



# **Human Services (Centrelink) Act 1997**

## **Act No. 31 of 1997 as amended**

This compilation was prepared on 14 November 2012  
taking into account amendments up to Act No. 136 of 2012

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# Contents

<b>Part 1—Preliminary</b>	1
1 Short title [ <i>see</i> Note 1].....	1
2 Commencement.....	1
3 Definitions.....	1
4 Act binds the Crown.....	2
5 External Territories.....	2
<b>Part 3—Chief Executive Centrelink</b>	3
7 Chief Executive Centrelink.....	3
7A Acting Chief Executive Centrelink.....	3
8 Functions of Chief Executive Centrelink.....	4
8A Chief Executive Centrelink’s service delivery functions.....	5
8B Agreements about performance of Chief Executive Centrelink’s functions.....	5
12 Delegation.....	6
13 Commonwealth consent to conferral of powers etc. on Chief Executive Centrelink by State and Territory laws.....	6
14 How duty is imposed on Chief Executive Centrelink by State and Territory laws.....	7
15 When State and Territory laws impose a duty on Chief Executive Centrelink.....	8
16 Chief Executive Centrelink may be assisted by Departmental employees.....	8
<b>Part 5—Miscellaneous</b>	9
38 Use of protected names and symbols.....	9
39 Chief Executive Centrelink may charge for services.....	11
40 Centrelink programs.....	11
40A Multiple secrecy provisions.....	12
41 Regulations.....	14
<b>Notes</b>	15



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# An Act relating to the provision of certain services, and for other purposes

## Part 1—Preliminary

### 1 Short title [see Note 1]

This Act may be cited as the *Human Services (Centrelink) Act 1997*.

### 2 Commencement

This Act commences on 1 July 1997.

### 3 Definitions

In this Act, unless the contrary intention appears:

**benefit** includes:

- (a) a pension, allowance, concession or payment; and
- (b) a card entitling its holder to a concession or a payment of any kind.

**centrelink program** has the meaning given by section 40.

**Chief Executive Centrelink** means the Chief Executive Centrelink referred to in section 7.

**Chief Executive Medicare** has the same meaning as in the *Human Services (Medicare) Act 1973*.

**Departmental employee** means an APS employee in the Department.

Note: *APS employee* is defined in the *Acts Interpretation Act 1901*.

**enactment** means:

- (a) an Act; or
- (b) an instrument (including rules, regulations and by-laws) made under an Act.

**function** includes power.

Section 4

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*medicare program* has the same meaning as in the *Human Services (Medicare) Act 1973*.

*perform* includes exercise.

*Secretary* means the Secretary of the Department.

*service delivery functions*, in relation to the Chief Executive Centrelink, has the meaning given by section 8A.

#### 4 Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

#### 5 External Territories

This Act extends to the Territory of Cocos (Keeling) Islands and to the Territory of Christmas Island.

## **Part 3—Chief Executive Centrelink**

### **7 Chief Executive Centrelink**

- (1) There is to be a Chief Executive Centrelink.
- (2) The Chief Executive Centrelink is to be a person who is:
  - (a) an SES employee in the Department; and
  - (b) specified in a written instrument made by the Secretary.
- (3) A person must not be specified in an instrument under paragraph (2)(b) if the person is, or is acting as:
  - (a) the Chief Executive Medicare; or
  - (b) the Child Support Registrar.
- (4) An instrument under paragraph (2)(b) is not a legislative instrument.

### **7A Acting Chief Executive Centrelink**

- (1) The Secretary may appoint an SES employee in the Department to act as the Chief Executive Centrelink:
  - (a) during a vacancy in the position of Chief Executive Centrelink (whether or not an appointment has previously been made to the position); or
  - (b) during any period, or during all periods, when the Chief Executive Centrelink:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the position.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.
- (2) A person must not be appointed under subsection (1) if the person is, or is acting as:
  - (a) the Chief Executive Medicare; or
  - (b) the Child Support Registrar.

## 8 Functions of Chief Executive Centrelink

### *Functions—general*

- (1) The Chief Executive Centrelink has the following functions:
  - (a) the service delivery functions mentioned in section 8A;
  - (b) any functions conferred on the Chief Executive Centrelink under any other Act;
  - (ba) any functions that are prescribed by the regulations;
  - (d) doing anything incidental, conducive or related to the performance of any of his or her other functions.

### *Parallel function*

- (3) A function prescribed by regulations made for the purposes of paragraph (1)(ba) may be a specified function that another person (the **primary person**) has under a law of the Commonwealth.
- (4) When the specified function is performed by the Chief Executive Centrelink, the function is, for the purposes of that or any other law of the Commonwealth, taken to have been performed by the primary person.
- (5) The performance of the specified function by the Chief Executive Centrelink does not prevent the performance of the function under the law of the Commonwealth by the primary person.
- (6) For the purposes of subsection (3), it is immaterial whether the specified function is a function that can be delegated.
- (7) For the purposes of subsection (3), it is immaterial whether the specified function is a function under a law administered by the Minister.
- (8) Subsection (3) does not limit paragraph (1)(ba).
- (9) Subsections (6) and (7) are enacted for the avoidance of doubt.

### *Function of acting on behalf of another person*

- (10) A function prescribed by regulations made for the purposes of paragraph (1)(ba) may be a function of acting on behalf of another person (the **primary person**) in the performance of a function that



the primary person may perform, whether under a law of the Commonwealth or otherwise.

- (11) For the purposes of subsection (10), it is immaterial whether a function that the primary person may perform is a function that can be delegated.
- (12) For the purposes of subsection (10), it is immaterial whether a function that the primary person may perform under a law of the Commonwealth is a function under a law administered by the Minister.
- (13) For the purposes of subsection (10), it is immaterial whether a function that the primary person may perform otherwise than under a law of the Commonwealth is a function that is within the responsibilities of the Minister.
- (14) Subsection (10) does not limit paragraph (1)(ba).
- (15) Subsections (10) to (14) are enacted for the avoidance of doubt.

#### **8A Chief Executive Centrelink's service delivery functions**

The Chief Executive Centrelink's *service delivery functions* are as follows:

- (a) to provide services, benefits, programs or facilities that are provided for by the Commonwealth for a purpose for which the Parliament has the power to make laws;
- (b) to provide services, benefits, programs or facilities that are provided for by a person other than the Commonwealth for a purpose for which the Parliament has the power to make laws.

#### **8B Agreements about performance of Chief Executive Centrelink's functions**

The Secretary of the Department may enter into a written agreement with the Secretary of another Department about the performance of any of the Chief Executive Centrelink's functions.

## 12 Delegation

- (1) The Chief Executive Centrelink may, by writing, delegate to a Departmental employee all or any of the functions of the Chief Executive Centrelink under this Act or any other Act.
- (1A) For the purposes of subsection (1), it is immaterial whether a function of the Chief Executive Centrelink is a function of the kind mentioned in subsection 8(3) or (10).
- (2) However, the Chief Executive Centrelink must not delegate functions conferred on him or her under another Act if the delegation is inconsistent with the express provisions of that Act.
- (3) The Chief Executive Centrelink may, by writing, delegate to a Departmental employee all or any of the functions delegated to the Chief Executive Centrelink under another Act.
- (4) However, the Chief Executive Centrelink must not delegate functions delegated to him or her under another Act if the delegation by the Chief Executive Centrelink would be inconsistent with the express provisions of that Act.
- (5) The Chief Executive Centrelink must not delegate functions under subsection (1) or (3) to a Departmental employee who is, or is acting as:
  - (a) the Chief Executive Medicare; or
  - (b) the Child Support Registrar.

## 13 Commonwealth consent to conferral of powers etc. on Chief Executive Centrelink by State and Territory laws

- (1) A law of a State or Territory may confer powers or functions, or impose duties, on the Chief Executive Centrelink.

Note: Section 15 sets out when such a law imposes a duty on the Chief Executive Centrelink.
- (2) Subsection (1) does not authorise the conferral of a power or function, or the imposition of a duty, by a law of a State or Territory to the extent to which:
  - (a) the conferral or imposition, or the authorisation, would contravene any constitutional doctrines restricting the duties that may be imposed on the Chief Executive Centrelink; or

- (b) the authorisation would otherwise exceed the legislative power of the Commonwealth.
- (3) The Chief Executive Centrelink cannot exercise a power, or perform a duty or function, under a law of a State or Territory without the written approval of the Minister.

## **14 How duty is imposed on Chief Executive Centrelink by State and Territory laws**

### *Application*

- (1) This section applies if a law of a State or Territory purports to impose a duty on the Chief Executive Centrelink.

Note: Section 15 sets out when such a law imposes a duty on the Chief Executive Centrelink.

### *State or Territory legislative power sufficient to support duty*

- (2) The duty is taken not to be imposed by this Act (or any other law of the Commonwealth) to the extent to which:
  - (a) imposing the duty is within the legislative powers of the State or Territory concerned; and
  - (b) imposing the duty by the law of the State or Territory is consistent with the constitutional doctrines restricting the duties that may be imposed on the Chief Executive Centrelink.

Note: If this subsection applies, the duty will be taken to be imposed by force of the law of the State or Territory (the Commonwealth having consented under section 13 to the imposition of the duty by that law).

### *Commonwealth legislative power sufficient to support duty but State or Territory legislative powers are not*

- (3) If, to ensure the validity of the purported imposition of the duty, it is necessary that the duty be imposed by a law of the Commonwealth (rather than by the law of the State or Territory), the duty is taken to be imposed by this Act to the extent necessary to ensure that validity.
- (4) If, because of subsection (3), this Act is taken to impose the duty, it is the intention of the Parliament to rely on all powers available to

Section 15

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it under the Constitution to support the imposition of the duty by this Act.

- (5) The duty is taken to be imposed by this Act in accordance with subsection (3) only to the extent to which imposing the duty:
- (a) is within the legislative powers of the Commonwealth; and
  - (b) is consistent with the constitutional doctrines restricting the duties that may be imposed on the Chief Executive Centrelink.
- (6) Subsections (1) to (5) do not limit section 13.

**15 When State and Territory laws impose a duty on Chief Executive Centrelink**

For the purposes of sections 13 and 14, a law of a State or Territory imposes a duty on the Chief Executive Centrelink if:

- (a) the law confers a power or function on the Chief Executive Centrelink; and
- (b) the circumstances in which the power or function is conferred give rise to an obligation on the Chief Executive Centrelink to exercise the power or to perform the function.

**16 Chief Executive Centrelink may be assisted by Departmental employees**

A Departmental employee may assist the Chief Executive Centrelink in the performance of any of the functions of the Chief Executive Centrelink.

## Part 5—Miscellaneous

### 38 Use of protected names and symbols

- (1) A person must not, without the Secretary's written consent:
- (a) use in relation to a business, trade, profession or occupation;  
or
  - (b) use as the name, or as part of the name, of any firm, body corporate, institution, premises, vehicle, ship, aircraft or other craft; or
  - (c) apply, as a trade mark or otherwise, to goods imported, manufactured, produced, sold, offered for sale or let for hire;  
or
  - (d) use in relation to:
    - (i) goods or services; or
    - (ii) the promotion, by any means, of the supply or use of goods or services:
- either:
- (e) a protected name, or a name so closely resembling a protected name as to be likely to be mistaken for it; or
  - (f) a protected symbol, or a symbol so closely resembling a protected symbol as to be likely to be mistaken for it.

Penalty: 30 penalty units.

- (1A) Subsection (1) is an offence of strict liability.
- (2) Subsection (1), so far as it applies in relation to a particular protected name or a protected symbol, does not affect rights conferred by law on a person in relation to:
- (a) a trade mark that is a registered trade mark for the purposes of the *Trade Marks Act 1995*; or
  - (b) a design registered under the *Designs Act 2003*; that was so registered, or was registered under the *Designs Act 1906*, at the protection time in relation to the name or symbol.
- (3) This section, so far as it applies in relation to a particular protected name or a protected symbol, does not affect the use, or rights conferred by law relating to the use, of a name or symbol (the

Section 38

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**relevant name or symbol**) by a person in a particular manner if, at the protection time in relation to the protected name or protected symbol, the person:

- (a) was using the relevant name or symbol in good faith in that manner; or
  - (b) would have been entitled to prevent another person from passing off, by means of the use of the relevant name or symbol or a similar name or symbol, goods or services as the goods or services of the first-mentioned person.
- (4) In this section:

**protected name** means any of the following names:

- (a) “Commonwealth Services Delivery Agency”;
- (b) such other names as are prescribed.

**protected symbol** means:

- (a) a symbol:
  - (i) that is used, or for use, in connection with the performance of any or all of the functions of the Chief Executive Centrelink; and
  - (ii) the design of which is set out in the regulations; or
- (b) a symbol:
  - (i) that is used, or for use, in connection with one or more services, benefits, programs or facilities, where Departmental employees are involved in the provision of those services, benefits, programs or facilities; and
  - (ii) the design of which is set out in the regulations.

**protection time** means:

- (a) in relation to the name “Commonwealth Services Delivery Agency”—the time immediately before the commencement of this Act; or
  - (b) in relation to any other name—the time immediately before the commencement of the regulation prescribing the name; or
  - (c) in relation to a protected symbol—the time immediately before the commencement of the regulation setting out the design of the symbol.
- (5) To avoid doubt, a name may be prescribed by regulations made for the purposes of paragraph (b) of the definition of **protected name**

in subsection (4) even if the name is not used, or for use, in connection with the performance of any or all of the functions of the Chief Executive Centrelink.

- (6) To avoid doubt, the design of a symbol may be set out in regulations made for the purposes of subparagraph (b)(ii) of the definition of *protected symbol* in subsection (4) even if the symbol is not used, or for use, in connection with the performance of any or all of the functions of the Chief Executive Centrelink.
- (7) For the purposes of subparagraph (b)(i) of the definition of *protected symbol* in subsection (4), a person is taken to be involved in the provision of services, benefits, programs or facilities if the person's duties include:
  - (a) making payments in connection with the services, benefits, programs or facilities; or
  - (b) making decisions in connection with the services, benefits, programs or facilities; or
  - (c) collecting information in connection with the services, benefits, programs or facilities; or
  - (d) providing information about the services, benefits, programs or facilities.

### **39 Chief Executive Centrelink may charge for services**

The Chief Executive Centrelink may charge fees for services he or she provides in connection with the performance of his or her functions.

### **40 Centrelink programs**

- (1) For the purposes of a law of the Commonwealth, the following are *centrelink programs*:
  - (a) services, benefits, programs or facilities, where:
    - (i) the Chief Executive Centrelink is; or
    - (ii) Departmental employees are;involved in the provision of the services, benefits, programs or facilities; or
  - (b) services, benefits, programs or facilities specified in a legislative instrument made by the Minister for the purposes of this paragraph.

Section 40A

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- (2) However, the following are not *centrelink programs*:
- (a) medicare programs;
  - (b) services, benefits, programs or facilities that are provided for under:
    - (i) the *Child Support (Assessment) Act 1989*; or
    - (ii) the *Child Support (Registration and Collection) Act 1988*; or
  - (c) services, benefits, programs or facilities that are specified in a legislative instrument made by the Minister for the purposes of this paragraph.
- (3) For the purposes of paragraph (1)(a), a person is taken to be involved in the provision of services, benefits, programs or facilities if the person's duties include:
- (a) making payments in connection with the services, benefits, programs or facilities; or
  - (b) making decisions in connection with the services, benefits, programs or facilities; or
  - (c) collecting information in connection with the services, benefits, programs or facilities; or
  - (d) providing information about the services, benefits, programs or facilities.

#### 40A Multiple secrecy provisions

*Scope*

- (1) This section applies to particular information if:
- (a) the information is subject to a regulatory regime under a designated program Act (the *first program Act*); and
  - (b) the information is also subject to a regulatory regime under another designated program Act (the *second program Act*).

For the purposes of this subsection, in determining whether particular information is subject to a regulatory regime under a designated program Act, disregard whether the information is subject to a regulatory regime under any other designated program Act.



*Disclosure or use of information etc.*

- (2) If:
- (a) the Secretary, the Chief Executive Centrelink or a Departmental employee:
    - (i) discloses the information; or
    - (ii) uses the information; or
    - (iii) makes a record of the information; and
  - (b) the Secretary, the Chief Executive Centrelink or the Departmental employee, as the case may be, does so without contravening the first program Act;
- the disclosure, use, or making of the record, as the case may be, does not contravene the second program Act.

*Definitions*

- (3) In this section:

***designated program Act*** means:

- (a) the *A New Tax System (Family Assistance) (Administration) Act 1999*; or
- (b) the *Aged Care Act 1997*; or
- (c) the *Child Support (Assessment) Act 1989*; or
- (d) the *Child Support (Registration and Collection) Act 1988*; or
- (e) the *Dental Benefits Act 2008*; or
- (f) the *Disability Services Act 1986*; or
- (g) the *Health Insurance Act 1973*; or
- (h) the *Medical Indemnity Act 2002*; or
- (i) the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*; or
- (j) the *National Health Act 1953*; or
- (k) the *Paid Parental Leave Act 2010*; or
- (l) the *Private Health Insurance Act 2007*; or
- (m) the *Social Security (Administration) Act 1999*; or
- (n) the *Student Assistance Act 1973*; or
- (o) an Act specified in a legislative instrument made by the Minister for the purposes of this paragraph.

***disclose*** means disclose, divulge or communicate.

#### **41 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Table of Acts****Notes to the *Human Services (Centrelink) Act 1997*****Note 1**

The *Human Services (Centrelink) Act 1997* as shown in this compilation comprises Act No. 31, 1997 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Human Services Legislation Amendment Act 2011*, see Act No. 32, 2011.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Services Delivery Agency Act 1997</i>	31, 1997	17 Apr 1997	1 July 1997	
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 325–327): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (a)	—
<i>Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	137, 2001	1 Oct 2001	2 Oct 2001	S. 4
<i>Family and Community Services Legislation Amendment Act 2003</i>	30, 2003	15 Apr 2003	Schedule 3 (item 1): 15 Apr 2003	—
<i>Designs (Consequential Amendments) Act 2003</i>	148, 2003	17 Dec 2003	Schedules 1 and 2: (b) Remainder: Royal Assent	—
<i>Human Services Legislation Amendment Act 2005</i>	111, 2005	6 Sept 2005	Schedule 1 (items 1–43, 62–71): 1 Oct 2005 (see F2005L02671)	Sch. 1 (items 62–71)

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Human Services Legislation Amendment Act 2011</i>	32, 2011	25 May 2011	Schedule 2: 1 July 2011	Sch. 2 (items 49–75) [see Note 1]
<b>as amended by</b>				
<i>Statute Law Revision Act 2012</i>	136, 2012	22 Sept 2012	Schedule 2 (item 21): (c)	—
<i>Statute Law Revision Act 2012</i>	136, 2012	22 Sept 2012	Schedule 4 (items 17, 18, 50): Royal Assent	Sch. 4 (item 50)

**Act Notes**

- (a) The *Human Services (Centrelink) Act 1997* was amended by Schedule 1 (items 325–327) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (b) Subsection 2(1) (item 2) of the *Designs (Consequential Amendments) Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
2. Schedules 1 and 2	Immediately after the commencement of section 4 of the <i>Designs Act 2003</i> .	17 June 2004

- (c) Subsection 2(1) (item 19) of the *Statute Law Revision Act 2012* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
19. Schedule 2, item 21	Immediately after the time specified in the <i>Human Services Legislation Amendment Act 2011</i> for the commencement of Schedule 2 to that Act.	1 July 2011



**Table of Amendments****Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 32, 2011
<b>Part 1</b>	
S. 1 .....	am. No. 32, 2011
S. 2A .....	ad. No. 137, 2001 rep. No. 32, 2011
S. 3 .....	am. No. 146, 1999; No. 30, 2003; No. 111, 2005; No. 32, 2011
Heading to Part 2 .....	rs. No. 111, 2005 rep. No. 32, 2011
Part 2 .....	rep. No. 32, 2011
S. 6 .....	am. No. 111, 2005 rep. No. 32, 2011
S. 6A .....	ad. No. 111, 2005 rep. No. 32, 2011
<b>Part 3</b>	
Heading to Part 3 .....	ad. No. 111, 2005 rs. No. 32, 2011
Part 3 .....	rep. No. 111, 2005
Heading to Div. 1 of Part 3.....	ad. No. 111, 2005 rep. No. 32, 2011
S. 7 .....	am. No. 111, 2005 rs. No. 32, 2011
S. 7A .....	ad. No. 32, 2011 am. No. 136, 2012
Note to s. 7A(1) .....	ad. No. 136, 2012
Heading to s. 8 .....	rs. No. 111, 2005 am. No. 32, 2011
Subhead. to s. 8(1).....	ad. No. 32, 2011
S. 8 .....	am. No. 111, 2005; No. 32, 2011
S. 8A .....	ad. No. 111, 2005 rs. No. 32, 2011
S. 8B .....	ad. No. 32, 2011
Heading to s. 9 .....	am. No. 111, 2005 rep. No. 32, 2011
S. 9 .....	am. No. 111, 2005 rep. No. 32, 2011
S. 10 .....	rs. No. 111, 2005 rep. No. 32, 2011
S. 11 .....	rs. No. 111, 2005 rep. No. 32, 2011
S. 12 .....	rs. No. 111, 2005 am. No. 32, 2011

## Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 13–16 .....	rep. No. 111, 2005 ad. No. 32, 2011
Ss. 17–28 .....	rep. No. 111, 2005
Heading to Div. 2 of Part 3.....	ad. No. 111, 2005 rep. No. 32, 2011
Div. 2 of Part 3 .....	rep. No. 32, 2011
S. 29 .....	am. No. 111, 2005 rep. No. 32, 2011
S. 30 .....	rs. No. 111, 2005 rep. No. 32, 2011
Ss. 30A–30C .....	ad. No. 111, 2005 rep. No. 32, 2011
S. 31 .....	am. No. 111, 2005 rep. No. 32, 2011
Ss. 32, 33 .....	rep. No. 111, 2005
S. 34 .....	am. No. 111, 2005 rep. No. 32, 2011
Heading to Part 4 .....	rs. No. 111, 2005 rep. No. 32, 2011
Part 4 .....	rep. No. 32, 2011
Heading to Div. 1 of Part 4.....	rep. No. 111, 2005
Heading to Div. 2 of Part 4.....	rep. No. 111, 2005
S. 35 .....	am. No. 146, 1999; No. 111, 2005 rep. No. 32, 2011
S. 36 .....	rep. No. 111, 2005
S. 37 .....	rep. No. 32, 2011
<b>Part 5</b>	
S. 38 .....	am. No. 137, 2001; No. 148, 2003; No. 111, 2005; No. 32, 2011
Heading to s. 39 .....	am. No. 32, 2011
S. 39 .....	rs. No. 111, 2005 am. No. 32, 2011
Heading to s. 40 .....	rs. No. 111, 2005; No. 32, 2011
S. 40 .....	am. No. 111, 2005 rs. No. 32, 2011
S. 40A .....	ad. No. 32, 2011



**Table A**

**Application, saving or transitional provisions**

*Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001* (No. 137, 2001)

**4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Human Services Legislation Amendment Act 2005* (No. 111, 2005)

**Schedule 1**

**62 Definitions**

- (1) In this Part:
  - amend* includes repeal and remake.
  - Board* means the Board within the meaning of the old law.
  - Centrelink* means the Commonwealth Services Delivery Agency.
  - CEO* means the Chief Executive Officer of Centrelink.
  - Chairman* means the Chairman of the Board.
  - commencement time* means the time when this Part commences.
  - instrument*:
    - (a) includes:
      - (i) a contract, deed, undertaking or agreement; and
      - (ii) a notice, authority, order or instruction; and
      - (iii) an instrument made under an Act or regulations; but
    - (b) does not include an Act or regulations.

**Table A**

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*new law* means the *Commonwealth Services Delivery Agency Act 1997* as in force after the commencement time.

*old law* means the *Commonwealth Services Delivery Agency Act 1997* as in force before the commencement time.

- (2) In this Part, unless a contrary intention is expressed, a reference to a law (however described) is a reference to a law of the Commonwealth.

**63 CEO to continue**

The person who was the CEO immediately before the commencement time continues to be the CEO immediately after the commencement time and holds office as if:

- (a) his or her appointment by the Board under section 29 of the old law (the *first appointment*) were terminated immediately before the commencement time; and
- (b) he or she were appointed for the remainder of the term of his or her first appointment by the Minister under Division 2 of Part 3 of the new law immediately after the commencement time.

**64 Operation of laws—things done by, or in relation to, Centrelink**

- (1) If, before the commencement time, a thing was done by, or in relation to, Centrelink, the Board or the Chairman, then, for the purposes of the operation of any law after the commencement time, the thing is taken to have been done by, or in relation to, the CEO.
- (2) For the purposes of subitem (1), a thing done before the commencement time under a provision amended by this Schedule has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (3) The Minister may, by writing, determine that subitem (1):
  - (a) does not apply in relation to a specified thing done by, or in relation to, Centrelink, the Board or the Chairman; or
  - (b) applies as if the reference in that subitem to the CEO were a reference to the Commonwealth or to Centrelink.

A determination under this subitem has effect accordingly.

- (4) The regulations may provide for a thing specified in a determination under paragraph (3)(a) to be taken to have been done by, or in relation

**Table A**

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to, a person or body other than the CEO, the Commonwealth or Centrelink.

- (5) To avoid doubt, for the purposes of this item, doing a thing includes making an instrument.
- (6) A determination made under subitem (3) is not a legislative instrument.

**65 References in instruments**

- (1) If:
  - (a) an instrument is in force immediately before the commencement time; and
  - (b) the instrument contains a reference to Centrelink (however described), the Board or the Chairman;the instrument has effect from the commencement time as if the reference to Centrelink, the Board or the Chairman were a reference to the CEO.
- (2) The Minister may, by writing, determine that subitem (1):
  - (a) does not apply in relation to a specified reference; or
  - (b) applies as if the reference in that subitem to the CEO were a reference to the Commonwealth or to Centrelink.A determination under this subitem has effect accordingly.
- (3) The regulations may provide that an instrument containing a reference specified in a determination under paragraph (2)(a) has effect from the commencement time as if the reference were a reference to a person or body other than the CEO, the Commonwealth or Centrelink.
- (4) A determination made under subitem (2) is not a legislative instrument.

**66 Transfer of records**

At the commencement time, the records and documents of Centrelink become the records and documents of the CEO.

**Table A**

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**67 Financial statements and other reporting requirements**

*Financial statements*

- (1) If:
- (a) immediately before the commencement time, a law required Centrelink, the Board or the Chairman to provide financial statements for a period; and
  - (b) the period ends after the commencement time;
- the CEO must, within 3 months after the commencement time, provide the statements for so much of the period as occurs before the commencement time.

*Other reporting requirements*

- (2) If:
- (a) immediately before the commencement time, a law required Centrelink, the Board or the Chairman to provide a report (other than financial statements) for a period; and
  - (b) the period ends after the commencement time;
- the CEO must provide the report, as required, for so much of the period as occurs before the commencement time.
- (3) If:
- (a) under subitem (2), the CEO is required to provide a report for a part of a period; and
  - (b) the CEO is also required to provide a similar report for the remainder of the period;
- the CEO may meet the requirements in a single report for the period.

*Outstanding reporting requirements*

- (4) If:
- (a) a law required Centrelink, the Board or the Chairman to provide a report (whether financial statements or otherwise) for a period that ended before the commencement time; and
  - (b) the report has not been provided by the commencement time;
- the CEO must provide the report as required.

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**68 Substitution of parties to proceedings**

If, immediately before the commencement time, any proceedings to which Centrelink, the Board or the Chairman was a party were pending in any court or tribunal, then, from the commencement time, the CEO is substituted for Centrelink, the Board or the Chairman as a party to the proceedings.

**69 Constitutional safety net—acquisition of property**

- (1) If:
- (a) a provision of this Schedule would result in an acquisition of property; and
  - (b) the provision would not be valid, apart from this item, because a particular person has not been compensated;
- the Commonwealth must pay that person:
- (c) a reasonable amount of compensation agreed on between the person and the Commonwealth; or
  - (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.
- (2) Any damages or compensation recovered, or other remedy given, in a proceeding begun otherwise than under this item must be taken into account in assessing compensation payable in a proceeding begun under this item and arising out of the same event or transaction.
- (3) In this item:
- acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

**70 Delegation by Minister**

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Part to:
- (a) the Secretary of the Department; or
  - (b) an SES employee, or acting SES employee, in the Department; or
  - (c) the CEO.
- (2) In exercising or performing powers or functions under a delegation, the delegate must comply with any directions of the Minister.

**Table A**

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- (3) A power delegated to the CEO under subitem (1) must not be sub-delegated under subsection 12(3) of the new law.

**71 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Schedule to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.

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*Statute Law Revision Act 2012* (No. 136, 2012)

**Schedule 4**

**50 Saving—appointments**

The amendments made by this Part do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.