks; and

(ii) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*; and

(iii) the period during which that permit continued to be in force as a temporary visa together with the permit period is at least 26 weeks.

Note: For ***designated temporary entry permit*** see subsection 7(1).

(4) Subsection (1) does not apply to a person if:

(a) the person is already subject to a newly arrived resident’s waiting period; or

(b) the person has already served a newly arrived resident’s waiting period; or

(c) the person:

(i) has previously entered Australia before 1 January 1993; and

(ii) held a permanent entry permit granted under the *Migration Act 1958* as then in force, or a permanentvisa, before the person’s last departure from Australia*.*

##### 660YCFB Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever last occurs.

(2) If:

(a) immediately before 1 September 1994, the person held a valid designated temporary entry permit; and

(b) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*; and

(c) that temporary visa was in force immediately before the person was granted his or her permanent visa;

the newly arrived resident’s waiting period ends 26 weeks after the day on which the designated temporary entry permit was granted to the person.

Note: For ***designated temporary entry permit*** see subsection 7(1).

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before 1 April 1996—26 weeks after whichever event referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after 1 April 1996—when the person has been in Australia for a period of, or periods totalling, 104 weeks after whichever event referred to in subparagraphs (i) and (ii) happened last; or

(c) if a person:

(i) entered Australia before 1 April 1996; and

(ii) was granted a permanent visa on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before 1 April 1996; and

(ii) entered Australia on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person entered Australia.

Division 7—Sickness allowance amendments

29 Subsection 696B(4)

Repeal the subsection.

30 Subparagraph 696B(5)(c)(i)

After “Australia”, insert “before 1 January 1993”.

31 Subsection 696C(1)

Repeal the subsection, substitute:

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever last occurs, and ends on the day worked out under subsection (2) or (3).

32 Subsection 696C(3)

Repeal the subsection, substitute:

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before the day on which this subsection commences—26 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after the day on which this subsection commences—104 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(c) if a person:

(i) entered Australia before the day on which this subsection commences; and

(ii) was granted a permanent visa on or after the day on which this subsection commences;

104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before the day on which this subsection commences; and

(ii) entered Australia on or after the day on which this subsection commences;

104 weeks after the day on which the person entered Australia.

Division 8—Special benefit amendments

33 Paragraph 729(2)(f)

Repeal the paragraph, substitute:

(f) the person:

(i) is an Australian resident; or

(ii) has a qualifying residence exemption for special benefit; or

(iii) is the holder of a subclass 820 visa—Extended eligibility (spouse); or

(iv) is the holder of a subclass 826 visa—Interdependency; or

(v) is the holder of a visa that is in a class of visas determined by the Minister for the purposes of this subparagraph; and

34 After paragraph 732(1)(d)

Insert:

(da) the person is subject to a newly arrived resident’s waiting period and that period has not ended (see section 739A); or

35 After section 739

Insert:

##### 739A Newly arrived resident’s waiting period

(1) Subject to this section, a person who, on or after the commencement of this subsection:

(a) enters Australia; or

(b) becomes the holder of a permanent visa; or

(c) becomes the holder of a subclass 820 visa—Extended eligibility (spouse); or

(d) becomes the holder of a subclass 826 visa—Interdependency; or

(e) becomes the holder of a visa that is in a class of visas determined by the Minister for the purposes of this paragraph;

is subject to a newly arrived resident’s waiting period.

(2) Subject to this section, if, immediately before the commencement of this subsection, a person was the holder of:

(a) a subclass 820 visa—Extended eligibility (spouse); or

(b) a subclass 826 visa—Interdependency; or

(c) a visa that is in a class of visas determined by the Minister for the purposes of this paragraph;

the person is subject to a newly arrived resident’s waiting period.

(3) If:

(a) a person is subject to a newly arrived resident’s waiting period; and

(b) before, on or after the commencement of this subsection, the person applies for:

(i) a subclass 820 visa—Extended eligibility (spouse); or

(ii) a subclass 826 visa—Interdependency; or

(iii) a visa that is in a class of visas determined by the Minister for the purposes of this subparagraph;

the waiting period:

(c) starts on the day on which the person applied for that visa; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(4) If:

(a) a person is subject to a newly arrived resident’s waiting period; and

(b) immediately before the commencement of this subsection, the person was the holder of:

(i) a subclass 820 visa—Extended eligibility (spouse); or

(ii) a subclass 826 visa—Interdependency; or

(iii) a visa that is in a class of visas determined by the Minister for the purposes of this subparagraph;

the period:

(c) starts on the day on which the person applied for that visa; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(5) If:

(a) a person is subject to a newly arrived resident’s waiting period; and

(b) neither subsection (3) nor (4) apply to the person;

the waiting period starts on the day on which the person:

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends on the day after the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(6) Neither subsection (1) nor (2) apply to a person if:

(a) a person has a qualifying residence exemption for special benefit; or

(b) the person holds or was the former holder of:

(i) a subclass 832 visa—Close ties; or

(ii) a subclass 833 visa—Certain unlawful non-citizens.

(7) Neither subsection (1) nor (2) apply to a person if the person, in the Secretary’s opinion, has suffered a substantial change in circumstances beyond the person’s control.

Note: For ***permanent visa*** see subsection 7(1).

##### 739B Secretary to act in accordance with guidelines

The Secretary must exercise the powers under subsection 739A(7), in accordance with guidelines from time to time in force under subsection 739C(1).

##### 739C Guidelines for exercise of Secretary’s powers under subsection 739A(7)

(1) The Minister, by determination in writing:

(a) is to set guidelines for the exercise of the Secretary’s powers under subsection 739A(7); and

(b) may revoke or vary those guidelines.

(2) A determination made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Division 9—Partner allowance amendments

36 After paragraph 771HC(1)(g)

Insert:

(ga) the person is subject to a newly arrived resident’s waiting period and that period has not ended (see sections 771HNA and 771HNB); or

37 After section 771HN

Insert:

##### 771HNA Newly arrived resident’s waiting period

(1) Subject to this section, a person who:

(a) has entered Australia on or after 1 January 1993; and

(b) holds a permanent visa;

is subject to a newly arrived resident’s waiting period.

Note: For ***holder*** and ***permanent visa*** see subsection 7(1).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a partner allowance.

Note: For ***qualifying residence exemption*** see subsection 7(6).

(3) Subsection (1) does not apply to a person:

(a) if, immediately before 1 September 1994, the person had held a valid designated temporary entry permit for a continuous period of at least 26 weeks; or

(b) if:

(i) immediately before 1 September 1994, the person had held a valid designated temporary entry visa for a continuous period (***permit period***) of less than 26 weeks; and

(ii) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*; and

(iii) the period during which that permit continued to be in force as a temporary visa together with the permit period is at least 26 weeks.

Note: For ***designated temporary entry permit*** see subsection 7(1).

(4) Subsection (1) does not apply to a person if:

(a) the person is already subject to a newly arrived resident’s waiting period; or

(b) the person has already served a newly arrived resident’s waiting period; or

(c) the person:

(i) has previously entered Australia before 1 January 1993; and

(ii) held a permanent entry permit granted under the *Migration Act 1958* as then in force, or a permanentvisa, before the person’s last departure from Australia*.*

##### 771HNB Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever last occurs.

(2) If:

(a) immediately before 1 September 1994, the person held a valid designated temporary entry permit; and

(b) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*; and

(c) that temporary visa was in force immediately before the person was granted his or her permanent visa;

the newly arrived resident’s waiting period ends 26 weeks after the day on which the designated temporary entry permit was granted to the person.

Note: For ***designated temporary entry permit*** see subsection 7(1).

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before 1 April 1996—26 weeks after whichever event referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after 1 April 1996—when the person has been in Australia for a period of, or periods totalling, 104 weeks after whichever event referred to in subparagraphs (i) and (ii) last happened; or

(c) if a person:

(i) entered Australia before 1 April 1996; and

(ii) was granted a permanent visa on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before 1 April 1996; and

(ii) entered Australia on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person entered Australia.

Division 10—Parenting allowance amendments

38 Subsection 921(4)

Repeal the subsection.

39 Subparagraph 921(5)(c)(i)

After “Australia”, insert “before 1 January 1993”.

40 Subsection 922(1)

Repeal the subsection, substitute:

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever last occurs.

41 Subsection 922(3)

Repeal the subsection, substitute:

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before 1 April 1996—26 weeks after whichever event referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after 1 April 1996—when the person has been in Australia for a period of, or periods totalling, 104 weeks after whichever event referred to in subparagraphs (i) and (ii) happened last; or

(c) if a person:

(i) entered Australia before 1 April 1996; and

(ii) was granted a permanent visa on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before 1 April 1996;

(ii) entered Australia on or after 1 April 1996;

when the person has been in Australia for a period of, or periods totalling, 104 weeks after the day on which the person entered Australia.

Division 11—Mobility allowance amendments

42 After paragraph 1036(aa)

Insert:

(aaa) the person is subject to a newly arrived resident’s waiting period and that period has not ended (see sections 1039AA and 1039AB); or

43 After section 1039

Insert:

##### 1039AA Newly arrived resident’s waiting period

(1) Subject to subsections (2), (3) and (4), a person who, on or after the commencement of this subsection:

(a) enters Australia; and

(b) becomes the holder of a permanent visa;

is subject to a newly arrived resident’s waiting period.

Note: For ***permanent visa*** see subsection 7(1).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a mobility allowance.

Note: For ***qualifying residence exemption*** see subsections 7(6) and 7(6AA).

(3) Subsection (1) does not apply to a person if the person has already served a newly arrived resident’s waiting period.

(4) Subsection (1) does not apply to a person who becomes a handicapped person while in Australia.

Note: For ***handicapped person*** see section 19.

##### 1039AB Duration of newly arrived resident’s waiting period

If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) first entered Australia on or after the commencement of this section; or

(b) became the holder of a permanent visa;

whichever day last occurs, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Note: For ***permanent visa*** see subsection 7(1).

Division 12—Seniors health card amendments

44 After paragraph 1061ZA(c)

Insert:

(ca) was subject to a newly arrived resident’s waiting period and that period has ended (see sections 1061ZA and 1061ZAA); and

45 At the end of section 1061ZA

Add:

(2) Subject to subsections (3) and (4), a person who, on or after the commencement of this subsection:

(a) enters Australia; and

(b) becomes the holder of a permanent visa;

is subject to a newly arrived resident’s waiting period.

Note: For ***permanent visa*** see subsection 7(1).

(3) Subsection (2) does not apply to a person who has a qualifying residence exemption for a seniors health card.

Note: For ***qualifying residence exemption*** see subsections 7(6) and 7(6AA).

(4) Subsection (2) does not apply to a person who has already served a newly arrived resident’s waiting period.

46 After section 1061ZA

Insert:

##### 1061ZAA Duration of newly arrived resident’s waiting period

If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) first entered Australia on or after the commencement of this section; or

(b) became the holder of a permanent visa;

whichever day last occurs, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Part 2—Amendment of the Student and Youth Assistance Act 1973

47 Subsection 101(4)

Repeal the subsection.

48 Subparagraph 101(5)(b)(ii)

After “Australia”, insert “before 1 January 1993”.

49 Subsection 102(1)

Repeal the subsection, substitute:

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day on which the person:

(a) entered Australia; or

(b) was granted a permanent visa;

whichever is the later.

Note: For ***permanent visa*** see subsection 7(1) of the *Social Security Act 1991*.

50 Subsection 102(3)

Repeal the subsection, substitute:

(3) If subsection (2) does not apply, the newly arrived resident’s waiting period ends:

(a) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

before the day on which this subsection commences—26 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(b) if a person:

(i) entered Australia; and

(ii) was granted a permanent visa;

on or after the day on which this subsection commences—104 weeks after whichever of the events referred to in subparagraphs (i) and (ii) happened last; or

(c) if a person:

(i) entered Australia before the day on which this subsection commences; and

(ii) was granted a permanent visa on or after the day on which this subsection commences;

104 weeks after the day on which the person was granted the permanent visa; or

(d) if a person:

(i) was granted a permanent visa before the day on which this subsection commences; and

(ii) entered Australia on or after the day on which this subsection commences;

104 weeks after the day on which the person entered Australia.

Part 3—Amendment of the Health Insurance Act 1973

51 Subsection 5B(2)

After “subsection (5)”, insert “and (5A)”.

52 After subsection 5B(5)

Insert:

(5A) The Secretary to the Department of Social Security must not make a declaration under subsection 5B(2) in relation to a person who is subject to a newly arrived disadvantaged low income resident’s waiting period under section 5BA.

53 After section 5B

Insert:

##### 5BA Newly arrived disadvantaged low income resident’s waiting period

(1) Subject to subsection (2), a person who enters Australia, on or after the commencement of this subsection, is subject to a newly arrived disadvantaged low income resident’s waiting period.

(2) Subsection (1) does not apply to a person who:

(a) has a qualifying disadvantaged low income residence exemption; or

(b) has already served a newly arrived disadvantaged low income resident’s waiting period or a newly arrived resident’s waiting period; or

(c) has been an Australian resident for a period of, or periods totalling, 104 weeks.

(3) If a person is subject to a newly arrived disadvantaged low income resident’s waiting period, the period starts on the day on which the person:

(a) first entered Australia; or

(b) becomes an Australian resident;

whichever day last occurs, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(4) For the purposes of subsection (2), a person has a qualifying disadvantaged low income residence exemption if, and only if, the person:

(a) resides in Australia; or

(b) is:

(i) a refugee; or

(ii) a former refugee; or

(iii) a family member of the refugee, or former refugee, at the time the refugee or former refugee arrived in Australia; or

(iv) an exempt resident; or

(v) a former exempt resident; or

(vi) a family member of the exempt resident, or former exempt resident, at the time the exempt resident or former exempt resident arrived in Australia.

(5) Expressions used in this section have the same meanings as in the *Social Security Act 1991*.

###### Schedule 2—Amendment of the Social Security Act 1991 and the Student and Youth Assistance Act 1973 to allow additional information to be sought

Part 1—Amendment of the Social Security Act 1991

1 At the end of subsection 1307(2)

Add:

; (k) in relation to any employment of the person by the person given the notice:

(i) the date on which the person’s employment started; and

(ii) the date on which the person’s employment ended.

Part 2—Amendment of the Student and Youth Assistance Act 1973

2 At the end of subsection 346(2)

Add:

; (j) in relation to any employment of the person by the person given the notice:

(i) the date on which the person’s employment started; and

(ii) the date on which the person’s employment ended.

###### Schedule 3—Amendment of the Data-matching Program (Assistance and Tax) Act 1990

1 Section 7 (paragraph 7 of step 3)

After “tax data”, insert “from not more than the 2 financial years immediately before the current financial year”.

2 Section 7 (paragraph 7 of step 3)

Omit “and current”.

###### Schedule 4—Amendment of the Social Security and Veterans’ Affairs Legislation Amendment Act 1995

1 Schedule 5 (item 26)

Omit “(a)”, substitute “(c)”.

2 Schedule 5 (item 240)

Repeal the item.

###### Schedule 5—Other amendments of the Social Security Act 1991

1 Subsection 23(1) (note 2 to the definition of *inhabitant of Australia*)

Omit “subsection (12)”, substitute “subsection (13)”.

2 Subsection 409(1) (note 2)

Omit “section 7A”, substitute “subsection 23(1)”.

3 Subsection 409(2) (note)

Omit “section 7A”, substitute “subsection 23(1)”.

4 Subsection 729(2) (note 3)

Repeal the note.

5 Subsection 729(7)

Repeal the subsection.

6 Paragraph 921(3)(a)

Omit “this section commenced”, substitute “1 September 1994”.

7 Subparagraph 921(3)(b)(i)

Omit “this section commenced”, substitute “1 September 1994”.

8 Paragraph 922(2)(a)

Omit “this section commenced”, substitute “1 September 1994”.

[*Minister’s second reading speech made in—*

*House of Representatives on 23 May 1996*

*Senate on 30 May 1996*]

(39/96)

I HEREBY CERTIFY that the above is a fair print of the Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Bill 1997 which originated in the House of Representatives as the Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Bill 1996 and has been finally passed by the Senate and the House of Representatives.

*Clerk of the House of Representatives*

IN THE NAME OF HER MAJESTY, I assent to this Act.

*Governor-General*

February 1997