



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

**No. 5, 1997**

***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***

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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.
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- (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*.

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## **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;

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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 permanent visa, 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

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(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

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- (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.

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- (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:

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- (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 permanent visa, 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

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- (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.
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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).

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- (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:

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- (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.

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- (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”.

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*[Minister's second reading speech made in—  
House of Representatives on 23 May 1996  
Senate on 30 May 1996]*