



Social Security Legislation Amendment (Youth Allowance) Act 1998

No. 18, 1998

An Act to amend the *Social Security Act 1991*

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Social Security Legislation Amendment (Youth Allowance) Act 1998

No. 18, 1998

An Act to amend the *Social Security Act 1991*

[Assented to 17 April 1998]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security Legislation Amendment (Youth Allowance) Act 1998*.

2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on 1 July 1998.
- (2) If Part 8 of the *Student and Youth Assistance Act 1973* has not been repealed (with effect on or before 1 July 1998) by another

Act, this Act commences immediately after the repeal of that Part, by another Act, takes effect.

- (3) Subsections 543A(2A) and (2B) in item 6 of Schedule 1 commence on 1 January 1999.

3 Application

Subsection 543A(2) does not apply to a person who last left school more than 12 months before the commencement of this Act.

4 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Youth allowance

Social Security Act 1991

1 Section 3 (index)

Insert the following entries in their appropriate alphabetical position, determined on a letter-by-letter basis:

educational institution	23(1)
undertaking full-time study	23(1), 541B
Youth Allowance Activity Agreement	23(1), 544A(5)
Youth Training Activity Agreement	23(1)

2 Subsection 23(1)

Insert:

educational institution means an education institution within the meaning of subsection 3(1) of the *Student and Youth Assistance Act 1973*.

3 Subsection 23(1)

Insert:

undertaking full-time study has the meaning given in section 541B.

4 Subsection 23(1)

Insert:

Youth Allowance Activity Agreement has the meaning given by subsection 544A(5).

5 Subsection 23(1)

Insert:

Youth Training Activity Agreement has the meaning it was given under subsection 79(4) of the *Student and Youth Assistance Act 1973* immediately before the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*.

6 Before Part 2.12

Insert:

Part 2.11—Youth allowance

Division 1—Qualification for youth allowance

Subdivision A—Basic qualifications

540 Qualification for youth allowance—general rule

Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if, throughout the period:

- (a) the person either:
 - (i) satisfies the activity test (see Subdivision B); or
 - (ii) is not required to satisfy the activity test (see Subdivision C); and
- (b) the person is of youth allowance age (see Subdivision D); and
- (c) the person satisfies any requirements relating to Youth Allowance Activity Agreements that apply to the person under Subdivision E; and
- (d) the person satisfies the residency requirements that apply to the person under Subdivision F.

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

540A Qualification for youth allowance—claimants for disability support pension

General rule

- (I) Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if:
 - (a) throughout the period, the person either:
 - (i) satisfies the activity test (see Subdivision B); or

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- (ii) is not required to satisfy the activity test (see Subdivision C); and
 - (b) throughout the period, the person is of youth allowance age (see Subdivision D); and
 - (c) the person made a claim for disability support pension at or before the start of the period and the claim was not determined before the end of the period; and
 - (d) the Secretary is satisfied that, throughout the period, the person suffers from a medical condition that had a significant adverse effect on the person's ability to work or study; and
 - (e) throughout the period, the person satisfies the residency requirements that apply to the person under Subdivision F; and
 - (f) the person satisfies any one of the conditions in subsection (2).

Conditions for qualification

- (2) The conditions referred to in paragraph (1)(f) are:
 - (a) a condition that the person was an Australian resident when the significant adverse effect of the medical condition on the person's ability to work or study first occurred; and
 - (b) a condition that at the start of the period the person had 10 years qualifying Australian residence or had a qualifying residence exemption for a social security benefit or youth training allowance; and
 - (c) a condition that:
 - (i) the person was born outside Australia; and
 - (ii) when the significant adverse effect of the medical condition first occurred the person was not an Australian resident but was a dependent child of an Australian resident; and
 - (iii) the person became an Australian resident while a dependent child of an Australian resident.

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

540B Qualification for youth allowance—transferee from social security pension

If:

- (a) a person was receiving a social security pension; and
- (b) the person claims a youth allowance within 14 days after the day on which the last instalment of the person's pension was paid; and
- (c) the person becomes qualified for a youth allowance at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for a youth allowance for the whole of the 14 day period.

540C Qualification for youth allowance may continue to end of payment period

If:

- (a) a person is receiving a youth allowance; and
- (b) apart from this section, the person would cease on a particular day to be qualified for the allowance because the person has attained the maximum age for youth allowance; and
- (c) the day falls in, but is not the last day of, a period for which an instalment of youth allowance is payable to the person;

the person continues to be qualified for the allowance until the end of that period.

Subdivision B—Activity test

541 Activity test

General

- (1) Subject to section 541A and subsection (3) of this section, a person satisfies the activity test in respect of a period if:
 - (a) the person satisfies the Secretary that, throughout the period, the person is undertaking full-time study (see section 541B); or
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- (b) the person satisfies the Secretary that, throughout the period, the person is actively seeking, and willing to undertake, paid work (other than paid work that is unsuitable for the person); or
 - (c) the person takes reasonable steps, throughout the period, to comply with the terms of a Youth Allowance Activity Agreement applying to the person; or
 - (d) the person takes reasonable steps to comply, throughout the period, with a requirement of the Secretary notified to the person under subsection (2).

Note 1: See section 541D on paid work that is unsuitable.

Note 2: See section 541F on taking reasonable steps.

Notices of particular requirements

- (2) If the Secretary is of the opinion that, throughout the period, the person should do one or more of the following:
 - (a) undertake particular paid work other than paid work that is unsuitable for the person;
 - (b) participate in an approved program of work for unemployment payment;
 - (c) participate in one or more of the following:
 - (i) a course of vocational training;
 - (ii) a labour market program;
 - (iii) a rehabilitation program;
 - (iv) another course;approved by the Secretary that is likely, in the Secretary's opinion, to improve the person's prospects of obtaining suitable paid work, or to help the person in seeking suitable paid work;
 - (d) if the person lives in an area where:
 - (i) there is no locally accessible labour market; and
 - (ii) there is no locally accessible vocational training course or labour market program;participate in an activity suggested by the person and approved by the Secretary;

the Secretary may, subject to section 541E, by notice in writing given to the person, inform the person that the person is required to act in accordance with the Secretary's opinion.

Note: See section 541D on paid work that is unsuitable, and section 541E on situations in which a person cannot be required to participate in an approved program of work for unemployment payment.

- (2A) A notice under subsection (2) must inform the person to whom it is given of the effect of failure by the person to comply with the requirement set out in the notice.

Full-time employees etc.

- (3) A person cannot be taken to satisfy the activity test if the person:
- (a) is employed on a full-time basis as an apprentice or trainee under an industrial instrument and has a training agreement (however described) with a training authority (by whatever name called) of a State or Territory; or
 - (b) is employed in full-time paid work for at least:
 - (i) 35 hours per week; or
 - (ii) such lesser period per week as is, in the Secretary's opinion, the normal number of hours per week that constitutes full-time work in the industry in which the person is employed; or
 - (c) is, in the Secretary's opinion, involved to a substantial degree in the operation of a family business and, in the Secretary's opinion, should not be taken to satisfy the activity test.

Industrial instruments

- (4) In paragraph (3)(a):

industrial instrument means an award or agreement (however described) that:

- (a) is made under or recognised by a law of the Commonwealth or of a State or Territory that:
 - (i) regulates the relationships between employers and employees; or
 - (ii) provides for the prevention or settlement of disputes between employers and employees; and

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- (b) concerns the relationship between an employer and the employer's employees, or provides for the prevention or settlement of a dispute between an employer and the employer's employees.

541A Failure to satisfy the activity test

A person cannot be taken to satisfy the activity test in respect of a period if:

- (a) the person fails to take reasonable steps to comply, throughout the period, with a requirement of the Secretary under subsection 541(2); or
- (b) the person fails to take reasonable steps, throughout the period, to comply with the terms of a Youth Allowance Activity Agreement applying to the person; or
- (c) the person refuses or fails, without reasonable excuse, to attend a job interview; or
- (d) the person voluntarily ceases, without reasonable excuse, to take part in, or is dismissed for misconduct from, a labour market program; or
- (e) the person refuses or fails to commence, or to complete, an approved program of work for unemployment payment that the person is required to undertake; or
- (f) the person refuses or fails to comply with the conditions of such a program; or
- (g) the person fails to comply with a notice to the person under subsection 541C(1); or
- (h) the person contravenes subsection 541C(2).

Note: See section 541F on taking reasonable steps.

541B Undertaking full-time study

General

- (1) For the purposes of this Act, a person is undertaking full-time study if:
 - (a) the person:
 - (i) is enrolled in a course of education at an educational institution; or

- (ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or
 - (iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and
- (b) the person:
- (i) is enrolled in respect of, or (if subparagraph (a)(ii) or (iii) applies) intends to enrol in respect of; and
 - (ii) is undertaking, or (if subparagraph (a)(ii) or (iii) applies) intends to undertake;
- at least three-quarters of the normal amount of full-time study in respect of the course in question (see subsections (2) to (4)); and
- (c) the course in question is an approved course of education or study (see subsection (5)); and
 - (d) in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

Meaning of normal amount of full-time study

- (2) For the purposes of paragraph (1)(b), the normal amount of full-time study in respect of a course is:
- (a) if the course is a designated course of study within the meaning of Chapter 4 of the *Higher Education Funding Act 1988*—the standard student load determined in respect of the course by the institution in question under subsection 39(2) of that Act; or
 - (b) if the course is not such a designated course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or
 - (c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to
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complete the course in the minimum amount of time needed to complete it.

Alternative meaning of normal amount of full-time study

- (3) For the purposes of paragraph (1)(b), and without limiting subsection (2), the normal amount of full-time study in respect of a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

Meaning of satisfactory progress

- (3A) In forming an opinion about whether a person is making satisfactory progress for the purpose of paragraph (1)(d), the Secretary is to have regard to the guidelines.
- (3B) The Minister, by determination in writing:
- (a) is to set guidelines for the exercise of the Secretary's discretion under subsection (3A); and
 - (b) may revoke or vary those guidelines.
- (3C) Guidelines made for the purpose of subsection (3A) are disallowable instruments.

First fortnight of classes

- (4) A person is taken, for the purposes of paragraph (1)(b), to be enrolled in and undertaking the normal amount of full-time study during the period:
- (a) starting on the first day of classes in a semester; and
 - (b) ending on the Friday of the second week of classes in the semester;
- if the person is enrolled in and undertakes at least three-quarters of the normal amount of full-time study (within the meaning of subsection (2) or (3)) on at least one day in the period.

Meaning of approved course of education or study

- (5) For the purposes of paragraph (1)(c), the course is an approved course of education or study if it is a course that the Employment

Minister has determined, under paragraph 7(1)(c) of the *Student and Youth Assistance Act 1973*, to be:

- (a) a secondary course or a tertiary course; or
 - (b) a part of a secondary course or a part of a tertiary course;
- for the purposes of section 7 of that Act.

Note: For *educational institution* see subsection 23(1).

541C Requiring a person to apply for job vacancies

General

- (1) The Secretary may notify a person in writing (other than a person who is undertaking full-time study) that the person must take reasonable steps to apply for a particular number of advertised job vacancies in the period stated in the notice, being a period of not less than 14 days.

Note: See section 541F on taking reasonable steps.

Statements confirming job applications

- (2) The person must give the Secretary a written statement from each employer whose job vacancy the person applied for that confirms that the person applied for the job vacancy.

Form of statements

- (3) The statement from the employer must be in a form approved by the Secretary.

Exemption from giving the Secretary statements

- (4) Subsection (2) does not apply to a person if the Secretary is satisfied that there are special circumstances in which it is not reasonable to expect the person to give the statement referred to in that subsection.

541D Unsuitable paid work

What is unsuitable paid work

- (1) For the purposes of section 541, particular paid work is unsuitable for a person if, and only if, in the Secretary's opinion:
- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work and no training will be provided by the employer; or
 - (b) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
 - (c) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
 - (d) the work would involve the person being self-employed; or
 - (e) the work would be covered by an industrial award but the employer would only employ the person if the person agreed to become a party to an agreement reducing or abolishing rights that the award confers on employees; or
 - (f) the work would not be covered by an industrial award and the remuneration for the work would be lower than the minimum applicable rate of remuneration for comparable work that is covered by an industrial award; or
 - (g) commuting between the person's home and the place of work would be unreasonably difficult; or
 - (ga) the place of work is not accessible by public transport services and the person does not have access to alternative transport facilities and could not reasonably be expected to travel to the place of work; or
 - (h) the work would require enlistment in the Defence Force or the Reserve Forces; or
 - (ha) the work requires the person to move from a home in one place to a home in another place; or
 - (i) for any other reason, the work is unsuitable for the person.

When commuting is unreasonably difficult

- (2) For the purposes of paragraph (1)(g), commuting is not unreasonably difficult if:
- (a) the sole or principal reason for the difficulty is that the commuting involves a journey, either from the person's home to the place of work or from the place of work to the person's home, that does not normally exceed 90 minutes in duration; or
 - (b) in the Secretary's opinion a substantial number of people living in the same area as the person regularly commute to their places of work in circumstances similar to those of the person.

Effect of subsection (2)

- (3) Subsection (2) does not limit the Secretary's discretion to form the opinion that, for the purposes of paragraph (1)(g), commuting is not unreasonably difficult.

Remuneration for work

- (4) A reference in subsection (1) to remuneration for work is a reference to any income derived from the work that is income from personal exertion.

Note: For *income from personal exertion* see subsection 8(1).

541E Provisions relating to participation in an approved program of work for unemployment payment

Situations in which participation in an approved program of work for unemployment payment cannot be required

- (1) The Secretary must not notify a person under subsection 541(2) that the person is required to participate in an approved program of work for unemployment payment if:
- (a) the person is under 18 years of age; or
 - (b) the person is undertaking full-time study; or
 - (c) because of the application of one or more Modules of the Youth Allowance Rate Calculator in section 1067G, the

person is receiving a youth allowance at a rate that has been reduced; or

(d) in the Secretary's opinion:

(i) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or

(ii) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety or would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or

(e) the program of work requires the person to move from a home in one place to a home in another place.

Secretary may give notice

(2) If, after the Secretary has notified the person that the person is required to participate in an approved program of work for unemployment payment, the Secretary:

(a) is satisfied that the person is undertaking full-time study; or

(b) is satisfied that the person is a person to whom paragraph (1)(c) applies; or

(c) forms the opinion that subparagraph (1)(d)(i) or (ii) applies in relation to the performance of that work by the person;

the Secretary may, by notice in writing given to the person, inform the person that the requirement to participate in the program is revoked and, upon his or her so doing, the requirement is taken to have been revoked with effect from the day of that notification.

Effect of participation in an approved program of work for unemployment payment

(3) A person is not to be taken, merely by participating in an approved program of work for unemployment payment in accordance with a requirement of the Secretary under subsection 541(2), to be:

(a) an employee within the meaning of section 9 of the *Occupational Health and Safety (Commonwealth Employees) Act 1991*; or

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- (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
 - (d) an employee for the purposes of the *Workplace Relations Act 1996*.

541F What are reasonable steps

For the purposes of this Subdivision, a person takes reasonable steps to comply with:

- (a) a requirement of the Secretary notified to the person under subsection 541(2); or
 - (b) the terms of a Youth Allowance Activity Agreement; or
 - (c) a notice to the person under subsection 541C(1);
- (as the case requires) unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

Subdivision C—Exemptions from the activity test

542 Situations in which a person is not required to satisfy the activity test

For the purposes of this Part, a person is not required to satisfy the activity test in respect of a period if, throughout the period:

- (a) the person has a temporary incapacity exemption under section 542A; or
 - (b) the person has a pre-natal exemption or a post-natal exemption under section 542D; or
 - (c) the person has a remote area exemption under section 542E; or
 - (d) the person has an unpaid voluntary work exemption under section 542F; or
 - (e) the person has a training camp exemption under section 542G; or
 - (f) the person has a special circumstances exemption under section 542H.
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542A Temporary incapacity exemption*General*

- (1) Subject to subsection (2) of this section and sections 542B and 542C, a person has a temporary incapacity exemption if:
- (a) throughout the period the person:
 - (i) if the person is undertaking full-time study—does not have the capacity to undertake the course of education in respect of which he or she is undertaking full-time study; or
 - (ii) in any other case—is incapacitated for work; because of sickness or an accident; and
 - (b) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and
 - (c) the incapacity is, or is likely to be, of a temporary nature; and
 - (d) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:
 - (i) the medical practitioner's diagnosis; and
 - (ii) the medical practitioner's prognosis; and
 - (iii) that the person is incapacitated for study or work (as the case requires); and
 - (iv) the period for which the person is incapacitated for study or work (as the case requires); and
 - (e) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from the activity test.

Claimants for disability support pension

- (2) This section does not apply to a person who is qualified for a youth allowance under section 540A.

Definition of work

- (3) In this section:

work, in relation to a person, means work (whether full-time, part-time, permanent or casual) that:

- (a) if the person was employed at the time the sickness or accident in question occurred—the person has contracted to perform under a contract of employment that:
 - (i) the person had immediately before the person becomes incapacitated; and
 - (ii) continues after the person becomes incapacitated; and
- (b) if the person was not employed at that time—the person is reasonably capable of performing;

being work that is for at least 8 hours per week at award wages or above.

542B Failure to attend interview etc. may result in cessation of temporary incapacity exemption

General

- (1) A person ceases to have a temporary incapacity exemption if:
 - (a) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and
 - (b) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, being a period of not less than 14 days, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (c) the Secretary is satisfied that it is reasonable for this section to apply to the person; and

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- (d) the person does not take reasonable steps to comply with the requirement.

Contents of notice

- (2) A notice under paragraph (1)(b) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

What are reasonable steps

- (3) For the purposes of paragraph (1)(d), a person takes reasonable steps to comply with a requirement under subsection (1) unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

542C Time limit for temporary incapacity exemptions

General

- (1) A person ceases to have a temporary incapacity exemption if the person's maximum exemption period ends.

Maximum exemption period

- (2) Subject to this section, a person's maximum exemption period is:
- (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was required to satisfy the activity test—the lesser of the following periods:
 - (i) the period stated in the certificate as the period for which the person would be incapacitated for work or study;
 - (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or
 - (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person's incapacity for work or study began.

Extension where paragraph 542A(1)(d) certificate given

(3) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and
- (c) the Secretary is satisfied that the person's incapacity for work or study will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by a period that is not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work or study;
- (e) 13 weeks.

Extension where paragraph 542A(1)(d) certificate given after end of maximum exemption period

(4) If:

- (a) a person had a temporary incapacity exemption; and
- (b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and
- (c) the Secretary is satisfied that the person's incapacity for work or study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work or study;

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- (e) 13 weeks.

Extension where other written evidence given

(5) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person gives the Secretary written evidence (other than a certificate referred to in paragraph (3)(b)) that the person's incapacity for work or study will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:
 - (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (3)(b) before the end of the maximum exemption period; and
 - (ii) the person's incapacity for work or study will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

Extension where other written evidence given after end of maximum exemption period

(6) If:

- (a) a person had a temporary incapacity exemption; and
- (b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary written evidence (other than a certificate referred to in paragraph (4)(b)) that the person's incapacity for work or study will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:
 - (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (4)(b); and
 - (ii) the person's incapacity for work or study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than 4 weeks from the end of the previous maximum exemption period.

Extension where paragraph 542A(1)(d) certificate not considered in a timely manner

(7) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in paragraph (3)(b) before the end of the person's maximum exemption period; and
- (c) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity for work or study will continue after the end of that period; and
- (d) the sole or dominant cause of the Secretary failing so to satisfy himself or herself is an act or omission of an officer of the Department;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

542D Pre-natal and post-natal exemptions

Pre-natal exemption

- (1) A pregnant woman has a pre-natal exemption for the period that starts 6 weeks before the woman's expected date of confinement and ends on the day on which the woman gives birth to the child (whether or not the child is born alive).

Post-natal exemption

- (2) If a woman gives birth to a child (whether or not the child is born alive), the woman has a post-natal exemption for the period that starts on the day on which she gives birth to the child and ends 6 weeks after that day.

542E Remote area exemption

General

- (1) Subject to subsection (2), a person has a remote area exemption in respect of a period if the Secretary considers that:
- (a) it would be reasonable to assume that, at the end of a period, a person is present in an area where:
 - (i) there is no locally accessible labour market; and
 - (ii) there is no locally accessible vocational training course or labour market program; and
 - (b) it would also be reasonable to assume that the person is throughout the period:
 - (i) unemployed; and
 - (ii) capable of undertaking paid work that in the Secretary's opinion is suitable to be undertaken by the person; and
 - (iii) willing to undertake paid work that in the Secretary's opinion is suitable to be undertaken by the person; and
 - (c) having regard to all the relevant factors, including:
 - (i) the location of offices of the Department; and
 - (ii) difficulties with transport and communication; and
 - (iii) the educational and cultural background of the person; it would be unreasonable to expect the person to satisfy the activity test in order to be qualified for youth allowance for the period.

Note: The activity test is dealt with in Subdivision B.

Effect of subsection 541(2) notices

- (2) This section does not apply if the person has been notified of a requirement under subsection 541(2) in relation to the period.

542F Unpaid voluntary work exemption

General

- (1) Subject to subsection (2), a person has an unpaid voluntary work exemption in respect of a period if:

- (a) the person is engaged in approved full-time unpaid voluntary work for an approved organisation for at least 32 hours in the period; and
- (b) the person was receiving income support payments (whether or not the kind of payment received has changed over the period and whether any part of it occurred before or after the commencement of this section) in respect of a continuous period of at least 3 months immediately before the start of the period referred to in paragraph (a); and
- (c) the person has not already undertaken full-time unpaid voluntary work with one or more approved organisations in more than 6 months during the 12 month period ending immediately before the start of the period referred to in paragraph (b).

Availability of employment

- (2) Subsection (1) does not apply to a person in respect of a day in a period if, having regard to the opportunities, or possible opportunities, for employment that become available to the person on or before the day, the Secretary considers that subsection (1) should not apply in relation to the day.

Definitions

- (3) In this section:

approved full-time unpaid voluntary work means work that:

- (a) has been approved by the Secretary for the purposes of this section; or
- (b) was, before the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*, approved by the Employment Secretary under subsection 77(4) of the *Student and Youth Assistance Act 1973*.

approved organisation means an organisation that:

- (a) has been approved by the Secretary for the purposes of this section; or
- (b) was, before the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*,

approved by the Employment Secretary under subsection 77(4) of the *Student and Youth Assistance Act 1973*.

542G Training camp exemption

A person has a training camp exemption if the person is attending a training camp as a member of:

- (a) the Australian Naval Reserve; or
- (b) the Naval Emergency Reserve Forces; or
- (c) the Australian Army Reserve; or
- (d) the Australian Air Force Reserve; or
- (e) the Air Force Emergency Force; or
- (f) the Army Individual Emergency Reserve.

Note: Section 545B relieves people attending these training camps from the requirement of being in Australia to qualify for youth allowance.

542H Special circumstances exemption

General

- (1) Subject to subsections (2) and (3), a person has a special circumstances exemption in respect of a period if:
 - (a) the Secretary is satisfied that special circumstances, beyond the person's control, exist; and
 - (b) the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to satisfy the activity test for that period.

Meaning of special circumstances

- (1A) In making a decision under subsection (1), the Secretary is to have regard to the guidelines.
- (1B) The Minister, by determination in writing:
 - (a) is to set guidelines for the exercise of the Secretary's discretion under subsection (1A); and
 - (b) may revoke or vary those guidelines.
- (1C) Guidelines made for the purpose of subsection (1A) are disallowable instruments.

Duration of period

- (2) The period referred to in subsection (1) is not to be more than 13 weeks.

Duration where a number of determinations made

- (3) If:
- (a) the Secretary makes more than one decision under subsection (1); and
 - (b) the periods to which the decisions relate form a continuous period;
- the continuous period is not to be more than 13 weeks, unless the Secretary decides otherwise, having regard to the continued existence, or likely continued existence, of the special circumstances on which the last preceding decision was based.

Subdivision D—Youth allowance age

543 Youth allowance age

For the purposes of this Part, a person is of youth allowance age if the person:

- (a) has attained the minimum age for youth allowance (see section 543A); and
- (b) has not yet attained the maximum age for youth allowance (see section 543B).

543A Minimum age for youth allowance

General

- (1) Subject to this section, the person has attained the minimum age for youth allowance if the person:
- (a) is at least 16 years old; or
 - (b) is 15 years old and is independent.

Note: For *independent* see section 1067A.

Persons not yet 18 years old

- (2) If the person is not yet 18 years old, the person is taken not to have attained the minimum age for youth allowance unless:
- (a) the person has completed the final year of secondary school, or an equivalent level of education; or
 - (b) the person is undertaking full-time study; or
 - (ba) the person has agreed to enter into a Youth Allowance activity agreement; or
 - (c) the Secretary has determined in writing that the person is exempt from the requirements of this subsection.
- (2A) Notwithstanding subsection (2) but subject to subsection (2B), a person who is not yet 18 years old is taken to have attained the minimum age for youth allowance if the person does not have the capacity to undertake full-time study or training because the person:
- (a) is ill or has had an accident and the incapacity is, or is likely to be, of a temporary nature; or
 - (b) has a physical, psychiatric or intellectual disability, or a learning difficulty such as attention deficit disorder; or
 - (c) is pregnant and the expected date of confinement is within 6 weeks; or
 - (d) has given birth within the previous 6 weeks; or
 - (e) has been in full-time employment for 6 weeks or more within the last 13 weeks; or
 - (f) has been refused enrolment and no other education or training place is available within a reasonable distance; or
 - (g) is required to provide full-time care for a family member who is incapacitated due to illness or accident and the incapacity is, or is likely to be, of a temporary nature; or
 - (h) has suffered a personal crisis such as the death of an immediate family member, a marriage breakup, family dislocation or physical, emotional or sexual abuse; or
 - (i) is homeless and unable to obtain stable accommodation; or
 - (j) has suffered a major disruption of their home such as fire damage, flooding, earthquake damage, vandalism or burglary; or
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- (k) suffers from alcohol or drug abuse sufficient to cause intermittent or temporary absences from full-time study or training; or
 - (l) is engaged in part-time work, education, training or a combination of these for not less than 20 hours per week; or
 - (m) is a refugee whose capacity to undertake full-time education is reduced because:
 - (i) the person has suffered torture, imprisonment or other traumatic circumstances; or
 - (ii) lacks sufficient English skills; or
 - (iii) is recently arrived and lacks stable accommodation; or
 - (n) is the subject of a community service or juvenile justice order which reduces the person's capacity to engage in full-time education; or
 - (o) will become 18 years old within three months; or
 - (p) is in case management approved by the Secretary or, where no case management place is available to the person, is suitable for and agrees to undertake case management; or
 - (q) is in other circumstances which, in the opinion of the Secretary, make it unreasonable for the person to be in full-time education or training.
- (2B) A person who is taken to have attained the minimum age for youth allowance on any of the grounds mentioned in subsection (2A) is eligible to receive youth allowance:
- (a) in respect of grounds mentioned in paragraphs (2A)(c) or (d)—for 6 weeks; or
 - (b) in respect of grounds mentioned in paragraphs (2A)(h) or (j)—for 2 weeks; or
 - (c) in respect of grounds mentioned in paragraph (2A)(l)—for as long as the work, education or training lasts; or
 - (d) in any other case, for up to 13 weeks or such longer period as the Secretary approves.

Independent persons

- (3) For the purposes of this section, the person cannot be taken to be independent unless the person:

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- (a) has reached the minimum school leaving age for the State or Territory in which the person is living; or
 - (b) is the subject of a formal exemption from attending school granted by the education authority of that State or Territory.

543B Maximum age for youth allowance

General

- (1) Subject to subsection (2), the person has attained the maximum age for youth allowance if:
 - (a) the person is not undertaking full-time study and is at least 21 years old; or
 - (b) the person:
 - (i) is undertaking full-time study in respect of a course of education that is to last for less than 12 months; and
 - (ii) was, immediately before starting the course of education, receiving newstart allowance; and
 - (iii) is at least 21 years old; or
 - (c) the person is undertaking full-time study and is at least 25 years old.

Continuance of full-time study after turning 25

- (2) If the person is at least 25 years old, the person is taken not to have attained the maximum age for youth allowance if the person:
 - (a) was receiving youth allowance immediately before turning 25; and
 - (b) is undertaking full-time study in respect of a course of education that the person had commenced before turning 25.

Subdivision E—Youth Allowance Activity Agreements

544 Requirements relating to Youth Allowance Activity Agreements

General

- (1) The requirements that apply to a person relating to Youth Allowance Activity Agreements in respect of a period are as follows:
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- (a) the person must enter into a Youth Allowance Activity Agreement in relation to the period when the person is required by the Secretary under section 544A to do so; and
 - (b) while the agreement is in force, the person must take reasonable steps, to the satisfaction of the Secretary, to comply with the terms of the agreement; and
- Note: See subsection (2) on taking reasonable steps.
- (c) at all times when the person is a party to the agreement, the person must be prepared to enter into another such agreement instead of the existing agreement if required to do so by the Secretary.

What are reasonable steps

- (2) For the purposes of paragraph (1)(b), a person is taking reasonable steps to comply with the terms of a Youth Allowance Activity Agreement unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

544A Youth Allowance Activity Agreements—requirement

Requirement to enter into agreement

- (1) Subject to this section, if a person is claiming or receiving a youth allowance, the Secretary may require the person to enter into a Youth Allowance Activity Agreement.

Persons who have temporary incapacity exemptions

- (2) A person who:
 - (a) has a temporary incapacity exemption under section 542A; or
 - (b) has a pre-natal exemption or a post-natal exemption under section 542D; or
 - (c) is qualified for a youth allowance under section 540A;is not to be required to enter into a Youth Allowance Activity Agreement.

Requirement to enter another agreement

- (3) The Secretary may require a person who has entered into a Youth Allowance Activity Agreement to enter into another such agreement instead of the existing one.

Notice of requirement

- (4) The Secretary is to give a person who is required to enter into a Youth Allowance Activity Agreement a notice in writing of:
- (a) the requirement; and
 - (b) the places and times, being places and times which are reasonable in all the circumstances, at which the agreement is to be negotiated; and
 - (c) the effect of failure by the person to comply with the requirement set out in the notice.

Form of agreement

- (5) A Youth Allowance Activity Agreement is a written agreement, in a form approved by the Secretary. The agreement is between the person and the Secretary.

544B Youth Allowance Activity Agreements—terms

Approved activities

- (1) A Youth Allowance Activity Agreement with a person is to require the person to undertake one or more of the following activities approved by the Secretary:
- (a) a job search;
 - (b) a vocational training course;
 - (c) training that would help in searching for work;
 - (d) paid work experience;
 - (e) measures designed to eliminate or reduce any disadvantage the person has in the labour market;
 - (f) subject to subsection (7)—an approved program of work for unemployment payment;
 - (g) subject to section 544D—development of self-employment;

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- (h) subject to section 544E—development of and/or participation in group enterprises or co-operative enterprises;
- (i) participation in a labour market program conducted by the Department;
- (j) participation in a rehabilitation program;
- (k) a course of education;
- (l) an activity proposed by the person (such as unpaid voluntary work proposed by the person).

Secretary's approval

- (2) The terms of an agreement (including the description of the activities that the person is to be required to undertake) are to be approved by the Secretary.

Secretary's considerations concerning approval of terms

- (3) In considering whether to approve the terms of an agreement with a person, the Secretary is to have regard to the person's capacity to comply with the proposed agreement and the person's needs.

Capacity to comply with agreement, and person's needs

- (4) In having regard to a person's capacity to comply with an agreement and the person's needs, the Secretary is to take into account:
 - (a) the person's education, experience, skills, age and physical condition; and
 - (b) the state of the labour market in the area where the person lives; and
 - (c) the training opportunities available to the person; and
 - (d) any matters that the Secretary considers relevant in the circumstances.

Variation, suspension, cancellation and review

- (5) An agreement with a person:
 - (a) may be varied or suspended by the Secretary; and
 - (b) if another Youth Allowance Activity Agreement is made with the person—may be cancelled by the Secretary; and
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- (c) may be reviewed from time to time by the Secretary at the request of either party to the agreement.

Circumstances preventing or affecting compliance

- (6) The party to an agreement other than the Secretary must tell the Secretary of any circumstances preventing or affecting the party's compliance with the agreement.

Situations in which participation in an approved program of work for unemployment payment cannot be required

- (7) A Youth Allowance Activity Agreement with a person must not require the person to participate in an approved program of work for unemployment payment if:
- (a) the person is under 18 years of age; or
 - (b) the person is undertaking full-time study; or
 - (c) because of the application of one or more Modules of the Youth Allowance Rate Calculator in section 1067G, the person would receive or is receiving a youth allowance at a rate that has been reduced; or
 - (d) in the Secretary's opinion:
 - (i) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
 - (ii) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety or would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
 - (e) the program of work requires the person to move from a home in one place to a home in another place.

Note: For *approved program of work for unemployment payment* see subsection 23(1).

Effect of participation in an approved program of work for unemployment payment

- (8) A person is not to be taken, merely by participating in an approved program of work for unemployment payment in accordance with
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the terms of a Youth Allowance Activity Agreement under this section, to be:

- (a) an employee within the meaning of section 9 of the *Occupational Health and Safety (Commonwealth Employees) Act 1991*; or
- (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
- (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
- (d) an employee for the purposes of the *Workplace Relations Act 1996*.

544C Youth Allowance Activity Agreements—failure to negotiate

Failure to enter agreement

(1) If:

- (a) a person has been given notice under subsection 544A(4) of a requirement to enter into a Youth Allowance Activity Agreement; and
- (b) the Secretary is satisfied, because of the person's failure to:
 - (i) attend the negotiation of the agreement; or
 - (ii) respond to correspondence about the agreement; or
 - (iii) agree to terms of the agreement proposed by the Secretary;or for any other reason, that the person is unreasonably delaying entering into the agreement:

then:

- (c) the Secretary may give the person notice that the person is taken to have failed to enter the agreement; and
- (d) if the notice is given—the person is taken to have so failed.

Note: Refusal to enter into an agreement is a failure to satisfy the requirements under section 544 relating to Youth Allowance Activity Agreements, which disqualifies a person from youth allowance (see section 540).

Form of notice

(2) A notice under paragraph (1)(c) must:

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- (a) be in writing; and
 - (b) set out the reasons for the decision to give the notice; and
 - (c) include a statement describing the rights of the person to apply for the review of the decision.

544D Youth Allowance Activity Agreements—self-employment

Person previously received allowance

- (1) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of self-employment unless:
 - (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
 - (b) the Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Time limitation

- (2) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of self-employment if:
 - (a) the person is to undertake the activity for more than 12 months; or
 - (b) subject to subsection (3), the person has previously been subject to a requirement under that or any other Youth Allowance Activity Agreement to undertake the same activity or a similar activity; or

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- (c) at any time during the 6 months immediately before the time at which the activity is to start, the person has been subject to a requirement under:
- (i) that or any other Youth Allowance Activity Agreement or a Youth Training Activity Agreement; or
 - (ii) a Newstart Activity Agreement;
- to undertake as an activity other development of self-employment.

Exception

- (3) Paragraph (2)(b) does not apply if the Secretary determines in writing that there are special circumstances that justify inclusion of the activity in the Youth Allowance Activity Agreement.

Certain activities excluded

- (4) This section does not apply to an activity to which a paragraph of subsection 544B(1) other than paragraph 544B(1)(g) or (h) applies.

544E Youth Allowance Activity Agreements—group enterprises and co-operative enterprises

Person previously received allowance, and activity will be commercially viable

- (1) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of a group enterprise or co-operative enterprise unless:
- (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
 - (b) the Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and

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- (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Person previously received allowance, and activity will provide work experience

- (2) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any participation in a group enterprise or co-operative enterprise unless:
 - (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
 - (b) the Secretary is satisfied that the activity is likely to provide the person with skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equal to the person's maximum basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Agreement not to require certain group activity

- (3) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of, or participation in, a group enterprise or co-operative enterprise if:
 - (a) the person is to undertake the activity for more than 12 months; or
 - (b) the person has previously been subject to a requirement under that or any other Youth Allowance Activity Agreement to undertake the same activity or a similar activity; or
 - (c) at any time during the 6 months immediately before the time at which the activity is to start, the person has been subject to a requirement under:
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- (i) that or any other Youth Allowance Activity Agreement or a Youth Training Activity Agreement; or
 - (ii) a Newstart Activity Agreement;
- to undertake as an activity other development of, or participation in, a group enterprise or co-operative enterprise.

Exception

- (4) This section does not apply to an activity to which a paragraph of subsection 544B(1), other than paragraph 544B(1)(g) or (h), applies.

Subdivision F—Residency

545 Requirements relating to residency

The requirements that apply to a person relating to residency in respect of a period are that, throughout the period, the person:

- (a) is an Australian resident; and
- (b) subject to this Subdivision, is in Australia.

545A Temporary absence overseas seeking medical treatment

For the purposes of paragraph 545(b), if:

- (a) a person has a temporary incapacity exemption under section 542A; and
- (b) the person is temporarily absent from Australia; and
- (c) the person is absent in order to seek medical treatment of a kind that is not available in Australia;

the person is taken to be in Australia during:

- (d) if the period is not more than 13 weeks—the whole of the period; or
- (e) if the period is more than 13 weeks—the first 13 weeks of the period.

545B Overseas training camps

Paragraph 545(b) does not apply to a person if the person is attending a training camp outside Australia as a member of:

- (a) the Australian Naval Reserve; or

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- (b) the Naval Emergency Reserve Forces; or
 - (c) the Australian Army Reserve; or
 - (d) the Australian Air Force Reserve; or
 - (e) the Air Force Emergency Force; or
 - (f) the Army Individual Emergency Reserve.

545C Absence overseas of persons undertaking full-time study

General

- (1) Paragraph 545(b) does not apply to a person if the person is undertaking full-time study and:
 - (a) is absent from Australia for the purpose of undertaking part of the studies for the course of education in respect of which the person is undertaking full-time study; or
 - (b) is absent from Australia, for any other purpose, for not more than 26 weeks.

Temporary return to Australia

- (2) If the person:
 - (a) returns to Australia after having been outside Australia (whether before or after the commencement of this section) for more than 13 weeks; and
 - (b) leaves Australia before the end of 13 weeks after he or she so returned to Australia;the person is taken, for the purposes of paragraph (1)(b), to have continued to be absent from Australia throughout the period from the time of the return to the time when the person so left Australia.

Subdivision G—Miscellaneous

546 Prospective determinations for some allowance recipients

Recipients may qualify in advance in some cases

- (1) A person is qualified for youth allowance for a period if:
 - (a) the person is receiving youth allowance; and
 - (b) the Secretary considers at the start of the period that:
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- (i) the person may reasonably be expected to satisfy the qualification requirements for youth allowance (see Subdivision A) during the period; and
- (ii) it is reasonable to expect that youth allowance will be payable to the person for the period; and
- (iii) the person will comply with this Act during the period; and
- (c) the person is not indebted at the start of the period to the Commonwealth under or as a result of:
 - (i) this Act; or
 - (ii) the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; and
- (d) one or more of subsections (3), (5), (6) and (7) apply to the person at the start of the period.

Guidelines for the purposes of paragraph (1)(b)

- (2) The Minister:
 - (a) must determine in writing guidelines for making decisions under paragraph (1)(b); and
 - (b) may revoke or vary the determination.

If the Minister revokes a determination, the Minister must determine guidelines that take effect immediately after the revocation. A determination is a disallowable instrument.

Recipients who have Case Management Activity Agreements

- (3) This subsection applies to a person who has a Case Management Activity Agreement with a case manager if the Secretary has decided (either on the recommendation of the case manager or on the Secretary's own initiative) not to give the person recipient statement notices under section 561C at intervals of a fortnight or less.

Definitions

- (4) In subsection (3), *Case Management Activity Agreement* and *case manager* have the meanings that they have in the *Employment Services Act 1994*.

Recipients satisfying the activity test

- (5) This subsection applies to a person who:
- (a) satisfies the activity test under paragraph 541(2)(c) (except by undertaking particular paid work as provided for in paragraph 541(2)(a)); or
 - (b) satisfies the activity test under subsection 601(4) by taking reasonable steps to comply with a Newstart Activity Agreement that requires the person to undertake full-time unpaid voluntary work proposed by the person and approved by the Secretary.

Recipients not required to satisfy the activity test

- (6) This subsection applies to a person who:
- (a) has a temporary incapacity exemption under section 542A; or
 - (b) has a pre-natal exemption or a post-natal exemption under section 542D; or
 - (c) has an unpaid voluntary work exemption under section 542F.

Recipients the Secretary considers should be qualified

- (7) This subsection applies to a person if the Secretary considers that the person should be qualified for youth allowance for the period because of one or more of the following:
- (a) the place where the person lives;
 - (b) the person's recent employment history;
 - (c) the state of the labour market;
 - (d) any other reason that the Secretary considers relevant.

Division 2—Situations in which youth allowance is not payable

Subdivision A—The basic rules

547 Situations in which youth allowance is not payable

A youth allowance is not payable to a person who is qualified for youth allowance:

- (a) before the person's provisional commencement day (see Subdivision B); or
- (b) while the person is subject to a waiting period (see Subdivision C); or
- (c) while an activity test non-payment period applies to the person (see Subdivision D); or
- (d) while the person is subject to an administrative exclusion (see Subdivision E); or
- (e) while the person is subject to an alternative support exclusion (see Subdivision F); or
- (f) while the person is subject to an employment-related exclusion (see Subdivision G); or
- (g) while the person's youth allowance rate would be nil.

Note 1: A youth allowance is not payable if the person is in gaol or is undergoing psychiatric confinement because the person has been charged with committing an offence (see Division 2 of Part 3.13).

Note 2: A youth allowance is not payable to a person if the person is subject to a compensation preclusion period (see Part 3.14).

Subdivision B—Provisional commencement day

548 Provisional commencement day—basic rule

Subject to this Subdivision, a person's provisional commencement day is the day on which the person claims a youth allowance.

548A Provisional commencement day—person who has a temporary incapacity exemption

General

- (1) Subject to this Subdivision (other than section 548), the provisional commencement day of a person who has a temporary incapacity exemption under section 542A is the day on which the person became incapacitated.

Claim more than 5 weeks after incapacity—incapacity not reason for delayed claim

- (2) If:

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- (a) the person claims youth allowance more than 5 weeks after the day on which the person becomes incapacitated; and
 - (b) the Secretary is not satisfied that the incapacity is the sole or dominant cause of the failure to claim the allowance within 5 weeks after that day;

the person's provisional commencement day is the day on which the claim is lodged.

Claim more than 5 weeks after incapacity—incapacity reason for delayed claim

(3) If:

- (a) the person claims youth allowance more than 5 weeks after the day on which the person becomes incapacitated; and
- (b) the Secretary is satisfied that the incapacity is the sole or dominant cause for the failure to claim the allowance within 5 weeks after that day;

the person's provisional commencement day is the day determined by the Secretary.

Day determined for purposes of subsection (3)

(4) The day determined under subsection (3):

- (a) must not be more than 4 weeks before the day on which the person lodges the claim for the allowance; and
- (b) if the person is subject to a waiting period—must not be earlier than the first day after the end of the waiting period.

548B Provisional commencement day—claimant for disability support pension

- (1) Subject to subsection (2), the provisional commencement day of a person who is qualified for youth allowance under section 540A is the day on which the person made the claim for disability support pension mentioned in paragraph 540A(1)(c).
- (2) If the person's claim for disability support pension is rejected, the person's provisional commencement day is to be worked out in accordance with the other provisions of this Subdivision.

548C Provisional commencement day—initial incorrect or inappropriate claim followed by claim for youth allowance

- (1) Subject to section 548D, if:
- (a) a person makes a claim (*initial claim*) for:
 - (i) a social security pension, a social security benefit (other than a youth allowance) or a service pension; or
 - (ii) a pension, allowance, benefit or other payment that is similar in character to a youth allowance under an Act other than this Act or under a program administered by the Commonwealth; and
 - (b) on the day on which the person makes the initial claim, the person is qualified for youth allowance; and
 - (c) the person afterwards makes a claim for youth allowance; and
 - (d) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;
- the person's provisional commencement day is the day on which the person made the initial claim.
- (2) Subject to section 548D, if:
- (a) a claim is made for family payment in respect of a person (*initial claim*); and
 - (b) on the day on which the initial claim is made, the person is qualified for youth allowance; and
 - (c) the person afterwards makes a claim for youth allowance; and
 - (d) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;
- the person's provisional commencement day is the day on which the initial claim is made.

548D Provisional commencement day—transferee to youth allowance

Basic rule

- (1) Subject to subsection (2), if a person:
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- (a) is a transferee to a youth allowance; and
 - (b) claims the youth allowance within 14 days after the transfer day;
- the person's provisional commencement day is the person's transfer day.

Temporary incapacity exemption

- (2) If a person:
- (a) is a transferee to youth allowance; and
 - (b) has a temporary incapacity exemption under section 542A; and
 - (c) claims the youth allowance within 4 weeks after the person's transfer day;
- the person's provisional commencement day is the person's transfer day.

Note: For *transferee to a youth allowance* and *transfer day* see subsections 23(6) and (7).

548E Provisional commencement day—application of section 551C or reduction of rate to nil

If:

- (a) a person receives a youth allowance; and
 - (b) either:
 - (i) the person is subject to an administrative exclusion because of the application of section 551C; or
 - (ii) an administrative breach rate reduction period under Subdivision C of Division 5 applies to the person and the person's administrative breach reduced rate is a nil rate;
 - (c) payment of the allowance is cancelled or automatically terminated; and
 - (d) the person lodges a claim for a youth allowance within 14 days after the date of effect of the cancellation or automatic termination referred to in paragraph (c);
- the person's provisional commencement day is the day after the date of effect of the cancellation or automatic termination.

548F Provisional commencement day—claim resulting from a major disaster

If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims youth allowance within 14 days after the day on which the person claimed the disaster relief payment;

the person's provisional commencement day is the day on which he or she was affected by the disaster.

Subdivision C—Waiting periods

549 Waiting periods

For the purposes of this Part, a person may be subject to the following waiting periods:

- (a) a liquid assets test waiting period (see sections 549A, 549B and 549C);
- (b) a newly arrived resident's waiting period (see sections 549D and 549E).

549A Liquid assets test waiting period

When person subject to liquid assets test waiting period—general

- (1) Subject to this section, if:
 - (a) the value of a person's liquid assets is more than the person's maximum reserve on:
 - (i) the day on which the person becomes qualified for youth allowance; or
 - (ii) the day on which the person claims a youth allowance; and
 - (b) the person is not a transferee to a youth allowance;the person is subject to a liquid assets test waiting period.

Note 1: For *liquid assets* and *maximum reserve* see section 14A.

Note 2: For *transferee to a youth allowance* see subsections 23(6) and (7).

Exception—person already subject to liquid assets test waiting period in previous 12 months

- (2) Subsection (1) does not apply to a person if, at any time during the 12 months before:
- (a) the day on which the person becomes qualified for youth allowance; or
 - (b) the day on which the person claims youth allowance;
- the person:
- (c) was subject to a liquid assets test waiting period under this Part and that period has ended; or
 - (d) has served a liquid assets test waiting period under another Part of this Act; or
 - (e) has served a liquid assets test waiting period under the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; that started during that 12 months.

Exception—waiver for disadvantage or hardship

- (3) If the Secretary is satisfied that the application of subsection (1) to a person will cause undue long term disadvantage or significant hardship to the person, the Secretary may:
- (a) waive the application of that subsection to the person; and
 - (b) authorise the payment of a youth allowance to the person.

Exception—certain transferees to youth allowance

- (4) Subsection (1) does not apply to a person if:
- (a) the person is a transferee to a youth allowance; and
 - (b) the person claims the youth allowance within 14 days of the transfer day.

Exception—person in formal vocational training in a labour market program etc.

- (5) Subsection (1) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or

-
- (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

549B Start of liquid assets test waiting period

General

- (1) The liquid assets test waiting period of a person who does not have a temporary incapacity exemption starts on the day on which the person became qualified for youth allowance.

Person has temporary incapacity exemption

- (2) If a person has a temporary incapacity exemption, the person's liquid assets test waiting period starts on the day on which the person became incapacitated.

549C Length of liquid assets test waiting period

Number of weeks

- (1) A person's liquid assets test waiting period is:
 - (a) if the result obtained under subsection (2) is 13 or more whole weeks—13 weeks; or
 - (b) if the result obtained under subsection (2) is fewer than 13 whole weeks—the number of whole weeks obtained under that subsection.

Working out number of weeks

- (2) Subject to subsection (3), the number of weeks is worked out by using the following formula:

$$\frac{\text{Liquid assets} - \text{Maximum reserve amount}}{\text{Divisor}}$$

where:

divisor, in relation to the person, means:

- (a) if the person is not a member of a couple and does not have a dependent child—\$500; or

(b) otherwise—\$1,000.

liquid assets means the person's liquid assets on the day referred to in subparagraph 549A(4)(a)(i) or (ii) (as the case requires).

maximum reserve amount means the maximum reserve in relation to the person under subsection 14A(1).

Weeks etc. to be disregarded

- (3) For the purposes of subsection (2), disregard:
- (a) any weeks after the person claimed youth allowance during which the person was not qualified for youth allowance; and
 - (b) any fractions of a week.

549D Newly arrived resident's waiting period

Basic rule

- (1) Subject to this section, a person is subject to a newly arrived resident's waiting period if the person:
- (a) has entered Australia on or after 4 March 1997; and
 - (b) has not been an Australian resident in Australia for a period of, or periods totalling, 104 weeks.

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

Exception—qualifying residence exemption

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

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

Exception—person already subject to waiting period etc.

- (3) Subsection (1) does not apply to a person if:
- (a) the person has been subject to:
 - (i) a newly arrived resident's waiting period under this Act; or
 - (ii) a waiting period under Part 2 of the *Student and Youth Assistance Act 1973*; or

- (iii) a newly arrived resident's waiting period under Part 8 of the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; and
- (b) that period has ended.

549E Length 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 4 March 1997; and
- (b) ends when the person has been an Australian resident in Australia for a period of, or periods totalling, 104 weeks after that day.

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

549F Effect of being subject to 2 waiting periods

For the avoidance of doubt, if a person is subject to 2 waiting periods under this Subdivision, a youth allowance is not payable to the person until both of those waiting periods have ended.

Subdivision D—Activity test non-payment periods

550 Third and subsequent activity test breaches lead to activity test non-payment period

An activity test non-payment period applies to a person if:

- (a) the person commits an activity test breach (*latest breach*); and
- (b) the latest breach is the third or subsequent activity test breach in the 2 years immediately before the day after the latest breach.

Note: If the latest breach is the first or second activity test breach in the 2 years before the latest breach, an activity test rate reduction period applies to the person (see Subdivision B of Division 5).

550A Activity test breaches

A person has committed an activity test breach if:

- (a) the person is required to satisfy the activity test and fails to do so (see Subdivision B of Division 1); or
- (b) the person fails to satisfy any requirements relating to Youth Allowance Activity Agreements that apply to the person under Subdivision E of Division 1; or
- (c) the person has refused or failed, without reasonable excuse, to accept a suitable offer of employment; or
- (d) the person refuses or fails, without reasonable excuse, to provide information in relation to the person's income from remunerative work when required to do so under this Act; or
- (e) the person knowingly or recklessly provides false or misleading information in relation to the person's income from remunerative work when required to do so under this Act; or
- (f) immediately before becoming qualified for youth allowance:
 - (i) the person was unemployed; and
 - (ii) the person's unemployment was due, directly or indirectly, to a voluntary act of the person; and
 - (iii) the Secretary is not satisfied that the person's voluntary act was reasonable; or
- (g) immediately before becoming qualified for youth allowance:
 - (i) the person was unemployed; and
 - (ii) the person's unemployment was due to the person's misconduct as a worker.

Note: An activity test breach may also arise under other sections of this Act and the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section (see subsection 23(1)).

550B Length of activity test non-payment period

Basic rule

- (1) Subject to subsections (2) and (3), the length of an activity test non-payment period is 8 weeks.

Pre-existing non-payment period

- (2) If, at the time of the commencement of an activity test non-payment period under this Part, the person is already subject to an activity test non-payment period (*pre-existing non-payment period*), the pre-existing non-payment period is taken to end immediately before the commencement of the activity test non-payment period under this Part.

Approved program of work for unemployment payment

- (3) If:
- (a) an activity test non-payment period under this Part applies to (or would, apart from this subsection, apply to), a person; and
 - (b) the person starts to participate in an approved program of work for unemployment payment;
- the period ceases to apply to the person from and including the day on which the person starts to participate in the program (whether or not the person completes the participation in the program).

Note: For *approved program of work for unemployment payment* see subsection 23(1).

550C Start of activity test non-payment period

Notice of start of period

- (1) Subject to paragraph 550D(2)(d), if an activity test non-payment period applies to a person under this Part, the Secretary must give the person a written notice telling the person of the start of the period.
- (1A) A notice under subsection (1) must contain reasons why the activity test non-payment period applies to the person.

General rule

- (2) Subject to subsection (3) of this section and sections 550D and 550F, the activity test non-payment period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

- (3) Subject to sections 550D and 550F, if:
- (a) on or before the day on which a person's activity test non-payment period would (apart from this subsection) have started, youth allowance ceases to be payable to the person; and
 - (b) it has not ceased to be payable because of the application of an activity test non-payment period;
- the activity test non-payment period starts on the day on which the youth allowance ceases to be payable to the person.

550D Application of activity test non-payment period before claims for youth allowance

Claim for youth allowance before end of notional activity test non-payment period

- (1) Subject to section 550F, if:
- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test non-payment period applying to the person under:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);
 - had the person made a claim for a youth allowance; and
 - (b) the person made a claim for a youth allowance before the end of that period (assuming that the period had started on the day on which the event occurred);
- the activity test non-payment period is taken to have started on the day after the day on which the event occurred.

Claim for youth allowance after end of notional activity test non-payment period

- (2) Subject to section 550F, if:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test non-payment period applying to the person under:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);had the person made a claim for a youth allowance; and
 - (b) the person made a claim for a youth allowance after the end of that period (assuming that the period had started on the day on which the event occurred);
- then:
- (c) the activity test non-payment period is taken to have started and to have ended before the claim was made; and
 - (d) the Secretary is not obliged to give the person a written notice under subsection 550C(1) in respect of the activity test non-payment period.

550E Interaction with activity test breach rate reduction periods

Application of section

- (1) This section applies if, under this Part:
 - (a) an activity test non-payment period applies to a person; and
 - (b) during the whole or a part of that period, the whole or a part of an activity test breach rate reduction period (*overlap period*) applies to the person.

Note: An administrative breach rate reduction period may also apply to the person (see section 558C).

Overlap period

- (2) Subject to subsection (4), the activity test non-payment period and the activity test breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Subject to section 550F, only the non-payment restriction relating to the activity test non-payment period is to apply to the person during the overlap period.

Pre-existing activity test breach rate reduction period

- (4) If, at the time of the commencement of an activity test non-payment period under this Part, the person is already subject to an activity test breach rate reduction period (***pre-existing reduction period***), the pre-existing reduction period is taken to end immediately before the commencement of the activity test non-payment period under this Part.

550F Interaction with waiting periods

Application of section

- (1) This section applies if, under this Part:
- (a) an activity test non-payment period applies to a person; and
 - (b) during the whole or a part of that period, the whole or a part of a waiting period (***overlap period***) applies to the person.

Note: An administrative breach rate reduction period may also apply to the person (see section 558C).

Overlap period

- (2) The non-payment period and the waiting period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

550G Effect of sections 550C, 550D, 550E and 550F

For the avoidance of doubt, sections 550C, 550D, 550E and 550F do not prevent a youth allowance ceasing to be payable in

circumstances that do not involve the application of an activity test non-payment period under this Part.

550H Where one event may give rise to both an activity test penalty and an administrative breach rate reduction period

If, but for this section, an event would result in both an activity test penalty period and an administrative breach rate reduction period applying to a person under the provisions of this Act, only the provision imposing the activity test penalty period is to apply to the person.

Subdivision E—Administrative exclusions

551 Administrative exclusions

For the purposes of this Division, a person is subject to an administrative exclusion while one or more of sections 551A to 551F apply to the person.

Note: These sections apply because the person fails to do certain things. It is open to the person to end the administrative exclusion by doing those things.

551A Failure to comply with request to provide person's tax file number

Person must provide tax file number or employment declaration

- (1) A person is subject to an administrative exclusion if:
- (a) the Secretary has requested the person under section 554F or 561 to:
 - (i) give the Secretary a written statement of the person's tax file number; or
 - (ii) apply for a tax file number and give the Secretary a written statement of the person's tax file number once it has been issued; and
 - (b) at the end of 28 days after the request is made, the person has neither:
 - (i) given the Secretary a written statement of the person's tax file number; nor

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- (ii) given the Secretary an employment declaration and satisfied either subsection (2) or (3).

Person does not know tax file number

- (2) A person satisfies this subsection if:
- (a) the employment declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform him or her of the number; and
 - (b) the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

Application for tax file number pending

- (3) A person satisfies this subsection if:
- (a) the person's declaration states that the person has applied for a tax file number; and
 - (b) the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has not applied for a tax file number; and
 - (d) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
 - (e) the application for a tax file number has not been withdrawn.

551B Failure to comply with request to provide another person's tax file number

Person must provide tax file number of another person

- (1) Subject to subsection (4), a person is subject to an administrative exclusion if:
- (a) the person is requested under section 554G or 561A to give the Secretary a written statement of the tax file number of another person; and
 - (b) at the end of 28 days after the request is made the person has neither:
 - (i) given the Secretary a written statement of the other person's tax file number; nor
 - (ii) given the Secretary a declaration by the other person in a form approved by the Secretary and satisfied either subsection (2) or (3).

Other person does not know tax file number

- (2) The person satisfies this subsection if:
- (a) the other person's declaration states that the other person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform him or her of his or her tax file number; and
 - (b) the person has given the Secretary a document signed by the other person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the other person has a tax file number; and
 - (ii) if the other person has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the other person has no tax file number.

Application for other person's tax file number pending

- (3) The person satisfies this subsection if:
- (a) the other person's declaration states that he or she has applied for a tax file number; and

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- (b) the person has given the Secretary a document signed by the other person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the other person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the other person for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.

Secretary may waive requirement

- (4) The Secretary may waive the request for a statement of the other person's tax file number if the Secretary is satisfied that:
 - (a) the person does not know the other person's tax file number; and
 - (b) the person can obtain none of the following from the other person:
 - (i) the other person's tax file number;
 - (ii) a statement of the other person's tax file number;
 - (iii) a declaration by the other person under subparagraph (1)(b)(ii).

551C Failure to attend the Department etc.—person required to satisfy activity test etc.

Requirement to attend the Department etc.

- (1) Subject to subsection (2), a person is subject to an administrative exclusion if:
 - (a) a person is receiving, or has lodged a claim for, a youth allowance; and
 - (b) the person:
 - (i) is required to satisfy the activity test in order to be qualified for youth allowance (see section 540); or
-

- (ii) has a remote area exemption under section 542E; or
- (iii) has an unpaid voluntary work exemption under section 542F; or
- (iv) has a training camp exemption under section 542G; and
- (c) the Secretary is of the opinion that the person should:
 - (i) attend an office of the Department; or
 - (ii) contact the Department; or
 - (iii) give information to the Secretary; and
- (d) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, being a period of not less than 14 days, to:
 - (i) attend that office; or
 - (ii) contact that Department; or
 - (iii) give that information; and
- (e) the requirement is reasonable; and
- (f) the person does not comply with the requirement.

Reasonable excuse for non-compliance

- (2) The Secretary may determine that a person is not subject to an administrative exclusion under this section if the Secretary is satisfied that the person had a reasonable excuse for not complying with the requirement.

551D Failure to attend interview etc.—person who has temporary incapacity exemption etc.

Requirement to attend interview etc.

- (1) A person is subject to an administrative exclusion if:
 - (a) the person is receiving a youth allowance; and
 - (b) the person has:
 - (i) a temporary incapacity exemption under section 542A; or
 - (ii) a pre-natal exemption or a post-natal exemption under section 542D; or
 - (iii) a special circumstances exemption under section 542H; and

-
- (c) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and
 - (d) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, being a period of not less than 14 days, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (e) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (f) the person does not take reasonable steps to comply with the requirement.

Content of notice

- (2) A notice under paragraph (1)(c) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

What are reasonable steps

- (3) For the purposes of paragraph (1)(f), a person takes reasonable steps to comply with a requirement under subsection (1) unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

551E Failure to nominate account etc.

Period within which account is to be nominated

- (1) A person is subject to an administrative exclusion if, at the end of the period (*preliminary period*) of 28 days starting on the day on which youth allowance became payable to the person:
- (a) no account has been nominated for the purposes of subsection 559F(2); and
 - (b) the Secretary has not given a direction under subsection 559F(4) in relation to payments of the allowance to the person.

Cessation of administrative exclusion

- (2) If an account is nominated for the purposes of subsection 559F(2) after the end of the preliminary period, then, subject to this Part, the person ceases to be subject to the administrative exclusion and the allowance is payable to the person:
- (a) if the nomination was made within 3 months after the end of the preliminary period—on and from the first day after the end of that period; or
 - (b) otherwise—on and from the day on which the nomination was made.

551F Failure to nominate parent

Period within which parent is to be nominated

- (1) A person is subject to an administrative exclusion if, at the end of the period (*preliminary period*) of 28 days starting on the day on which youth allowance became payable to the person:
- (a) the person has not nominated, in a case to which paragraph 559E(1)(b) applies, a parent for the purposes of subsection 559E(1); and
 - (b) the Secretary has not given a direction under subsection 559E(2) in relation to payments of the person's allowance.

Note: For *parent* see subsection 5(1) (paragraph (b) of that definition).

Cessation of administrative exclusion

- (2) If the person nominates a parent for the purposes of subsection 559E(1) after the end of the preliminary period, then, subject to this Part, the person ceases to be subject to the administrative exclusion and the allowance is payable to the person:
- (a) if the nomination was made within 3 months after the end of the preliminary period—on and from the first day after the end of that period; or
 - (b) otherwise—on and from the day on which the nomination was made.

Subdivision F—Alternative support exclusions

552 Alternative support exclusions

For the purposes of this Division, a person is subject to an alternative support exclusion if:

- (a) the person is receiving a youth allowance and another social security benefit, a social security pension or a service pension becomes payable to the person; or
- (b) a payment under a scheme referred to in section 552A has been or may be made to the person; or
- (c) an assurance of support applies to the person (see section 552B); or
- (d) the person has received, or may receive, income that is paid by a community or group from funds provided under a Commonwealth funded employment program.

Note: For *Commonwealth funded employment program* see subsection 23(1).

552A Person receiving payment under certain schemes

General

- (1) Subject to subsection (2), the schemes for the purposes of paragraph 552(b) are:
- (a) a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; and

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- (b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; and
- (c) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; and
- (d) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students; and
- (e) a LEAP program.

Note 1: For *prescribed educational scheme* see section 5.

Note 2: For *LEAP program* see subsection 23(1).

Application made under ABSTUDY Scheme

(2) If:

- (a) a person is undertaking full-time study in respect of a course of education that is to last for 6 months or more; and
- (b) an application is made for a payment in respect of the person under:
 - (i) the ABSTUDY Schooling Scheme; or
 - (ii) the ABSTUDY Tertiary Scheme; and
- (c) the person was receiving youth allowance immediately before the start of the course;

the Secretary may decide that the person is not subject to an alternative support exclusion, because of subsection (1), before:

- (d) the application is determined; or
- (e) the end of the period of 3 weeks beginning on the day on which the course starts;

whichever happens first.

552B Assurance of support

An assurance of support applies to a person if:

- (a) an assurance of support is in force in respect of the person (*assuree*); and
- (b) the person who gave the assurance was willing and able to provide an adequate level of support to the assuree; and
- (c) it was reasonable for the assuree to accept that support.

Note: For *assurance of support* see subsection 23(1).

Subdivision G—Employment-related exclusions

553 Employment-related exclusions

For the purposes of this Division, a person (other than a person who is undertaking full-time study) is subject to an employment-related exclusion while one or more of sections 553A to 553C apply to the person.

553A Unemployment due to industrial action

Engaged in industrial action

- (1) Subject to subsection (2), a person who is unemployed is subject to an employment-related exclusion unless the person satisfies the Secretary that the person's unemployment was not due to the person being, or having been, engaged in industrial action or in a series of industrial actions.

Other people engaged in industrial action

- (2) If:
- (a) a person's unemployment was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and
 - (b) the people, or some of the people, were members of a trade union that was involved in the industrial action;
- the person is subject to an employment-related exclusion unless the person satisfies the Secretary that the person was not a member of the trade union during the person's period of unemployment.

Length of employment-related exclusion

- (3) Subject to subsection (4), the employment-related exclusion to which a person is subject under subsection (1) or (2) ends when the industrial action or series of industrial actions stop.

Industrial action etc. in breach of order, direction or injunction

- (4) Where the industrial action or series of industrial actions concerned is in breach of an order, direction or injunction issued by:
- (a) a State industrial authority within the meaning of section 4 of the *Workplace Relations Act 1996*; or
 - (b) the Australian Industrial Relations Commission; or
 - (c) the Federal Court of Australia;
- the person's employment-related exclusion under subsection (1) or (2) of this section ends 6 weeks after the day on which the industrial action or series of industrial actions stop.

Note: For *industrial action*, *trade union* and *unemployment* see section 16.

553B Move to area of lower employment prospects

26 week exclusion period

- (1) A person is subject to an employment-related exclusion for a period of 26 weeks if the Secretary considers that the person has reduced his or her employment prospects by moving to a new place of residence without sufficient reason.

Exemption for person in labour market or rehabilitation program

- (2) Subsection (1) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

Sufficient reason for moving

- (3) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if, and only if, the person:
- (a) moves to live with a family member who has already established his or her residence in that place of residence; or

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- (b) moves to live near a family member who has already established residence in the same area; or
 - (c) is receiving youth allowance at the rate that applies to a person who:
 - (i) is not independent; and
 - (ii) lives at home;and moves to accompany his or her parents who wish to establish, or have established, a place of residence; or
 - (d) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a disease or illness suffered by the person or by a family member.

Note 1: For *independent* see section 1067A.

Note 2: For *parent* see subsection 5(1) (paragraph (a) of that definition).

Note 3: For *family member* see subsection 23(1).

Secretary may determine when period begins

- (4) The Secretary may determine in writing the day on which the period referred to in subsection (1) begins. The day may be before the day of the determination.

Living away from home

- (5) A person lives away from home for the purposes of this section if he or she lives away from home for the purposes of Part 3.5.

553C Seasonal workers

Exclusion for period determined by Secretary

- (1) A person is subject to an employment-related exclusion for a period determined in writing by the Secretary if:
 - (a) the person is a seasonal or intermittent worker; and
 - (b) the person's income is enough to maintain:
 - (i) the person; and
 - (ii) any other people who are ordinarily maintained by the person;even though the person is temporarily unemployed.

Exemption for person in labour market or rehabilitation program

- (2) Subsection (1) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

Secretary may determine when period begins

- (3) The Secretary may determine in writing the day on which the period referred to in subsection (1) begins. The day may be before the day of the determination.

Division 3—Claim for youth allowance

554 Need for a claim

Proper claim

- (1) A person who wants to be granted a youth allowance must make a proper claim for that allowance.

Note 1: For *proper claim* see section 554A (form), sections 554B and 554C (manner of lodgment) and section 554D (residence/presence in Australia).

Note 2: Because the payability of youth allowance may be affected by, for example, the provisions dealing with the circumstances in which a person's former employment ended (see paragraphs 550A(f) and (g), the person may be asked to support his or her claim for youth allowance with an end of employment statement by the former employer (see section 1311).

Claim taken not to be made

- (2) For the purposes of subsection (1), if:
- (a) a claim for youth allowance is made by or on behalf of a person; and
 - (b) at the time the claim is made, the claim cannot be granted because the person is not qualified for youth allowance;
- the claim is taken not to have been made.

554A Form of claim

To be a proper claim, a claim must be made in writing and must be in accordance with a form approved by the Secretary.

554B Lodgment of claim

To be a proper claim, a claim must be lodged:

- (a) at an office of the Department; or
- (b) at a place in Australia approved for the purpose by the Secretary; or
- (c) with a person in Australia approved for the purpose by the Secretary.

554C Claims by telephone, facsimile or computer

Contacting Department prior to lodging claim

- (1) A person is taken to have lodged a claim in accordance with section 554B on the day on which the Department is contacted under paragraph (a) of this section if:
 - (a) the Department is contacted by or on behalf of the person by telephone, or by the transmission of a message by use of facsimile or computer equipment, in relation to making a claim for:
 - (i) a youth allowance; or
 - (ii) a disability support pension; or
 - (iii) a sickness allowance; or
 - (iv) a newstart allowance; and
 - (b) on that day, the person was qualified for a youth allowance; and
 - (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to making the claim; and
 - (d) the person lodges a claim for a pension or allowance referred to in paragraph (a) within the period allowed under this section; and

- (e) if the claim referred to in paragraph (d) is not a claim for a youth allowance—the person subsequently lodges a claim for a youth allowance; and
- (f) either:
 - (i) the person gives the Secretary the notice referred to in paragraph (c) when lodging the claim referred to in paragraph (d); or
 - (ii) the Department has a written record that the notice referred to in paragraph (c) has been sent to the person.

Period for lodging claim

- (2) Subject to subsection (3), for the purposes of paragraph (1)(d), the period is 14 days after the day on which the Department is contacted.

Extensions of period

- (3) The Secretary may determine by written notice given to the person:
 - (a) within the 14 day period referred to in subsection (2); or
 - (b) within the period of any extension under this subsection;that the period for the purposes of paragraph (1)(d) is extended for such further period as the Secretary considers reasonable.

Time Department taken to have been contacted

- (4) For the purposes of this section, a person who contacts the Department by transmitting a message by use of facsimile or computer equipment is taken to have done so when the message is received in the Department.

554D Claimant must be Australian resident and in Australia

A claim by a person is not a proper claim unless the person is:

- (a) an Australian resident; and
 - (b) in Australia;
- on the day on which the claim is lodged.

Note: For *Australian resident* see subsections 7(2) and (3).

554E Claim may be withdrawn

Withdrawal of claim

- (1) A claimant for a youth allowance or a person on behalf of a claimant may withdraw a claim that has not been determined.

Effect of withdrawal

- (2) A claim that is withdrawn is taken not to have been made.

Manner of withdrawal

- (3) A withdrawal may be made orally or in writing.

554F Secretary may request claimant to give statement of claimant's tax file number

Request for claimant's tax file number etc.

- (1) The Secretary may request but not compel a claimant for youth allowance:
- (a) if the claimant has a tax file number—to give the Secretary a written statement of the claimant's tax file number; or
 - (b) if the claimant does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Secretary a written statement of the claimant's tax file number after the Commissioner of Taxation has issued it.

Failure to satisfy request

- (2) A youth allowance is not payable to a claimant if, at the end of 28 days after a request is made:
- (a) the claimant has failed to satisfy the request; and
 - (b) the Secretary has not exempted the claimant from having to satisfy the request.

554G Secretary may request claimant to give statement of tax file numbers of other persons

Request for other person's tax file number

(1) If:

- (a) the income of a person (other than the claimant) is required to be taken into account for the purpose of determining a claim for youth allowance; and
- (b) the person is in Australia;

the Secretary may request but not compel the claimant to give the Secretary a written statement of the tax file number of each of those persons.

Failure to satisfy request

(2) A youth allowance is not payable to a claimant if, at the end of 28 days after a request is made:

- (a) the claimant has failed to satisfy the request; and
- (b) the Secretary has not exempted the claimant from having to satisfy the request.

Note 1: In some cases the request can be satisfied in relation to a person by giving the Secretary a declaration by the person about the person's tax file number and an authority by the person to the Commissioner of Taxation to give the Secretary certain information relevant to the person's tax file number (see subsections 551B(2) and (3)).

Note 2: The Secretary may waive the requirement in some cases (see subsection 551B(4)).

Division 4—Determination of claim

555 Secretary to determine claim

The Secretary must, in accordance with this Part, determine a claim for youth allowance.

555A Grant of claim

General rule

- (1) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
- (a) the person is qualified for a youth allowance; and
 - (b) the allowance is payable.

Person subject to waiting period etc.

- (2) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
- (a) the person is qualified, or is expected to be qualified, for a youth allowance; and
 - (b) the allowance would be payable, apart from the application of:
 - (i) a waiting period; or
 - (ii) an activity test non-payment period; or
 - (iii) an activity test breach rate reduction period where the person's activity test breach reduced rate is a nil rate; or
 - (iv) an administrative breach rate reduction period where the person's administrative breach reduced rate is a nil rate; or
 - (v) an income maintenance period within the meaning of point 1067G-H11.

Claimant for disability support pension

- (3) If:
- (a) a determination has been made under subsection (1) granting a claim for a youth allowance to a person who was qualified for the allowance under section 540A; and
 - (b) the person ceases to be qualified for the allowance under section 540A but becomes qualified for the allowance under section 540 within 14 days after the person ceased to be qualified under section 540A;
- the Secretary may make a determination varying the first-mentioned determination to give effect to any change in the person's provisional commencement day.

555B Date of effect of determination

Date of effect

- (1) Subject to this section, a determination under section 555A takes effect on the day on which the determination is made or on any later day or earlier day that is stated in the determination.

Notified decision—review sought within 3 months

- (2) If:
- (a) a decision (*previous decision*) is made rejecting a person's claim for youth allowance; and
 - (b) a notice is given to the person telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Notified decision—review sought after 3 months

- (3) If:
- (a) a decision (*previous decision*) is made rejecting a person's claim for youth allowance; and
 - (b) a notice is given to the person telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the person sought the review.

Decision not notified

- (4) If:
- (a) a decision (*previous decision*) is made rejecting a person's claim for youth allowance; and
 - (b) no notice is given to the person telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240 for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Division 5—Rate of youth allowance

Subdivision A—Rate of youth allowance

556 How to work out a person's youth allowance rate

Youth Allowance Rate Calculator in section 1067G

- (1) Subject to this section, the rate of a person's youth allowance is to be worked out in accordance with the Youth Allowance Rate Calculator in section 1067G.

Activity test breach rate reduction period only

- (2) Subject to subsection (4), if an activity test breach rate reduction period applies to the person, the person's rate of youth allowance for that period is to be worked out in accordance with Subdivision B.

Administrative breach rate reduction period only

- (3) Subject to subsection (4), if an administrative breach rate reduction period applies to the person, the person's rate of youth allowance for that period is to be worked out in accordance with Subdivision C.

Activity test breach rate reduction period and administrative breach rate reduction period

- (4) If both an activity test breach rate reduction period and an administrative breach rate reduction period apply to the person, the person's rate of youth allowance is to be worked out in accordance with Subdivisions B and C.

556A Approved program of work supplement

If a person:

- (a) is receiving youth allowance; and
- (b) is participating in an approved program of work for unemployment payment;

the rate of the person's youth allowance is increased by an amount of \$20.00, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program unless, during that fortnight, the person ceases to participate in the program in circumstances that constitute:

- (c) a failure of the activity test to which the person is subject; or
- (d) a failure to comply with the terms of a Youth Allowance Activity Agreement to which the person is subject.

Note: For *approved program of work for unemployment payment* see subsection 23(1).

Subdivision B—Activity test breach reductions in the rate of youth allowance

557 Activity test breach rate reduction period

An activity test breach rate reduction period applies to a person if:

- (a) a person commits an activity test breach referred to in section 550A (*latest breach*); and
- (b) the latest breach is the first or second activity test breach in the 2 years immediately before the day after the latest breach.

Note: If the latest breach is the third or subsequent activity test breach in the 2 years before the latest breach, an activity test non-payment period applies to the person (see Subdivision D of Division 2).

557A Length of activity test breach rate reduction period

Basic rule

- (1) Subject to subsections (2) and (3), the length of an activity test breach rate reduction period is 26 weeks.

Pre-existing rate reduction period

- (2) If, at the time of the commencement of an activity test breach rate reduction period under this Part, the person is already subject to an activity test breach rate reduction period (*pre-existing rate reduction period*), the pre-existing rate reduction period is taken to end immediately before the commencement of the activity test breach rate reduction period under this Part.

Approved program of work for unemployment payment

- (3) If:
- (a) an activity test breach rate reduction period under this Part applies to (or would, apart from this subsection, apply to), a person; and
 - (b) the person starts to participate in an approved program of work for unemployment payment;
- the period ceases to apply to the person from and including the day on which the person starts to participate in the program (whether or not the person completes the participation in the program).

Note: For *approved program of work for unemployment payment* see subsection 23(1).

557B Start of activity test breach rate reduction period

Notice of start of period

- (1) Subject to paragraph 557C(2)(d), if an activity test breach rate reduction period applies to a person under this Part, the Secretary must give to the person a written notice telling the person of the start of the period.

General rule

- (2) Subject to subsection (3) and section 557C, the activity test breach rate reduction period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

- (3) Subject to section 557C, if, on or before the day on which the person's activity test breach rate reduction period would (apart from this subsection) have started, youth allowance ceases to be payable to the person, the period starts on the day on which youth allowance ceases to be payable to the person.

557C Application of activity test breach rate reduction period before claim for youth allowance

Claim for youth allowance before end of notional activity test breach rate reduction period

- (1) Subject to subsection (2), if:
- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test breach rate reduction period applying to the person because the person committed an activity test breach referred to in:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);had the person made a claim for a youth allowance; and
 - (b) the person made a claim for a youth allowance before the end of that period (assuming that the period had started on the day on which the event occurred);
- the activity test breach rate reduction period is taken to have started on the day after the day on which the event occurred.

*Claim for youth allowance after end of notional activity test
breach rate reduction period*

(2) If:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test breach rate reduction period applying to the person because the person committed an activity test breach referred to in:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);had the person made a claim for a youth allowance; and
- (b) the person makes a claim for a youth allowance after the end of that period (assuming that the period had started on the day on which the event occurred);

then:

- (c) the activity test breach rate reduction period is taken to have started and to have ended before the claim was made; and
- (d) the Secretary is not obliged to give the person a written notice under subsection 557B(1).

557D Interaction with waiting periods

Application of section

(1) This section applies if, under this Part:

- (a) an activity test breach rate reduction period applies to a person; and
- (b) during the whole or a part of that period the whole or a part of a waiting period also applies to the person (*overlap period*).

Note: Other periods such as an administrative breach rate reduction period may also apply (see section 558D).

Overlap period

- (2) The activity test breach rate reduction period and the waiting period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

557E Rate of youth allowance where activity test breach rate reduction period applies

Activity test breach reduced rate

- (1) If an activity test breach rate reduction period applies to a person under this Part, the person's rate of youth allowance for the activity test breach rate reduction period is worked out as follows:

Method statement

Step 1. Work out the person's maximum basic rate of youth allowance using Module B of the Youth Allowance Rate Calculator in section 1067G: the result is the *maximum payment rate*.

Step 2. Work out the rate reduction amount as follows:

- (a) if the activity test breach is the person's first breach in the 2 year period:

$$\text{Maximum payment rate} \times 0.18$$

- (b) if the activity test breach is the person's second breach in the 2 year period:

Maximum payment rate \times 0.24

Step 3. Take the rate reduction amount away from the rate of youth allowance worked out in accordance with the Youth Allowance Rate Calculator in section 1067G: the result is the *activity test breach reduced rate*.

Note: An activity test breach reduced rate may be a nil rate.

Meaning of 2 year period

- (2) In this section:

2 year period means the 2 years immediately before the day after the activity test breach.

Subdivision C—Administrative breach reductions in the rate of youth allowance

558 Administrative breach rate reduction period

General rule

- (1) Subject to subsection (2), an administrative breach rate reduction period applies to a person if:
- (a) the person is subject to an administrative exclusion because of the application of section 551C and a youth allowance later becomes payable to the person; or
 - (b) the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 561A, 561B, 561C or 1304.

Exception

- (2) An administrative breach rate reduction period does not apply to a person if:
- (a) the person receives a youth allowance; and

-
- (b) an administrative breach rate reduction period would, apart from this subsection, apply to the person; and
 - (c) the person's administrative breach reduced rate would be a nil rate; and
 - (d) payment of the youth allowance is cancelled or automatically terminated; and
 - (e) the person lodges a claim for a youth allowance more than 14 days after the date of effect of the cancellation or automatic termination referred to in paragraph (d).

558A Length of administrative breach rate reduction period

Basic rule

- (1) Subject to subsections (2) and (3), the length of an administrative breach rate reduction period is 13 weeks.

Pre-existing administrative breach rate reduction period

- (2) If, at the time of the commencement of an administrative breach rate reduction period under this Part, the person is already subject to an administrative breach rate reduction period (*pre-existing reduction period*), the pre-existing reduction period is taken to end immediately before the commencement of the administrative breach rate reduction period under this Part.

Approved program of work for unemployment payment

- (3) If:
 - (a) an administrative breach rate reduction period under this Part applies to (or would, apart from this subsection, apply to), a person; and
 - (b) the person starts to participate in an approved program of work for unemployment payment;the period ceases to apply to the person from and including the day on which the person starts to participate in the program (whether or not the person completes the participation in the program).

Note: For *approved program of work for unemployment payment* see subsection 23(1).

558B Start of administrative breach rate reduction period

Notice of start of period

- (1) If an administrative breach rate reduction period applies to a person under this Part, the Secretary must give to the person a written notice telling the person of the start of the period.

General rule

- (2) Subject to subsection (3), the administrative breach rate reduction period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

- (3) If:
 - (a) on or before the day on which a person's administrative breach rate reduction period would (apart from this subsection) have started, youth allowance ceases to be payable to the person; and
 - (b) it has not ceased to be payable because of the application of an administrative breach rate reduction period;the administrative breach rate reduction period starts on the day on which the youth allowance ceases to be payable to the person.

558C Interaction with activity test non-payment periods

Application of section

- (1) This section applies if, under this Part:
 - (a) an administrative breach rate reduction period applies to a person; and
 - (b) during the whole or a part of that period, the whole or a part of an activity test non-payment period also applies to the person (*overlap period*).

Note: Other periods such as a waiting period may also apply (see section 558E).

Overlap period

- (2) The activity test non-payment period and the administrative breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Subject to section 550F, the non-payment penalty relating to the activity test non-payment period is to apply to the person during the overlap period.

558D Interaction with activity test breach rate reduction periods

Application of section

- (1) This section applies if, under this Part:
- (a) an administrative breach rate reduction period applies to a person; and
 - (b) during the whole or a part of that period, the whole or a part of an activity test breach rate reduction period also applies to the person (*overlap period*).

Note: Other periods such as a waiting period may also apply (see section 558E).

Overlap period

- (2) Subject to subsection (3), the administrative breach rate reduction period and the whole or a part of the activity test breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Subject to sections 550E, 557D and 557E, the only rate reduction amount that is to apply to the person during the overlap period is the higher of the following:
- (a) the rate reduction amount that relates to the activity test breach rate reduction period (see subsection 557E(1));
 - (b) the rate reduction amount that relates to the administrative breach rate reduction period (see section 558G).

558E Interaction with waiting periods

Application of section

- (1) This section applies if, under this Part:
- (a) an administrative breach rate reduction period applies to a person; and
 - (b) during the whole or a part of that period the whole or a part of a waiting period also applies to the person (*overlap period*).

Note: Other periods such as an activity test breach rate reduction period may also apply (see section 558D).

Overlap period

- (2) The administrative breach rate reduction period and the whole or a part of the waiting period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

558F Effect of sections 558C, 558D and 558E

For the avoidance of doubt, sections 558C, 558D and 558E do not prevent a youth allowance ceasing to be payable in circumstances that do not involve the application of an administrative breach rate reduction period.

558G Rate of youth allowance where administrative breach rate reduction applies

If an administrative breach rate reduction period applies to a person under this Part the person's rate of youth allowance for the administrative breach rate reduction period is worked out as follows:

Method statement

- Step 1.* Work out the person's maximum basic rate of youth allowance using Module B of the Youth Allowance Rate Calculator in section 1067G: the result is the **maximum payment rate**.
- Step 2.* Multiply the person's maximum payment rate by 0.16: the result is the **rate reduction amount**.
- Step 3.* Take the rate reduction amount away from the rate of youth allowance worked out in accordance with the Youth Allowance Rate Calculator in section 1067G: the result is the **administrative breach reduced rate**.

Note: An administrative breach reduced rate may be a nil rate.

Division 6—Payment of youth allowance

559 Start of youth allowance

Youth allowance becomes payable to a person on the first day on which:

- (a) the person is qualified for the allowance; and
- (b) no provision of this Act makes the allowance not payable to the person.

Note 1: For qualification see Subdivision A of Division 1.

Note 2: For circumstances in which a youth allowance is not payable see section 547.

559A Instalments

Allowance paid by instalments

- (1) Youth allowance is to be paid by instalments for periods determined by the Secretary.

Time of payment

- (2) Instalments of youth allowance are to be paid at the times determined by the Secretary.
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559B Instalments for period less than a fortnight

Period less than a fortnight

(1) If:

- (a) an instalment of youth allowance is for a period; and
- (b) the period is less than a fortnight;

the instalment for the period is the amount worked out using the formula:

$$\text{Youth allowance rate} \times \frac{\text{Week days in period}}{10}$$

Period consisting of whole fortnights and period less than fortnight

(2) If:

- (a) an instalment of youth allowance is for a period; and
- (b) the period consists of:
 - (i) a number of whole fortnights; and
 - (ii) a period that is less than a fortnight;

the instalment, in so far as it relates to the period that is less than a fortnight, is the amount worked out using the formula:

$$\text{Youth allowance rate} \times \frac{\text{Week days in period}}{10}$$

559C Rounding off instalment

Fraction of a cent

- (1) If the amount of an instalment includes a fraction of a cent, the amount is to be rounded to the nearest whole cent (0.5 cent being rounded upwards).

Amount increased to fortnightly PA rate

(2) If:

-
- (a) an amount of pharmaceutical allowance is added to a person's maximum basic rate in working out the amount of an instalment of youth allowance; and
- (b) apart from this subsection, the amount of the instalment would be less than the person's fortnightly PA rate; the amount of the instalment is to be increased to the person's fortnightly PA rate.

Fortnightly PA rate

- (3) For the purposes of subsection (2), the person's *fortnightly PA rate* is the rate worked out using the formula:

Pharmaceutical allowance rate \times N

where:

N means whichever of the following applies:

- (a) if the instalment is for a number of whole fortnights—the number of fortnights;
- (b) if the instalment is for a period of less than a fortnight—the number worked out using the formula:

$$\frac{\text{Week days in period}}{10}$$

- (c) if the instalment is for a period that consists of a number of whole fortnights and a period of less than a fortnight—the number worked out using the formula:

$$\text{Number of whole fortnights} + \frac{\text{Week days in short period}}{10}$$

pharmaceutical allowance rate means the fortnightly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment.

Amount increased to \$1.00

- (4) If, apart from this section, the amount of an instalment would be less than \$1.00, the amount is to be increased to \$1.00.

559D Payment of instalments—persons 18 or over and persons under 18 who are independent

Payments to person

- (1) Subject to subsection (2), instalments of a person's youth allowance are to be paid to the person if the person:
- (a) is under 18 years of age and is independent; or
 - (b) is 18 years of age or over.

Note: For *independent* see section 1067A.

Direction to pay to someone else

- (2) The Secretary may direct that the whole or a part of the instalments of youth allowance of a person referred to in subsection (1) is to be paid to someone else on behalf of the person.

Payment in accordance with direction

- (3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.

559E Payment of instalments—persons under 18 and not independent

Payment to parent

- (1) Subject to subsection (2), instalments of youth allowance of a person who is under 18 years of age and is not independent are to be paid on behalf of the person:
- (a) if the person has only one living parent—to that parent; or
 - (b) if the person has more than one living parent—to the parent nominated in writing by the person to the Secretary.

Note: For *independent* see section 1067A.

Note: For *parent* see subsection 5(1) (paragraph (b) of that definition).

Direction to pay to someone else

- (2) The Secretary may direct that the whole or a part of the instalments of youth allowance of a person referred to in subsection (1) is to be paid:
 - (a) to the person; or
 - (b) to someone other than the person's parent on behalf of the person.

Payment in accordance with direction

- (3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.

559F Payment into bank account etc.

Manner of payment

- (1) An amount that is to be paid to a person under section 559D or 559E is to be paid in the manner set out in this section.

Payment into account

- (2) Subject to this section, the amount is to be paid, at the intervals that the Secretary directs, to the credit of a bank account, credit union account or building society account nominated and maintained by the person.

Joint or common account

- (3) The account may be an account that is maintained by the person either alone or jointly or in common with another person.

Secretary may direct payment in different way

- (4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).

Payment in accordance with direction

- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

559G If allowance payday would fall on public holiday etc.

If the Secretary is satisfied that an amount of youth allowance that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day.

559H Payment of allowance after death

Payment to person determined by Secretary

(1) If:

- (a) a youth allowance is payable to a person; and
- (b) the person dies; and
- (c) at the date of the person's death the person had not received an amount of youth allowance payable to him or her; and
- (d) another person applies to receive the amount; and
- (e) the application is made:
 - (i) within 6 months after the death; or
 - (ii) within a further period allowed by the Secretary in special circumstances;

the Secretary may pay the amount to the person who, in the Secretary's opinion, is best entitled to it.

No further liability for Commonwealth

- (2) If the Secretary pays an amount of youth allowance under subsection (1), the Commonwealth has no further liability to any person in respect of that amount of youth allowance.

Division 7—Protection of youth allowance

560 Youth allowance to be absolutely inalienable

Allowance absolutely inalienable

- (1) Subject to subsections (2) and (3) and section 1359, youth allowance is absolutely inalienable, whether by way of, or in

consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Payments to Commissioner of Taxation at recipient's request

- (2) The Secretary may make deductions from the instalments of youth allowance payable to a person if the person asks the Secretary:
- (a) to make the deductions; and
 - (b) to pay the amount to be deducted to the Commissioner of Taxation.

Note: The Secretary must make deductions from a person's youth allowance if requested by the Commissioner of Taxation (see section 1359).

Deductions from instalments with recipient's consent

- (3) The Secretary may make deductions from the instalments of youth allowance payable to a person if the person consents under section 1234A to the Secretary making the deduction.

Note: Section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a youth allowance.

560A Effect of garnishee or attachment order

Court order not to apply to saved amount

- (1) If:
- (a) a person has an account with a financial institution; and
 - (b) instalments of youth allowance payable to the person are being paid (whether on the person's own behalf or not) to the credit of that account; and
 - (c) a court order in the nature of a garnishee order comes into force in respect of the account;
- the court order does not apply to the saved amount (if any) in the account.

Method of working out saved amount

- (2) The saved amount is worked out as follows:

Method statement

- Step 1.** Work out the total amount of youth allowance payable to the person that has been paid to the credit of the account during the 4 week period immediately before the court order came into force.
- Step 2.** Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the *saved amount*.

Single, joint or common account

- (3) This section applies to an account whether it is maintained by a person:
- (a) alone; or
 - (b) jointly with another person; or
 - (c) in common with another person.

Division 8—Obligations of recipients

561 Secretary may request recipient to give statement of recipient's tax file number

Request for tax file number

- (1) The Secretary may request but not compel a person to whom youth allowance is being paid:
- (a) if the person has a tax file number—to give the Secretary a written statement of the person's tax file number; or
 - (b) if the person does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Secretary a written statement of the person's tax file number after the Commissioner of Taxation has issued it.

Failure to satisfy request

- (2) A youth allowance is not payable to a person if, at the end of 28 days after a request is made:
- (a) the person has failed to satisfy the request; and
 - (b) the Secretary has not exempted the person from having to satisfy the request.

561A Secretary may request recipient to give statement of tax file numbers of other persons

Request for other person's tax file number

- (1) If:
- (a) youth allowance is being paid to a person (*recipient*); and
 - (b) the income of a person (other than the recipient) is required to be taken into account for the purpose of working out the rate of the recipient's youth allowance; and
 - (c) the person is in Australia;
- the Secretary may request but not compel the recipient to give the Secretary a written statement of the tax file number of each of those persons.

Failure to satisfy request

- (2) A youth allowance is not payable to a recipient if, at the end of 28 days after a request is made:
- (a) the recipient has failed to satisfy the request; and
 - (b) the Secretary has not exempted the recipient from having to satisfy the request.

Note 1: In some cases the request can be satisfied in relation to a person by giving the Secretary a declaration by the person about the person's tax file number and an authority by the person to the Commissioner of Taxation to give the Secretary certain information relevant to the person's tax file number (see subsections 551B(2) and (3)).

Note 2: The Secretary may waive the requirement in some cases (see subsection 551B(4)).

561B Secretary may require from recipient notice of the happening of an event or a change in circumstances

Secretary may give notice requiring information

- (1) The Secretary may give:
- (a) a person to whom a youth allowance is being paid on the person's own behalf; or
 - (b) a person on whose behalf a youth allowance is being paid to a parent of the person under section 559E;
- a notice that requires the person to tell the Department if:
- (c) a stated event or change of circumstances occurs; or
 - (d) the person becomes aware that a stated event or change of circumstances is likely to occur.

Event or change relevant to payment

- (2) An event or change of circumstances is not to be stated in a notice under subsection (1) unless the occurrence of the event or change of circumstances might affect the payment of the allowance.

Formalities related to notice

- (3) Subject to subsection (4), a notice under subsection (1):
- (a) must be in writing; and
 - (b) may be given personally or by post; and
 - (c) must state how the person is to give the information to the Department; and
 - (d) must state the period within which the person is to give the information to that Department; and
 - (e) must state that the notice is a recipient notification notice given under this Act; and
 - (f) must state the effect of failure by the person to comply with the requirement set out in the notice.

Validity of notice

- (4) A notice under subsection (1) is not invalid merely because it fails to comply with paragraph (3)(c) or (e).

Period within which information to be given

- (5) Subject to subsections (6) and (7), the period stated under paragraph (3)(d) must end at least 14 days after:
- (a) the day on which the event or change of circumstances occurs; or
 - (b) the day on which the person becomes aware that the event or change of circumstances is likely to occur.

Person leaving Australia

- (6) If a notice requires the person to tell the Department of any proposal by the person to leave Australia, subsection (5) does not apply to that requirement.

Information as to compensation payment

- (7) If the notice requires information about receipt of a compensation payment, the period stated under paragraph (3)(d) in relation to the information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.

Refusal or failure to comply with notice

- (8) A person must not, without reasonable excuse, intentionally or recklessly refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Application overseas

- (9) This section extends to:
- (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and

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- (b) all people irrespective of their nationality or citizenship.

561C Secretary may require recipient to give particular information relevant to payment of youth allowance

Secretary may give notice requiring statement on matter

- (1) The Secretary may give:
- (a) a person to whom a youth allowance is being paid on the person's own behalf; or
 - (b) a person on whose behalf a youth allowance is being paid to a parent of the person under section 559E;
- a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.

Formalities related to notice

- (2) Subject to subsection (3), a notice under subsection (1):
- (a) must be in writing; and
 - (b) may be given personally or by post; and
 - (c) must state how the statement is to be given to the Department; and
 - (d) must state the period within which the person is to give the statement to the Department; and
 - (e) must state that the notice is a recipient statement notice given under this Act; and
 - (f) must state the effect of failure by the person to comply with the requirement set out in the notice.

Validity of notice

- (3) A notice under subsection (1) is not invalid merely because it fails to comply with paragraph (2)(c) or (e).

Period within which statement to be provided

- (4) The period stated under paragraph (2)(d) must end at least 7 days after the day on which the notice is given.

Statement must be in approved form

- (5) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.

Refusal or failure to comply with notice

- (6) A person must not, without reasonable excuse, intentionally or recklessly refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Application overseas

- (7) This section extends to:
- (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and
 - (b) all people irrespective of their nationality or citizenship.

Division 9—Continuation, variation and termination

Subdivision A—General

562 Continuing effect of determination

Entitlement determination

- (1) A determination that:
- (a) a person's claim for a youth allowance is to be granted; or
 - (b) a youth allowance is payable to a person;
- continues in effect until:

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- (c) the allowance ceases to be payable under section 563, 563A, 563B, 563C or 563D; or
 - (d) a further determination in relation to the allowance under section 565B or 565C has taken effect.

Note 1: For paragraph (a) see section 555A.

Note 2: For paragraph (b) see section 565E—this paragraph is relevant if the determination in question reverses an earlier cancellation or suspension.

Note 3: For paragraph (d) see also section 565D.

Rate determination

- (2) A determination of the rate of a youth allowance continues in effect until:
 - (a) the allowance becomes payable at a lower rate under section 564, 564A or 564B; or
 - (b) a further determination in relation to the allowance under section 565 or 565A has taken effect.

Subdivision B—Automatic termination

563 Automatic termination—change of basis for qualification

If:

- (a) a person ceases to be qualified for a youth allowance under section 540A; and
- (b) the person does not become qualified for the allowance under section 540 within 14 days after the person ceases to be qualified as mentioned under paragraph (a);

the youth allowance ceases to be payable to the person at the end of 14 days after the person is notified that he or she has ceased to be qualified under section 540A.

563A Automatic termination—transfer to social security pension or benefit etc.

If a person is receiving youth allowance and:

- (a) one of the following becomes payable to the person:
 - (i) a social security pension;

- (ii) another social security benefit;
 - (iii) a service pension; or
 - (b) a payment under ABSTUDY (other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students) becomes payable in respect of the person;
- the youth allowance ceases to be payable to the person immediately before the day on which the pension, benefit or other payment becomes payable to, or in respect of, the person.

563B Automatic termination—compliance with section 561B notification obligations

If:

- (a) a person who is receiving a youth allowance is given a notice under section 561B; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (*notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person tells the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances;
 - (i) the person ceases to be qualified for the allowance; or
 - (ii) the allowance would, apart from this section, cease to be payable to the person; and
- (f) the allowance is not cancelled before the end of the notification period;

the allowance continues to be payable to the person until the end of the notification period and then ceases to be payable to the person.

563C Automatic termination—non-compliance with section 561B notification obligations

If:

- (a) a person who is receiving a youth allowance is given a notice under section 561B; and

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- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (*notification period*); and
 - (c) the event or change in circumstances occurs; and
 - (d) the person does not tell the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
 - (e) because of the occurrence of the event or the change in circumstances:
 - (i) the person ceases to be qualified for the allowance; or
 - (ii) the allowance ceases to be payable to the person;
- the allowance ceases to be payable to the person immediately before the day on which the event or change in circumstances occurs.

563D Automatic termination—failure to provide section 561C statement

Allowance ceases to be payable

- (1) If:
 - (a) a person who is receiving a youth allowance is given a notice under section 561C requiring the person to give the Department a statement; and
 - (b) the notice relates to the payment of the allowance in respect of a period stated in the notice; and
 - (c) the person does not comply with the notice;
- then, subject to subsection (2), the allowance ceases to be payable to the person as from the first day in that period.

Secretary may determine that allowance continues

- (2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in writing that subsection (1) does not apply to the person from a day stated in the determination.

Stated day

- (3) The day stated under subsection (2) may be before or after the making of the determination.

563E Changes to payments by computer following automatic termination

If:

- (a) a person is receiving a youth allowance on the basis of data in a computer; and
- (b) the allowance is automatically terminated by the operation of a provision of this Act; and
- (c) the automatic termination is given effect to by the operation of a computer program approved by the Secretary stopping payment of the allowance;

there is taken to be a decision by the Secretary that the automatic termination provision applies to the person's allowance.

Note: The decision that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

Subdivision C—Automatic rate reduction

564 Automatic rate reduction—partner starting to receive pension or benefit

If:

- (a) a person is receiving youth allowance; and
- (b) the person's partner starts to receive:
 - (i) a social security pension or social security benefit; or
 - (ii) a service pension; and
- (c) the person's youth allowance rate is reduced because of the partner's receipt of that pension or benefit;

the youth allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.

564A Automatic rate reduction—compliance with section 561B obligations

If:

- (a) a person who is receiving a youth allowance is given a notice under section 561B; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (*notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person tells the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances, the person's rate of allowance is to be reduced; and
- (f) the person's rate of allowance is not reduced before the end of the notification period;

the allowance becomes payable to the person at the reduced rate immediately after the end of the notification period.

564B Automatic rate reduction—non-compliance with section 561B notification obligations

If:

- (a) a person who is receiving a youth allowance is given a notice under section 561B; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (*notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person does not tell the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances, the person's rate of allowance is to be reduced;

the allowance becomes payable to the person at the reduced rate immediately before the day on which the event or change in circumstances occurs.

564C Changes to payments by computer following automatic reduction

If:

- (a) a person is receiving a youth allowance on the basis of data in a computer; and
- (b) the allowance rate is automatically reduced by the operation of a provision of this Act; and
- (c) the automatic reduction is given effect to by the operation of a computer program approved by the Secretary reducing the rate of payment of the allowance;

there is taken to be a decision by the Secretary that the automatic rate reduction provision applies to the person's allowance.

Note: The decision that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

Subdivision D—Determinations

565 Rate increase determination

If the Secretary is satisfied that the rate at which a youth allowance is being, or has been, paid is less than the rate provided for by this Act, the Secretary is to determine that the rate is to be increased to the rate stated in the determination.

Note: For the date of effect of a determination under this section see section 566.

565A Rate reduction determination

If the Secretary is satisfied that the rate at which a youth allowance is being, or has been, paid is more than the rate provided for by this Act, the Secretary is to determine that the rate is to be reduced to the rate stated in the determination.

Note 1: A determination under this section is not necessary if an automatic rate reduction is produced by section 564B (see subsection 562(2)).

Note 2: For the date of effect of a determination under this section see section 566A.

565B Cancellation or suspension determination

If the Secretary is satisfied that a youth allowance is being, or has been, paid to a person to whom it is not, or was not, payable under this Act, the Secretary is to determine that the allowance is to be cancelled or suspended.

Note 1: A determination under this section is not necessary if an automatic termination is produced by section 563, 563A, 563B, 563C or 563D (see subsection 562(1)).

Note 2: For the date of effect of a determination under this section see section 566A.

565C Cancellation or suspension for failure to comply with section 561C, 1304 or 1305 notice

If:

- (a) a person who is receiving a youth allowance is given a notice under section 561C, 1304 or 1305; and
- (b) the person does not comply with the requirements set out in the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: This section will not apply if section 563B or 565B applies.

Note 2: For the date of effect of a determination under this section see section 566A.

565D Changes to payments by computer

If:

- (a) payment of a youth allowance to a person is based upon data in a computer; and
- (b) the allowance rate is increased or reduced, or the allowance is cancelled or suspended, because of the operation of a computer program approved by the Secretary; and
- (c) the program causes the change for a reason for which the Secretary could determine the change;

the change is taken to have been made because of a determination by the Secretary for that reason.

Note: The determination that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

565E Resumption of payment after cancellation or suspension

Secretary to determine allowance payable

- (1) If the Secretary:
- (a) cancels or suspends a person's youth allowance under section 565B or 565C; and
 - (b) reconsiders the decision to cancel or suspend; and
 - (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a youth allowance that was payable to the person; or
 - (ii) the person is not receiving a youth allowance that is payable to the person;
- the Secretary is to determine that a youth allowance was or is payable to the person.

Reconsideration on application or Secretary's initiative

- (2) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 1240 for review or a reconsideration on the Secretary's own initiative.

Note: For the date of effect of a determination under this section see section 566.

Subdivision E—Date of effect of determination

566 Date of effect of favourable determination

Method of working out date

- (1) The day on which a determination under section 565 or 565E (*favourable determination*) takes effect is worked out in accordance with this section.

Notified decision—review sought within 3 months

(2) If:

- (a) a decision (*previous decision*) is made in relation to a youth allowance; and
- (b) a notice is given to the person to whom the allowance is payable telling the person of the making of the previous decision; and
- (c) the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
- (d) a favourable determination is made as a result of the application for review;

the determination takes effect on the day on which the previous decision took effect.

Notified decision—review sought after 3 months

(3) If:

- (a) a decision (*previous decision*) is made in relation to a youth allowance; and
- (b) a notice is given to the person to whom the allowance is payable telling the person of the making of the previous decision; and
- (c) the person applies to the Secretary under section 1240 more than 3 months after the notice is given, for review of the previous decision; and
- (d) a favourable determination is made as a result of the application for review;

the determination takes effect on the day on which the person sought the review.

Decision not notified

(4) If:

- (a) a decision (*previous decision*) is made in relation to a youth allowance; and
- (b) no notice is given to the person to whom the allowance is payable telling the person of the making of the previous decision; and

-
- (c) the person applies to the Secretary under section 1240 for review of the previous decision; and
 - (d) a favourable determination is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Notified change of circumstances

- (5) If the favourable determination is made following a person having told the Department of a change in circumstances, the determination takes effect on the day on which the Department was told or the day on which the change occurred, whichever is the later.

Other determinations

- (6) In any other case, the favourable determination takes effect on the day on which the determination was made or on any later day or earlier day (other than a day more than 3 months before the determination was made) that is stated in the determination.

566A Date of effect of adverse determination

General

- (1) The day on which a determination under section 565A, 565B or 565C (adverse determination) takes effect is worked out in accordance with this section.

Note: If the adverse determination depends on a discretion or opinion and a person affected by the determination applies for review, the Secretary may continue payment pending the outcome of the review (see section 1241 (internal review) and section 1251 (review by Social Security Appeals Tribunal)).

Date determination takes effect

- (2) Subject to subsection (9), the adverse determination takes effect on:
 - (a) the day on which the determination is made; or
 - (b) if another day is stated in the determination—that day.

Later date than determination

- (3) Subject to subsections (4), (5), (6), (7) and (8), the day stated under paragraph (2)(b) must be later than the day on which the determination is made.

Contravention of Act by person whose allowance is affected

- (4) If:

- (a) the person whose allowance is affected by the adverse determination has contravened a provision of this Act (other than section 561C, 1304, 1305, 1306 or 1307); and
- (b) the contravention causes a delay in making the determination;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

False statement or misrepresentation—suspension or cancellation

- (5) If:

- (a) a person has made a false statement or a misrepresentation; and
- (b) because of the false statement or misrepresentation, the allowance has been paid to a person when it should have been cancelled or suspended;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

False statement or misrepresentation—rate reduction

- (6) If:

- (a) a person has made a false statement or a misrepresentation; and
- (b) because of the false statement or misrepresentation, the rate at which the allowance was paid to a person was more than it should have been;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Payment of arrears of periodic compensation—suspension or cancellation

(7) If:

- (a) an adverse determination is made in relation to a person because of point 1067G-H25 (payment of arrears of periodic compensation payments); and
- (b) the allowance has been paid to the person or the person's partner when, because of the payment of arrears of periodic compensation, the allowance should have been cancelled or suspended;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Payment of arrears of periodic compensation payments—rate reduction

(8) If:

- (a) an adverse determination is made in relation to a person because of point 1067G-H25 (payment of arrears of periodic compensation payments); and
- (b) the rate at which the allowance was paid to the person or the person's partner was, because of the payment of arrears of periodic compensation, more than the rate at which the allowance should have been paid;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Section 561C statements

- (9) If the adverse determination is made following a person having given the Department a statement about a matter in accordance with section 561C, the determination takes effect on the day on which the matter arose.

Division 10—Bereavement payments on death of partner

567 Qualification for payments under this Division

Qualification for payment

- (1) If:
- (a) a person is receiving youth allowance; and
 - (b) the person is a long-term social security recipient; and
 - (c) the person is a member of a couple; and
 - (d) the person's partner dies; and
 - (e) immediately before the partner died, the partner:
 - (i) was receiving a social security pension; or
 - (ii) was receiving a service pension; or
 - (iii) was a long-term social security recipient; and
 - (f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Division is less than the sum of:
 - (i) the amount that would otherwise be payable to the person under section 567C (person's continued rate) on that payday; and
 - (ii) the amount (if any) that would otherwise be payable to the person under section 567A (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Division to cover the bereavement period.

- Note 1:** Section 567A provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.
- Note 2:** Section 567B provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.
- Note 3:** For *first available bereavement adjustment payday and bereavement period* see section 21.

Choice not to receive payments

- (2) A person who is qualified for payments under this Division may choose not to receive payments under this Division.

Form of choice

- (3) A choice under subsection (2):
- (a) must be made by written notice to the Secretary; and
 - (b) may be made after the person has been paid an amount or amounts under this Division; and
 - (c) cannot be withdrawn after the Department has taken all the action required to give effect to that choice.

Rate during bereavement period

- (4) If a person is qualified for payments under this Division in relation to the partner's death, the rate at which youth allowance is payable to the person during the bereavement period is, unless the person has made a choice under subsection (2), governed by section 567C.

567A Continued payment of partner's pension or benefit

If a person is qualified for payments under this Division in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the partner on that payday if the partner had not died.

Note: For *bereavement rate continuation period* see section 21.

567B Lump sum payable in some circumstances

If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

- (a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and
- (b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is the *combined rate*.

Step 2. Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is the *person's individual rate*.

Step 3. Take the person's individual rate away from the combined rate: the result is the *partner's instalment component*.

Step 4. Work out the number of the partner's paydays in the *bereavement lump sum period*.

Step 5. Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

567C Adjustment of person's youth allowance rate

If:

- (a) a person is qualified for payments under this Division; and

- (b) the person does not elect under subsection 567(2) not to receive payments under this Division;

the rate of the person's youth allowance during the bereavement period is worked out as follows:

- (c) during the bereavement rate continuation period, the rate of youth allowance payable to the person is the rate at which the allowance would have been payable to the person if the person's partner had not died;
- (d) during the bereavement lump sum period (if any), the rate at which youth allowance is payable to the person is the rate at which the allowance would be payable to the person apart from this Division.

567D Effect of death of person entitled to payments under this Division

If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) the person dies within the bereavement period; and
- (c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to any person that the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

- (a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday immediately after the day on which the person dies; and

- (b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is the *combined rate*.

- Step 2.** Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is the *person's individual rate*.
- Step 3.** Take the person's individual rate away from the combined rate: the result is the *partner's instalment component*.
- Step 4.** Work out the number of paydays of the partner in the period that begins on the day after the person dies and ends on the day on which the bereavement period ends.
- Step 5.** Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

567E Matters affecting payments under this Division

Recovery/reduction of amount payable

(1) If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and
- (c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount is more than the amount payable to the person under this Division;
- (e) the amount payable to the person under this Division is to be reduced by the amount referred to in paragraph (b).

Financial institution not liable

(2) If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank, credit union or building society (financial institution); and
- (c) the financial institution pays to the person, out of the account, an amount not more than the total of the amounts paid as mentioned in paragraph (b);

the financial institution is, despite anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Schedule 2—Youth Allowance Rate Calculator

Social Security Act 1991

1 Section 3 (Index)

Insert the following entries in their appropriate alphabetical position, determined on a letter-by-letter basis:

accommodated independent person	1067B
independent	5(1), 1067A
in State care	1067A(8)
in supported State care	1067
in unsupported State care	1067
living at home	1067E
long term income support student	1067F
member of a YA couple	1067C
partner of a non-independent YA recipient	23(1)
premises or lodgings	1067
required to live away from home	1067D
youth allowance payment period	23(1)

2 Subsection 4(1) (definition of *member of a couple*)

Omit “and (6)”, substitute “, (6) and (6A)”.

3 After subsection 4(6)

Insert:

Member of a couple—exclusion of non-independent youth allowance recipient and partner

- (6A) A person is not a *member of a couple* for the provisions of this Act referred to in the following table if the person:
- (a) has claimed youth allowance and is not independent within the meaning of Part 3.5; or
 - (b) is receiving a youth allowance and is not independent within the meaning of Part 3.5; or

Schedule 2 Youth Allowance Rate Calculator

(c) is a member of a couple of which a person referred to in paragraph (b) is the other member.

Affected provisions

Item	Provisions of this Act	Subject matter
1.	Sections 611 and 612	Newstart allowance assets test
2.	Sections 660YCJ and 660YCK	Mature age allowance assets test
3.	Sections 680 and 681	Sickness allowance assets test
4.	Section 771HF	Partner allowance assets test
5.	Module E of Pension Rate Calculator A	Ordinary income test
6.	Module G of Pension Rate Calculator A	Assets test
7.	Module F of Pension Rate Calculator D	Ordinary income test
8.	Module H of Pension Rate Calculator D	Assets test
9.	Module E of the Youth Allowance Rate Calculator	Assets test
10.	Module H of the Youth Allowance Rate Calculator	Income test
11.	Module G of Benefit Rate Calculator B	Income test

4 Subsection 5(1)

Insert:

independent, in Parts 2.11 and 3.5, has the meaning given in section 1067A.

5 Subsection 5(1) (definition of *parent*)

Repeal the definition, substitute:

parent means:

(a) (except in Part 2.11 and in the Youth Allowance Rate Calculator in section 1067G):

-
- (i) in relation to a young person, other than an adopted child—a natural parent of the young person; or
 - (ii) in relation to an adopted child—an adoptive parent of the young person; or
 - (b) in Part 2.11 and in the Youth Allowance Rate Calculator in section 1067G, in relation to a person (*relevant person*):
 - (i) a natural or adoptive parent of the relevant person with whom the relevant person normally lives; or
 - (ii) if a parent referred to in paragraph (a) is a member of a couple and normally lives with the other member of the couple—the other member of the couple; or
 - (iii) any other person (other than the relevant person's partner) on whom the relevant person is wholly or substantially dependent; or
 - (iv) if none of the preceding paragraphs applies—the natural or adoptive parent of the relevant person with whom the relevant person last lived.

6 Subsection 23(1)

Insert:

partner of a non-independent YA recipient means a person who is a member of a couple the other member of which is receiving a youth allowance and is not independent within the meaning of Part 3.5.

7 Subsection 23(1)

Insert:

youth allowance payment period means a period under section 559A for which youth allowance is or may be payable.

6 Parts 3.5 and 3.5A

Repeal the Parts, substitute:

Part 3.5—Youth Allowance Rate Calculator

1067 Definitions

General definitions

(1) In this Part:

accommodated independent person has the meaning given by section 1067B.

independent has the meaning given by section 1067A.

Note: This definition also applies in Part 2.11.

in State care has the meaning given by subsection 1067A(8).

in supported State care, in relation to a person, means being a person in State care in respect of whom both of the following apply:

- (a) the person qualifies for payments under a law of, or a non-statutory scheme administered by, a State or Territory for the making of any payments by, or by the authority of, the State or Territory to or in respect of the person for his or her upkeep;
- (b) such payments are being made.

in unsupported State care, in relation to a person, means being a person in State care in respect of whom either of the following applies:

- (a) the person does not qualify for payments under a law of, or a non-statutory scheme administered by, a State or Territory for the making of any payments by, or by the authority of, the State or Territory to or in respect of the person for his or her upkeep;
- (b) the person qualifies, but such payments are not being made.

living at home has the meaning given by section 1067E.

long term income support student has the meaning given by section 1067F.

member of a YA couple, in sections 1067A and 1067B, has the meaning given by section 1067C.

premises or lodgings means accommodation of any kind for which rent (within the meaning of subsection 13(2)) is payable.

required to live away from home has the meaning given by section 1067D.

1067A When a person is regarded as independent

Application

- (1) This section applies to determine whether a person is to be regarded as independent for the purposes of this Part and Part 2.11. A person is not to be regarded as independent except as provided by this section.

Member of a YA couple

- (2) A person is independent if the person is, or has been, a member of a YA couple (see section 1067C).

Person with a dependent child

- (3) A person is independent if:
 - (a) the person has a natural or adoptive child who is wholly or substantially dependent on the person or his or her partner; or
 - (b) the person previously had a natural or adoptive child who was wholly or substantially dependent on the person or on a person who, at the time, was the person's partner.

Person aged 25 years or more

- (4) A person is independent if the person is at least 25 years old. This age will be progressively reduced over time.

Orphan

- (5) A person is independent if both of the person's parents are dead, whether or not the person is dependent, or was last dependent, on someone other than his or her parents.

If parents cannot exercise responsibilities

- (6) A person is independent if both of the person's parents are (or, if the person has only one parent, that parent is):
- (a) serving a prison sentence; or
 - (b) mentally incapacitated and likely to remain so incapacitated for an indefinite period; or
 - (c) living in a nursing home and likely to remain there for an indefinite period; or
 - (d) missing;
- whether or not the person is dependent, or was last dependent, on someone other than a parent of the person.

Refugee

- (7) A person is independent if the person:
- (a) is the holder, within the meaning of the Migration (1993) Regulations, of a Group 1.3 entry permit (permanent resident) (refugee and humanitarian); or
 - (b) while the holder of such a permit, was granted Australian citizenship.

However, a person is not independent under this subsection if the person has a parent living in Australia, or is wholly or substantially dependent on someone else on a long-term basis.

Person in State care

- (8) A person is independent if the person is not living with a parent, and:
- (a) the person is in the guardianship, care or custody of a court, a Minister, or a Department, of the Commonwealth, a State or a Territory; or
 - (b) there is a current direction from such a court, Minister or Department placing the person in the guardianship, care or custody of someone who is not the person's parent; or
 - (c) the person stopped being in a situation described in paragraph (a) or (b) only because of his or her age.

A person to whom this subsection applies is taken, for the purposes of this Part to be *in State care*.

Unreasonable to live at home

- (9) A person is independent if:
- (a) the person cannot live at the home of either or both of his or her parents:
 - (i) because of extreme family breakdown or other similar exceptional circumstances; or
 - (ii) because it would be unreasonable to expect the person to do so as there would be a serious risk to his or her physical or mental well-being due to violence, sexual abuse or other similar unreasonable circumstances; or
 - (iii) are unable to provide the person with a suitable home because they lack stable accommodation; and
 - (b) the person is not receiving continuous support, whether directly or indirectly and whether financial or otherwise, from a parent of the person or from another person who is acting as the person's guardian on a long-term basis; and
 - (c) the person is not receiving, on a continuous basis, any payments in the nature of income support (other than a social security benefit) from the Commonwealth, a State or a Territory.

People who are self-supporting

- (10) A person is independent if the person has supported himself or herself through paid work consisting of:
- (a) full-time employment of at least 30 hours per week for at least 18 months during the preceding 2 years; or
 - (b) part-time employment of at least 15 hours per week for at least 2 years since the person last left secondary school; or
 - (c) employment, for at least 18 months since the person last left secondary school, earning the person at least the equivalent of 75% of the maximum Commonwealth training award payments for the calendar year in which the 18 months started.

However, the employment must not have involved work outside Australia.

People who are disadvantaged

- (11) A person is independent if the person:
- (a) is at least 18 years old; and
 - (b) has had full-time employment of at least 30 hours per week for a period of at least 12 months, or for periods that total at least 12 months; and
 - (c) does not live at the home of either or both of his or her parents; and
 - (d) in the Secretary's opinion, is specially disadvantaged with respect to education or employment; and
 - (e) is not receiving financial support, whether directly or indirectly, from a parent of the person or from another person who is acting as the person's guardian on a long-term basis.

Note: For *parent* see section 5 (paragraph (a) of that definition).

1067B Accommodated independent person

A person is taken to be an *accommodated independent person* for the purposes of this Part if, and only if, the person:

- (a) is independent; and
- (b) lives at the home of either or both of his or her parents; and
- (c) is not, and has never been, a member of a YA couple (see section 1067C); and
- (d) does not have a natural or adoptive child who is wholly or substantially dependent on the person or his or her partner; and
- (e) has never had a natural or adoptive child who was wholly or substantially dependent on the person or on a person who, at the time, was the person's partner.

Note: For *parent* see section 5 (paragraph (a) of that definition).

1067C Member of a YA couple

Current member of a YA couple

- (1) Subject to this section, a person is a *member of a YA couple* for the purposes of sections 1067A and 1067B if:

-
- (a) the person is legally married to another person and is not, in the Secretary's opinion (formed as mentioned in subsection (3)), living separately and apart from the other person on a permanent or indefinite basis; or
 - (b) all of the following conditions are met:
 - (i) the person has a relationship with a person of the opposite sex (*partner*);
 - (ii) the person is not legally married to the partner;
 - (iii) the relationship has existed for a continuous period of at least 12 months;
 - (iv) in the Secretary's opinion (formed as mentioned in subsections (3) and (4)), the relationship is, and has for a continuous period of at least 12 months been, a marriage-like relationship;
 - (v) if, at the time the relationship became a marriage-like relationship, the person and the partner were living in Australia—both the person and the partner were over the age of consent applicable in the State or Territory in which they lived at that time;
 - (vi) if, at the time the relationship became a marriage-like relationship, the person and the partner were living outside Australia—both the person and the partner were over the age of consent applicable in the State or Territory in which they first lived after that time;
 - (vii) the person and the partner are not within a prohibited relationship for the purposes of section 23B of the *Marriage Act 1961*.

Former member of a YA couple

- (2) Subject to this section, a person has been a ***member of a YA couple*** for the purposes of sections 1067A and 1067B if:
 - (a) the person has been legally married to another person (whether or not they are still legally married) and was not, in the Secretary's opinion (formed as mentioned in subsection (3)), living separately and apart from the other person, on a permanent or indefinite basis, at all times while so married; or
 - (b) all of the following conditions are met:
-

- (i) the person had a relationship with a person of the opposite sex (*partner*);
- (ii) the person was not legally married to the partner;
- (iii) the relationship existed for a continuous period of at least 12 months;
- (iv) in the Secretary's opinion (formed as mentioned in subsections (3) and (4)), the relationship between the person and the partner was, and had for a continuous period of at least 12 months or, in special circumstances determined by the Secretary, at least 6 months been, a marriage-like relationship;
- (v) if, at the time the relationship became a marriage-like relationship, the person and the partner were living in Australia—both the person and the partner were over the age of consent applicable in the State or Territory in which they lived at that time;
- (vi) if, at the time the relationship became a marriage-like relationship, the person and the partner were living outside Australia—both the person and the partner were over the age of consent applicable in the State or Territory in which they first lived after that time;
- (vii) the person and the partner were not within a prohibited relationship for the purposes of section 23B of the *Marriage Act 1961*.

Criteria for forming opinion about relationship

- (3) In forming an opinion about the relationship between 2 people for the purposes of paragraph (1)(a), subparagraph (1)(b)(iv), paragraph (2)(a) or subparagraph (2)(b)(iv), the Secretary is to have regard to all the circumstances of the relationship including, in particular, the matters referred to in subsection 4(3).

People living separately and apart

- (4) The Secretary must not form the opinion that the relationship between a person and his or her partner is, or was, a marriage-like relationship if the person is, or was at the time in question, living separately and apart from the partner on a permanent or indefinite basis.

Moving to a State or Territory with a higher age of consent

- (5) For the purposes of calculating the period of 2 years referred to in subparagraphs (1)(b)(iii) and (iv) and (2)(b)(iii) and (iv), any period during which the couple in question lived in a State or Territory in which one or both of them was under the age of consent is to be disregarded.

Note: A prohibited relationship for the purposes of section 23B of the *Marriage Act 1961* is a relationship between a person and:

- (a) an ancestor of the person; or
- (b) a descendant of the person; or
- (c) a brother or sister of the person (whether of the whole blood or the part-blood).

1067D Person required to live away from home

When a person is taken to be required to live away from home

- (1) A person is taken to be required to live away from home for the purposes of this Part if, and only if:
- (a) the person is not independent; and
 - (b) the person does not live at the home of either or both his or her parents; and
 - (c) the Secretary determines that:
 - (i) the person needs to live away from home for the purpose of education, training, searching for employment or doing anything else in preparation for getting employment; or
 - (ii) the likelihood of the person's getting employment will be significantly increased if the person lives away from home.

Note: For *parent* see section 5 (paragraph (a) of that definition).

Secretary may have regard to advice from case manager

- (2) In making a determination under paragraph (1)(c), the Secretary may have regard to any advice given by a case manager to whom the person has been referred under Part 4.3 of the *Employment Services Act 1994*.

Matters to which Secretary is to have regard

- (3) In making a determination under subparagraph (1)(c)(ii), the Secretary is to have regard to:
- (a) the overall employment prospects for young people in the areas where the home is situated and in the area where the person is living; and
 - (b) matters relating to the person that would affect the likelihood of the person's getting employment in those areas.

1067E Person living at home

If a person:

- (a) is not independent; and
- (b) is not taken by section 1067D to be required to live away from home;

the person is taken for the purposes of this Part to be living at home.

1067F Long term income support student

- (1) A person is a *long term income support student* if the person:
- (a) is at least 21 years old; and
 - (b) is not a member of a couple; and
 - (c) is undertaking full-time study in respect of a course of education that the person had commenced after turning 21; and
 - (d) has, for at least 26 out of the preceding 39 weeks, been receiving one or more of the following:
 - (i) newstart allowance;
 - (ii) sickness allowance;
 - (iii) youth allowance (disregarding youth allowance received while the person was undertaking full-time study);
 - (iv) special benefit;
 - (v) disability support pension;
 - (vi) wife pension;
 - (vii) carer payment;

-
- (viii) bereavement allowance;
 - (ix) disability wage supplement;
 - (x) pension PP (single);
 - (xi) sole parent pension.

- (2) A person is also a *long term income support student* if the person:
 - (a) is at least 21 years old; and
 - (b) is not a member of a couple; and
 - (c) does not have English as a first language; and
 - (d) is undertaking a course in English, being a course that the Secretary has approved.

1067G Rate of youth allowance

Youth allowance rate calculator

- (1) The rate of youth allowance of a person referred to in subsection 556(1) is to be calculated in accordance with the Rate Calculator in this section.

Limit on rate of allowance

- (2) If:
 - (a) a person is living with another person as the spouse of the other person on a genuine domestic basis although not legally married to the other person; and
 - (b) the other person is of the opposite sex; and
 - (c) either or both of them are under the age of consent that applies in the State or Territory in which they are living;the rate of the person's youth allowance is not to be more than the rate at which the allowance would be payable to the person if the other person were the person's partner.

Youth Allowance Rate Calculator

Module A—Overall rate calculation process

Method of calculating rate

1067G-A1 The rate of allowance is a fortnightly rate.

Method statement

- Step 1.** Work out the person's maximum basic rate using Module B below.
- Step 2.** Work out the amount a fortnight (if any) of pharmaceutical allowance using Module C below.
- Step 3.** Work out the applicable amount (if any) for rent assistance using Module D below.
- Step 4.** Add up the amounts obtained in Steps 1 to 3: the result is the *maximum payment rate*.
- Step 5.** Work out, using Module E below, whether the assets test applies to the person and, if it does, whether or not the value of the person's assets is more than the person's assets value limit.
- Step 6.** If the value of the person's assets is not more than the person's assets value limit, the assets test does not affect the maximum payment rate.
- Step 7.** If the value of the person's assets is more than the person's assets value limit, then the person's rate of youth allowance is nil, and the following steps are to be disregarded.
- Step 8.** If the person is not independent and the parental income test applies to the person (see points 1067G-F2 and 1067G-F3 in Module F below), work out the *reduction for parental income* using that Module and take the reduction away from the maximum payment rate: the result is the *parental income test reduced rate*.
- Step 9.** If the parental income test reduced rate is nil, then youth allowance is not payable to the person and the following steps are to be disregarded.

Step 10. If the person is not independent and the family actual means test applies to the person (see Module G below), work out the person's *reduction for actual means* using that Module and take the reduction away from the maximum payment rate: the result is the *actual means test reduced rate*.

Step 11. If the actual means test reduced rate is nil, then youth allowance is not payable to the person and the following steps are to be disregarded.

Step 12. Apply the income test using Module H below to work out the person's income reduction.

Step 13. Take the person's income reduction away from:

- (a) if the person is not independent and Steps 8 and 10 did not apply to the person—the maximum payment rate; or
- (b) if the person is not independent and Step 8 applied to the person but Steps 9 and 10 did not—the parental income test reduced rate; or
- (c) if the person is not independent and Step 10 applied to the person but Steps 8 and 11 did not—the actual means test reduced rate; or
- (d) if the person is not independent and Steps 8 and 10 applied to the person but Steps 9 and 11 did not—the parental income test reduced rate, or (if the actual means test reduced rate is lower) the actual means test reduced rate; or
- (e) if the person is independent—the maximum payment rate;

the result is the *provisional payment rate*.

Note: If a person's rate is reduced under Step 8, 10 or 13, the order in which the reduction is to be made is laid down by section 1207 (maximum basic rate first, then rent assistance, then pharmaceutical allowance).

Step 14. The rate of allowance is the difference between:

- (a) the provisional payment rate; and
- (b) any advance payment deduction (see Part 3.16A);

plus any applicable amount of remote area allowance (see Module K below).

Module B—Maximum basic rate

Maximum basic rate

1067G-B1 A person's maximum basic rate is to be worked out as follows:

- (a) if the person is not independent (see section 1067A) and is not a long term income support student (see section 1067F)—use Table BA;
- (b) if the person is independent and is not a long term income support student—use Table BB;
- (c) if the person is a long term income support student—use Table BC.

Person who is not independent

1067G-B2 If the person is not independent (see section 1067A) and is not a long term income support student (see section 1067F), work out whether the person:

- (a) lives at home (see section 1067E); or
- (b) is required to live away from home (see section 1067D).

The person's maximum basic rate is the amount in column 3 of the table that corresponds to the person's situation as described in column 2 of the table.

Table BA—Maximum basic rates (people who are not independent)

Column 1	Column 2	Column 3
Item	Person's situation	Rate
1	Lives at home and not yet 18 years old	\$145.40
2	Lives at home and at least 18 years old	\$174.80
3	Required to live away from home	\$265.50

Note: The rates in column 3 are indexed annually in line with CPI increases (see sections 1191-1194).

Person who is independent

1067G-B3 If the person is independent (see section 1067A) and is not a long term income support student (see section 1067F), work out:

- (a) whether the person is an accommodated independent person (see section 1067B); and
- (b) if the person is not an accommodated independent person, whether the person:
 - (i) is in supported State care (see section 1067); or
 - (ii) is in unsupported State care (see section 1067); or
 - (iii) is a member of a couple (see section 4); or
 - (iv) has a dependent child (see subsections 5(2) to (9)).

The person's maximum basic rate is the amount in column 3 of the table that corresponds to the person's situation as described in column 2 of the table.

Table BB—Maximum basic rates (people who are independent)

Column 1	Column 2	Column 3
Item	Person's situation	Rate
1	Accommodated independent person and not yet 18 years old	\$145.40
2	Accommodated independent person and at least 18 years old	\$174.80
3	In supported State care and not yet 18 years old	\$145.40
4	In supported State care and at least 18 years old	\$174.80
5	In unsupported State care	\$265.50

Table BB—Maximum basic rates (people who are independent)

Column 1 Item	Column 2 Person's situation	Column 3 Rate
6	Not a member of a couple and has a dependent child	\$347.80
7	Member of a couple and has a dependent child	\$291.60
8	Not an accommodated independent person, not in supported State care, not in unsupported State care and does not have a dependent child	\$265.50

Note: The rates in column 3 are indexed annually in line with CPI increases (see sections 1191-1194).

Long term income support student

1067G-B4 If the person is a long term income support student (see section 1067F), work out:

- (a) whether the person is independent (see section 1067A); and
- (b) if the person is not independent, whether the person:
 - (i) lives at home (see section 1067E); or
 - (ii) is required to live away from home (see section 1067D); and
- (c) if the person is independent, whether the person is an accommodated independent person (see section 1067B).

The person's maximum basic rate is the amount in column 3 of the table that corresponds to the person's situation as described in column 2 of the table.

Table BC—Maximum basic rates (long term income support students)

Column 1 Item	Column 2 Person's situation	Column 3 Rate
1	Not independent and lives at home	\$214.60
2	Not independent and required to live away from home	\$322.40
3	Accommodated independent person	\$214.60

Table BC—Maximum basic rates (long term income support students)

Column 1	Column 2	Column 3
Item	Person's situation	Rate
4	Independent and not an accommodated independent person	\$322.40

Note: The rates in column 3 are indexed annually in line with CPI increases (see sections 1191-1194).

Module C—Pharmaceutical allowance

Qualification for pharmaceutical allowance

1067G-C1 Subject to point 1067G-C2, an amount by way of pharmaceutical allowance is to be added to a person's maximum basic rate if:

- (a) the person is in Australia; and
- (b) the person has a temporary incapacity exemption under section 542A.

No pharmaceutical allowance if partner receiving pharmaceutical allowance under the Veterans' Entitlements Act and not a service pensioner

1067G-C2 Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

- (a) the person is a member of a couple; and
- (b) the person's partner is receiving pharmaceutical allowance under the Veterans' Entitlements Act; and
- (c) the person's partner is not receiving a service pension.

Note: If paragraphs (a), (b) and (c) apply to the person's partner, the partner is receiving pharmaceutical allowance under the Veterans' Entitlements Act at the higher rate (rather than the person and the person's partner each receiving pharmaceutical allowance at the lower rate).

Amount of pharmaceutical allowance

1067G-C3 The amount of pharmaceutical allowance is the amount a fortnight worked out using the following table:

Table C—Pharmaceutical allowance amounts

Column 1	Column 2	Column 3
Item	Person's family situation	Amount a fortnight
1	Not a member of a couple	\$5.40
2	Partnered	\$2.70
3	Member of an illness separated couple	\$5.40
4	Member of a respite care couple	\$5.40
5	Partnered (partner getting service pension)	\$2.70
6	Partnered (partner in gaol)	\$5.40

Note 1: For *member of a couple, partnered, illness separated couple, respite care couple* and *partnered (partner in gaol)* see section 4.

Note 2: The amounts in column 3 are indexed or adjusted annually in line with CPI increases on 1 January (see sections 1191 to 1194 and 1206A).

Module D—Rent assistance

Rent assistance

1067G-D1 Subject to point 1067G-D3, an amount to help cover the cost of rent is to be added to the maximum basic rate of a person for a period if:

- (a) the person:
 - (i) is independent (see section 1067A), but is not an accommodated independent person (see section 1067B); or
 - (ii) is not an independent person and is required to live away from home (see section 1067D); and
- (b) the person is not an aged care resident; and
- (c) the person is not an ineligible homeowner; and
- (d) the person pays, or is liable to pay, rent (other than Government rent) in respect of the period; and
- (e) the rent is payable at a rate of more than the rent threshold rate under point 1067G-D2; and
- (f) the person is in Australia throughout the period; and
- (g) the person does not have a partner with a rent increased pension (see point 1067G-D3); and

- (h) where the person or the person's partner is receiving family payment in respect of a dependent child who is an FP child—the standard family payment rate of the person or partner does not exceed the minimum family payment rate of the person or partner, as the case may be.

Note: For *aged care resident, ineligible homeowner, rent* and *Government rent* see section 13.

Rent threshold rate

1067G-D2 A person's rent threshold rate depends on the person's family situation. Work out which family situation in Table DA applies to the person. The rent threshold rate is the corresponding amount in column 3.

Table DA—Rent threshold rates

Column 1	Column 2	Column 3
Item	Person's family situation	Amount a fortnight
1	Not a member of a couple	\$71.60
2	Partnered—partner does not have rent increased benefit (see point 1067G-D5)	\$116.60
3	Partnered—partner has rent increased benefit	\$116.60
4	Partnered—member of an illness separated couple	\$71.60
5	Partnered—member of a respite care couple	\$71.60
6	Partnered—member of a temporarily separated couple	\$71.60
7	Partnered (partner in gaol)	\$71.60

Note 1: For *member of a couple, partnered, illness separated couple, respite care couple, temporarily separated couple* and *partnered (partner in gaol)* see section 4.

Note 2: The column 3 amounts are indexed 6 monthly in line with CPI increases (see sections 1191-1194).

Partner with rent increased pension

- 1067G-D3 A person has a partner with a rent increased pension, for the purposes of point 1067G-D1, if:
- (a) the partner is living with the person in their home; and
 - (b) the partner is receiving a social security pension or service pension; and
 - (c) the partner's pension rate is increased to take account of rent.

Factors affecting rate of rent assistance

- 1067G-D4 The rate of rent assistance depends on:
- (a) the fortnightly rent paid or payable by the person; and
 - (b) whether or not the person has a partner who has a rent increased benefit.

Partner with rent increased benefit

- 1067G-D5 A person's partner has a rent increased benefit for the purposes of this Module if the partner:
- (a) is living with the person in their home; and
 - (b) either:
 - (i) is receiving a social security benefit the rate of which is increased to take account of rent; or
 - (ii) would be receiving such a benefit but for the amount of the person's ordinary income reduction under point 1067G-H31.

Note: For the treatment of rent paid by a member of a couple see points 1067G-D8 and 1067G-D9.

Rate of rent assistance

- 1067G-D6 The rate of rent assistance a fortnight is worked out using Table DB. Work out the person's family situation and calculate Rate A for the person using the corresponding formula in column 3. This will be the person's rate of rent assistance but only up to:
- (a) if the person is not a single person sharing accommodation—Rate B for the person worked out using column 4; or

- (b) if the person is a single person sharing accommodation—
two-thirds of the amount that would otherwise have been
Rate B for the person.

Table DB—Rate of rent assistance

Column 1 Item	Column 2 Person's family situation	Column 3 Rate A	Column 4 Rate B
1	Not a member of a couple	$3 \times \frac{(\text{fortnightly rent} - \$71.60)}{4}$	\$74.80
2	Partnered—partner does not have rent increased benefit (see point 1067G-D5)	$3 \times \frac{(\text{fortnightly rent} - \$116.60)}{4}$	\$70.60
3	Partnered—partner has rent increased benefit	$3 \times \frac{(\text{fortnightly rent} - \$116.60)}{8}$	\$35.30
4	Partnered—member of an illness separated couple	$3 \times \frac{(\text{fortnightly rent} - \$71.60)}{4}$	\$74.80
5	Partnered—member of a respite care couple	$3 \times \frac{(\text{fortnightly rent} - \$71.60)}{4}$	\$74.80
6	Partnered—member of a temporarily separated couple	$3 \times \frac{(\text{fortnightly rent} - \$71.60)}{4}$	\$70.60
7	Partnered (partner in gaol)	$3 \times \frac{(\text{fortnightly rent} - \$71.60)}{4}$	\$74.80

Note 1: For *member of a couple, partnered, illness separated couple, respite care couple, temporarily separated couple* and *partnered (partner in gaol)* see section 4.

Note 2: The rent threshold amounts in column 3, and the Rate B amounts, are indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).

Note 3: For *single person sharing accommodation* see section 5A.

Fortnightly rent

1067G-D7 Fortnightly rent is the fortnightly rent paid or payable by the person whose rate of youth allowance is being calculated.

Rent paid by a member of a couple

1067G-D8 If a person is a member of a couple and the person's partner is living with the person in their home, any rent that the person's partner pays or is liable to pay in respect of the home is to be treated as paid or payable by the person.

Rent paid by a member of an illness separated couple

1067G-D9 If a person is a member of an illness separated couple, any rent that the person's partner pays or is liable to pay in respect of the premises or lodgings occupied by the person is to be treated as paid or payable by the person.

Note: For *illness separated couple* see section 4.

Module E—Assets test

1067G-E1 This is how to work out the value of a person's assets and to work out the person's assets value limit:

Method statement

Step 1. Work out whether the assets test applies to the person using points 1067G-E2 to 1067G-E4.

Step 2. If the assets test applies to the person, work out the person's assets value limit using point 1067G-E5.

Step 3. Work out the value of the person's assets using points 1067G-E6 to 1067G-E20.

Step 4. Work out whether the value of the person's assets is more than the person's assets value limit.

People affected

1067G-E2 The assets test applies to a person unless the person is excluded from the assets test under point 1067G-E3 or 1067G-E4.

Exclusion of person if partner receiving certain kinds of income support

1067G-E3 A person is excluded from the application of the assets test if the person is independent but the person's partner is receiving:

- (a) a payment of pension, benefit or allowance referred to in Module L; or
- (b) a payment under Part 5 or 6 of the *Farm Household Support Act 1992*; or
- (c) a full-time educational or vocational training allowance from the Commonwealth (including under the AUSTUDY or ABSTUDY scheme).

Exclusion of person if parental income test is not applied

1067G-E4 A person is excluded from the application of the assets test if:

- (a) the person is not independent; but
- (b) in working out the rate of youth allowance payable to the person, the parental income test is not applied because of point 1067G-F3 (other than paragraph (d)).

Person's assets value limit

1067G-E5 A person's assets value limit is:

- (a) \$407,250 if the person is not independent (see section 1067A); or
- (b) \$125,750 if the person:
 - (i) is independent; and
 - (ii) is not a member of a couple (see section 4); and
 - (iii) is a homeowner; or
- (c) \$215,750 if the person:
 - (i) is independent; and
 - (ii) is not a member of a couple; and
 - (iii) is not a homeowner; or
- (d) \$178,500 if the person:

- (i) is independent; and
- (ii) is a member of a couple; and
- (iii) is a homeowner; or
- (e) \$268,500 if the person:
 - (i) is independent; and
 - (ii) is a member of a couple; and
 - (iii) is not a homeowner.

Note: For *homeowner* see subsection 11(4).

Value of assets of partner or family members included in certain circumstances

1067G-E6 The value of the assets of a person (*relevant person*) is the sum of the following values:

- (a) the value of the assets of the relevant person (disregarding paragraphs (b) and (c));
- (b) if the relevant person is independent (see section 1067A) and is a member of a couple (see section 4)—the value of the assets of a person who is the partner of the relevant person;
- (c) if the relevant person is not independent—the value of the assets of each person who is a family member of the relevant person.

Points 1067G-E7 to 1067G-E20 apply for the purpose of working out the value of assets of the relevant person and of any person who is the partner, or a family member, of the relevant person.

Note: For *family member* see subsection 23(1).

Assets include property not specifically excluded

1067G-E7 Assets are any kind of property, whether in Australia or elsewhere, unless they are excluded by point 1067G-E12, 1067G-E14, 1067G-E15 or 1067G-E16.

Disposals for low or nil value

1067G-E8 If a person disposed of an asset in the last 5 years for unreasonably low or no value:

- (a) it is included in the person's assets; and

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- (b) its value is taken to be its value when the person disposed of it less what he or she got for it.

If person reduces value

- 1067G-E9 If a person reduces the value of an asset directly or indirectly, the value of the asset is taken to be its value before the person acted to reduce it (except if the person reduces the value of a business by reducing the extent to which he or she works in the business).

Debts to person are included

- 1067G-E10 A person's assets include any money owed to the person, but do not include any interest on the money that is not yet due.

Assets of trust in which person benefits

- 1067G-E11 A person's assets include:
- (a) any benefit to which the person is entitled directly or indirectly out of the assets of a trust; and
 - (b) any asset of a trust that the person can deal with directly or indirectly to his or her advantage; and
 - (c) any interest in the assets of a trust which has been assigned to someone else but which the person can directly or indirectly control.

Exclusion of principal home

- 1067G-E12 Any right or interest in a person's principal home is not included in the person's assets and no account is taken of an amount received from the sale of a person's principal home that he or she is likely to use within 12 months of the sale to buy another principal home.

Note: For *principal home* see subsections 11(5), (6) and (7).

Exclusion of certain farm assets

- 1067G-E13 If:
- (a) a drought relief exceptional circumstance certificate referred to in section 8A of the *Farm Household Support Act 1992* was issued in respect of a person, or in respect of a family member of a person; and

(b) the certificate has effect;
the person's assets do not include any asset that is an exempt asset in respect of the person, or in respect of the family member of the person, as the case may be, within the meaning of that Act.

Note: For *family member* see subsection 23(1).

Exclusion of items for use by disabled person

1067G-E14 A person's assets do not include:

- (a) any personal property (such as a wheelchair) designed for use by a disabled person; or
- (b) any modification to personal property (such as a motor vehicle) to enable it to be used by a disabled person.

Exclusion of debts incurred to obtain or improve an asset

1067G-E15 If a person incurred a debt in order to obtain an asset or to make improvements to it, the value of the asset is reduced by the outstanding amount of the debt.

Exclusion of assets outside person's control

1067G-E16 Any asset to which a person is entitled but which the person cannot obtain through circumstances beyond the person's control is not included in the person's assets.

How business assets are treated

1067G-E17 If (and only if) paragraph 1067G-E6(c) applies in working out the value of the assets of a person, assets of a business are treated in accordance with points 1067G-E18 and 1067G-E19. For this purpose, a business includes:

- (a) the carrying on of primary production; and
- (b) the provision of professional services.

Interest in business assets discounted in certain circumstances

1067G-E18 Subject to point 1067G-E19, 50% of the value of a person's interest in the assets of a business is disregarded if the person, or his or her partner, is wholly or mainly engaged in the business and the business:

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- (a) is owned by the person; or
 - (b) is carried on by a partnership of which the person is a member; or
 - (c) is carried on by a company of which the person is a member; or
 - (d) is carried on by the trustee of a trust in which the person is a beneficiary.

Assets to which discounting does not apply

1067G-E19 Point 1067G-E18 does not apply to assets of a business that are of any of the following kinds:

- (a) cash on hand, bank deposits, bank bonds, or similar readily realisable assets;
- (b) shares in companies, or rights in relation to shares;
- (c) rights to deal in real or personal property;
- (d) assets leased out by the business, unless leasing is a major activity of the business;
- (e) assets used for private or domestic purposes by the owners of the business.

Evidence of value of assets

1067G-E20 A written statement of the value of an asset, signed by an officer of the Australian Valuation Office, is prima facie evidence of its value. For this purpose, a document purporting to be such a statement is taken to be such a statement, and to have been signed by such an officer, unless the contrary is proved.

Module F—Parental income test

Submodule 1—Effect of parental income on maximum payment rate

General

1067G-F1 This is how to work out the effect (if any) of the income of a person's parent or parents on the person's maximum payment rate in respect of a particular youth allowance payment period.

Method statement

- Step 1.** Work out whether the parental income test applies to the person using Submodule 2.
- Step 2.** If the parental income test applies to the person, identify the appropriate tax year using Submodule 3.
- Step 3.** Work out the person's combined parental income for the appropriate tax year using Submodule 4.
- Step 4.** Work out the person's parental income free area using Submodule 5.
- Step 5.** If the person's combined parental income is equal to or less than the person's parental income free area, the parental income test does not affect the maximum payment rate of youth allowance and Step 6 is to be disregarded.
- Step 6.** If the person's combined parental income exceeds the person's parental income free area, use Submodule 6 to work out the *person's reduction for parental income* for the purposes of Step 8 of the Method statement in point 1067G-A1.

Submodule 2—Application of parental income test

Persons affected by the parental income test

- 1067G-F2 Subject to point 1067G-F3, the parental income test applies to the person if the person is not independent.

Parent receiving Commonwealth benefit

- 1067G-F3 The parental income test does not apply to the person while a parent of the person:
- (a) gets a payment of pension, benefit or allowance referred to in Module L; or
 - (b) gets a payment under Part 5 or 6 of the *Farm Household Support Act 1992*; or

- (c) gets AUSTUDY or ABSTUDY and:
 - (i) also gets dependent spouse allowance under AUSTUDY or ABSTUDY; or
 - (ii) has a partner who gets AUSTUDY or ABSTUDY; or
 - (iii) is a single parent; or
- (d) is a disadvantaged person for the purposes of sections 5B and 5D of the *Health Insurance Act 1973*.

Submodule 3—Appropriate tax year

Appropriate tax year

1067G-F4 Subject to this Submodule, the *appropriate tax year* for a youth allowance payment period is the base tax year for that period.

Base tax year

1067G-F5 The *base tax year* for a youth allowance payment period is the tax year that ended on 30 June in the calendar year that came immediately before the calendar year in which the period ends.

Example: A youth allowance payment period ends on 25 January 1999—this day occurs in the calendar year 1 January 1999 to 31 December 1999—the calendar year that came immediately before this one is the calendar year 1 January 1998 to 31 December 1998—the base tax year is the tax year that ended on 30 June 1998 (i.e. the year of income that began on 1 July 1997).

Change to appropriate tax year because of increase in combined parental income

1067G-F6 If a person's combined parental income under Submodule 4 for the tax year following the base tax year exceeds:

- (a) 125% of the person's combined parental income under that Submodule for the base tax year; and
- (b) 125% of the person's parental income free area under Submodule 5;

the appropriate tax year, for the purpose of applying this Module to the person in respect of a youth allowance payment period that ends after 30 September in a year, is the tax year following the base tax year.

Change to appropriate tax year at person's request

1067G-F7 If:

- (a) a person requests the Secretary to make a determination under point 1067G-F8; and
- (b) as a result, the Secretary determines under that point that, for the purpose of applying this Module to the person in respect of a youth allowance payment period that ends on or after:
 - (i) the day on which the request is made; or
 - (ii) 1 January in a year;whichever day is later, the appropriate tax year is the tax year following the base tax year;

the appropriate tax year, for that purpose, is the tax year following the base tax year.

Person may ask Secretary to change appropriate tax year

1067G-F8 If:

- (a) youth allowance:
 - (i) is not payable to a person because the rate of youth allowance because of this Module is nil; or
 - (ii) is payable at a reduced rate because of this Module; and
- (b) the person gives the Secretary an estimate of the person's combined parental income under Submodule 4 for the tax year following the base tax year; and
- (c) the person requests the Secretary to make a determination under this point; and
- (d) the person agrees that the person's rate of youth allowance for that tax year is to be recalculated if the person's actual combined parental income for that tax year exceeds the amount that the person estimated;

the Secretary must determine that, for the purpose of applying this Module to the person in respect of a youth allowance payment period that ends on or after:

- (e) the day on which the request is made; or
- (f) 1 January in a year;

whichever day is later, the appropriate tax year is the tax year following the base tax year.

Form of request

1067G-F9 A request under point 1067G-F8 must be made in writing in accordance with a form approved by the Secretary.

Submodule 4—Combined parental income

Combined parental income

1067G-F10 For the purposes of this Module, a person's ***combined parental income*** for a particular tax year is the sum of the following amounts (***income components***) in respect of each of the person's parents:

- (a) the parent's taxable income for that year;
- (b) the parent's adjusted fringe benefits value for that year;
- (c) the parent's target foreign income for that year;
- (d) the parent's net rental property loss for that year.

Note 1: The combined parental income may be affected by amounts of maintenance paid or received (see points 1067G-F20 and 1067G-F21).

Note 2: For ***taxable income*** see subsection 23(1).

Note 3: For ***adjusted fringe benefits value*** see points 1067G-F16 and 1067G-F17.

Note 4: For ***target foreign income*** see subsection 10A(2).

Note 5: For ***net rental property loss*** see subsection 10A(15).

Income components for tax year

1067G-F11(1) A parent's ***taxable income*** for a tax year is:

- (a) the parent's assessed taxable income for that year; or
- (b) if the parent does not have an assessed taxable income for that year—the accepted estimate, in respect of the parent, of taxable income for that year.

1067G-F11(2) A parent's ***adjusted fringe benefits value*** for a tax year is:

- (a) the amount of that value as determined by the Secretary; or
- (b) if a determination of that amount for that year has not been made by the Secretary—the accepted estimate, in respect of the parent, of that amount for that year.

Note: For ***adjusted fringe benefits value*** see points 1067G-F16 and 1067G-F17.

1067G-F11(3) A parent's **target foreign income** for a tax year is the accepted estimate, in respect of the parent, of the amount of that income for that year.

1067G-F11(4) A parent's **net rental property loss** for a tax year is the accepted estimate, in respect of the parent, of the amount of that loss for that year.

Assessed taxable income

1067G-F12 A parent's **assessed taxable income** for a tax year at a particular time is the most recent of:

- (a) if, at that time, the Commissioner of Taxation has made an assessment or an amended assessment of that taxable income—that taxable income according to the assessment or amended assessment; or
- (b) if, at that time, a tribunal has amended an assessment or an amended assessment made by the Commissioner—that taxable income according to the amendment made by the tribunal; or
- (c) if, at that time, a court has amended an assessment or an amended assessment made by the Commissioner or an amended assessment made by a tribunal—that taxable income according to the amendment made by the court.

Accepted estimate

1067G-F13 An **accepted estimate** of an income component, in respect of a parent, for a tax year is that income component according to the most recent notice given under point 1067G-F14 and accepted by the Secretary for the purposes of this Module.

Notice estimating income component

1067G-F14 A notice setting out an estimate of an income component, for a tax year, of a parent of a person claiming or receiving youth allowance may be given to the Secretary by:

- (a) the parent; or
- (b) the person claiming or receiving youth allowance.

However, if the parent gives a notice, any notice given, in respect of the same income component and the same tax year, by the

person claiming or receiving youth allowance is taken not to be, or not to have been, given.

Acceptance of notice

1067G-F15 The Secretary is to accept a notice referred to in point 1067G-F14 for the purposes of this Module only if the Secretary is satisfied that the estimate is reasonable.

Parent's adjusted fringe benefits value

1067G-F16 If a parent's fringe benefits value exceeds the fringe benefits value free area, the parent's *adjusted fringe benefits value* is the parent's fringe benefits value less the fringe benefits value free area.

Nil adjusted fringe benefits value

1067G-F17 If the parent's fringe benefits value does not exceed the fringe benefits value free area, the parent's *adjusted fringe benefits value* is nil.

Fringe benefits value

1067G-F18 For the purposes of this Module, a parent's *fringe benefits value* for a tax year is the sum of the values of all the assessable fringe benefits received by the parent in that tax year.

Note: Only assessable fringe benefits are used to work out the parent's fringe benefits value. An assessable fringe benefit is a benefit that is a car benefit, school fees benefit, health insurance benefit, loan benefit, housing benefit, expense benefit or financial investment benefit. For *assessable fringe benefit* see section 10A.

Fringe benefits value free area

1067G-F19 The fringe benefits value free area is \$1,000.

Note: If a parent is a member of a couple, the fringe benefits value free area is still \$1,000.

Income reduced by maintenance paid by a parent

1067G-F20 A parent's combined parental income for a tax year is reduced by an amount equal to any maintenance paid during the tax year by the parent:

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- (a) for the upkeep of a child of the parent if the parent does not have care of the child; or
 - (b) to a former partner of the parent.

Income increased by maintenance paid to a parent

1067G-F21 A parent's combined parental income for a tax year is increased by an amount equal to any maintenance paid during the tax year to the parent:

- (a) for the upkeep of a child of the parent if the parent has care of the child; or
- (b) by a former partner of the parent.

Submodule 5—Parental income free area

Parental income free area

1067G-F22 For the purposes of this Module, a person's *parental income free area* is the sum of:

- (a) \$23,400; and
- (b) any additional amounts, applying under this Submodule, for any children (other than the person) of a parent of the person.

Additional amounts for children

1067G-F23 Unless an additional amount applies under point 1067G-F24, an additional amount applies for a child of a parent of the person who is wholly or substantially dependent on the parent, as follows:

- (a) \$3,700 for a child who:
 - (i) is at least 16 years of age but has not yet attained the maximum age for youth allowance under section 543B (disregarding subsection 543B(2)); and
 - (ii) is not independent (see section 1067A); and
 - (iii) is not receiving a pension, benefit or allowance referred to in Module L;
 - (b) \$3,700 for a dependent child in respect of whom a boarding allowance or second home allowance is payable under the Assistance for Isolated Children Scheme;
 - (c) \$1,200 for a dependent child who:
 - (i) is under 16 years of age; and
-

-
- (ii) is not a child referred to in paragraph (b);
 - (d) \$2,500 for a dependent child who:
 - (i) is under 16 years of age; and
 - (ii) is additional to the child referred to in paragraph (c); and
 - (iii) is not a child referred to in paragraph (b).

Additional amounts for certain tertiary students

- 1067G-F24 An additional amount of \$7,400 applies for a child (*student*) of a person's parent if:
- (a) the student is at least 16 years of age but is not yet 25 years of age; and
 - (b) the student is undertaking full-time study (see section 541B) at a higher education institution within the meaning of subsection 3(1) of the *Student and Youth Assistance Act 1973*; and
 - (c) the student is not independent (see section 1067A); and
 - (d) the student required to live away from home (see section 1067D); and
 - (e) the parent has one or more other children in respect of whom paragraphs (a), (b), (c) and (d) apply.

Parents paying maintenance

- 1067G-F25 For the purposes of this Submodule, a child is not a dependent child of a person's parent if the parent pays maintenance for the child.

Submodule 6—Reduction for parental income

Reduction for parental income

- 1067G-F26 A person's reduction for parental income is the amount obtained by dividing by 26 the person's annual parental income excess under point 1067G-F27.

Annual parental income excess

1067G-F27 Subject to point 1067G-F28, the person's annual parental income excess is the amount obtained by dividing by 4 the difference between:

- (a) the person's combined parental income (see Submodule 4) for the appropriate tax year in question; and
- (b) the person's parental income free area (see Submodule 5).

Rounding off

1067G-F28 For the purposes of point 1067G-F27:

- (a) if the amount obtained under that point is an amount of dollars and cents—the amount of cents is to be disregarded; and
- (b) if the amount so obtained is less than \$1—the amount obtained is taken to be nil.

Module G—Family actual means test

1067G-G1 This is how to work out the actual means of a person's family and to work out the person's family actual means limit:

Method statement

- Step 1.** Work out whether the family actual means test applies to the person using point 1067G-G2.
- Step 2.** If the family actual means test applies to the person, work out the actual means of the person's family using point 1067G-G3.
- Step 3.** Work out the person's reduction for actual means using point 1067G-G4.

People affected

1067G-G2 The family actual means test applies to a person of the kind specified in the regulations.

Actual means of person's family

1067G-G3 The actual means of a person's family are to be worked out in the way specified in the regulations. Without limiting the matters with which the regulations may deal, the regulations may specify:

- (a) amounts that are to be included in a family's actual means;
and
- (b) amounts that are not to be included in a family's actual means.

Person's reduction for actual means

1067G-G4 A person's reduction for actual means is to be worked out in the way specified in the regulations.

Module H—Income test

Effect of ordinary income on maximum payment rate

1067G-H1 This is how to work out the effect of a person's ordinary income, and the ordinary income of a partner of the person, on the person's maximum payment rate:

Method statement

Step 1. Work out the amount of the person's ordinary income on a fortnightly basis (where appropriate, taking into account the matters provided for in points 1067G-H2 to 1067G-H25).

Note: The person's ordinary income may be reduced under Module J below (student income bank).

Step 2. If the person is a member of a couple, work out the partner income free area using point 1067G-H26.

Note: The partner income free area is the maximum amount of ordinary income the person's partner can have without affecting the person's benefit.

- Step 3.** Use point 1067G-H27 to work out the person's partner income excess. (If there is no partner income excess under that point, the person's partner income excess is taken to be nil.)
- Step 4.** Use the person's partner income excess to work out the person's partner income reduction using point 1067G-H28.
- Step 5.** Use point 1067G-H30 to work out the person's ordinary income excess. (If there is no ordinary income excess under that point, the person's ordinary income excess is taken to be nil.)
- Step 6.** Use the person's ordinary income excess to work out the person's ordinary income reduction using points 1067G-H31, 1067G-H32 and 1067G-H33.
- Step 7.** Add the person's partner income reduction and ordinary income reduction: the result is the ***person's income reduction*** referred to in Step 12 of the Method statement in point 1067G-A1.

Note 1: For *ordinary income* see subsection 8(1).

Note 2: The application of the income test is affected by provisions concerning:

- (a) the general concept of ordinary income (sections 1072 and 1073);
- (b) business income (sections 1074 and 1075);
- (c) deemed income from financial assets (sections 1076 to 1084A);
- (d) income from retirement funds and annuities (sections 1096 to 1099);
- (e) disposal of income (sections 1106 to 1112);

Ordinary income of members of certain couples

1067G-H2 If a person is a member of a couple and the person's partner is receiving a social security pension, a service pension or a rehabilitation allowance, the person's ordinary income is taken to be one half of the sum of:

-
- (a) the amount that would be the person's ordinary income if he or she were not a member of a couple; and
 - (b) the amount that would be the ordinary income of the person's partner if the partner were not a member of a couple.

Friendly society amounts

1067G-H3 The ordinary income of a person:

- (a) who has a temporary incapacity exemption under section 542A; or
- (b) who is a partner of a person who has a temporary incapacity exemption under that section;

is not to include any amount received from an approved friendly society in respect of the incapacity to which the temporary incapacity exemption relates.

Termination payments

1067G-H4 Subject to points 1067G-H10 to 1067G-H20 (inclusive), if:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer;

the person is taken to have received the lump sum payment on the day on which the person's employment was terminated.

Ordinary income to include certain sick leave entitlements

1067G-H5 If a person is qualified for youth allowance and has a temporary incapacity exemption under section 542A, the person's ordinary income is taken to include an amount equal to the amount in respect of sick leave worked out under points 1067G-H6, 1067G-H7 and 1067G-H8.

Sick leave entitlements

1067G-H6 If:

- (a) a person has sick leave entitlements on a day that the person is incapacitated for work; and

- (b) the person has the right to claim payment from the person's employer by way of sick leave payment in respect of that day; and
- (c) the person's employer is able to pay the person the person's sick leave payment in respect of that day; and
- (d) the person is not receiving a leave payment (other than a sick leave payment) in respect of that day;

the person is, for the purposes of this point, taken to have received a sick leave payment equal to the person's sick leave entitlements in respect of that day, assuming that the person does not exercise any rights the person may have in relation to the amount to be paid in respect of that day.

Subsequent consecutive applications of point 1067G-H6

- 1067G-H7** If point 1067G-H6 has applied to a person in respect of a day, then, for the purposes of any subsequent consecutive applications of the point, the person's sick leave entitlements are to be taken to be reduced by a day.

Sick leave payments already included in ordinary income

- 1067G-H8** A person's ordinary income is not to include a payment received by the person in respect of sick leave to the extent that an amount equal to the payment has been included in the person's ordinary income under point 1067G-H5.

Granting of allowance after a cancellation

- 1067G-H9** If:

- (a) point 1067G-H5 has applied to a person while the person was qualified for youth allowance and had a temporary incapacity exemption under section 542A; and
- (b) that allowance has ceased to be payable under Subdivision B of Division 9 of Part 2.11, or has been cancelled under Subdivision E of that Division; and

-
- (c) at least 6 weeks after the day on which the youth allowance ceased to be payable or was cancelled, the person is granted youth allowance, and has a temporary incapacity exemption under section 542A, again;

point 1067G-H5 applies to the person in respect of the person's sick leave entitlements.

Rolling over lump sum leave payments

1067G-H10 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum leave payment from the person's former employer; and
- (c) the person rolls over the lump sum leave payment into an approved deposit fund, a superannuation fund or a deferred annuity;

the lump sum leave payment is to be disregarded in working out the ordinary income of the person for the purposes of this Module.

Certain leave payments taken to be ordinary income

1067G-H11 Subject to points 1067G-H5 to 1067G-H9 (inclusive), if a person receives a leave payment (whether as a lump sum payment, as a payment that is a part of a series of regular payments or otherwise), the person is taken to have received ordinary income for a period (*income maintenance period*) equal to the period of leave to which the payment relates.

More than one leave payment on a day

1067G-H12 Subject to points 1067G-H5 to 1067G-H9 (inclusive), if a person receives more than one leave payment on a day, the income maintenance period is worked out by adding the periods of leave to which the payments relate.

Start of income maintenance period

1067G-H13 Subject to point 1067G-H14, the income maintenance period starts on the day the person is paid the leave payment.

Start of income maintenance period where there is a second leave payment

- 1067G-H14 If a person is subject to an income maintenance period (*first period*) and the person is paid another leave payment during that period (*second leave payment*), the income maintenance period for the second leave payment starts the day after the end of the first period.

Leave payments in respect of periods longer than a fortnight

- 1067G-H15 Subject to points 1067G-H5 to 1067G-H9 (inclusive), if:
- (a) a person receives a leave payment; and
 - (b) the payment is in respect of a period of leave greater than a fortnight;
- the person is taken to receive in a payment fortnight or part of a payment fortnight an amount calculated by:
- (c) dividing the amount received by the number of days in the period of leave to which the payment relates (*daily rate*); and
 - (d) multiplying the daily rate by the number of days in the payment fortnight that are also in the period of leave.

Secretary may determine in certain circumstances that the whole or a part of an income maintenance period does not apply

- 1067G-H16 The Secretary may determine that the whole or any part of an income maintenance period that would, apart from this point, apply to the person, does not apply to the person if the Secretary is satisfied that:
- (a) the application of the income maintenance period to the person would cause the person severe financial hardship; and
 - (b) the circumstances that would cause the severe financial hardship were not reasonably foreseeable by the person.

When a person receives a leave payment

- 1067G-H17 For the purposes of points 1067G-H6 to 1067G-H16 (inclusive), a person (*first person*) is taken to receive a leave payment if the payment is made to another person:
- (a) at the direction of the first person or a court; or
 - (b) on behalf of the first person; or

- (c) for the benefit of the first person; or
- (d) the first person waives or assigns the first person's right to receive the payment.

Single payment in respect of different kinds of leave

1067G-H18 If a person receives a single payment in respect of different kinds of leave, then, for the purposes of the application of points 1067G-H10 to 1067G-H17 (inclusive), each payment in respect of a different kind of leave is taken to be a separate payment and the income maintenance period in respect of the payment is worked out by adding the periods of leave to which the payments relate.

Definitions

1067G-H19 In points 1067G-H10 to 1067G-H18 (inclusive):

payment fortnight means a fortnight in respect of which a youth allowance is paid, or would be paid apart from the application of an income maintenance period, to a person.

roll-over, in relation to a lump sum leave payment, has the same meaning as ***roll-over*** in section 27D of the *Income Tax Assessment Act 1936* in relation to an eligible termination payment.

Meaning of leave payment

1067G-H20 In points 1067G-H5 to 1067G-H19 (inclusive):

leave payment includes a payment in respect of sick leave, annual leave, maternity leave and long service leave.

Ordinary income includes certain periodical payments from relatives

1067G-H21 Subject to point 1067G-H22 (and despite paragraph 8(8)(z)), a person's ordinary income for the purposes of this Module includes a periodical payment or benefit by way of gift or allowance from the father, mother, son, daughter, brother or sister of the person.

Board and lodging

1067G-H22 A person's ordinary income is not to include a payment to the person for board or lodging provided by the person to the person's father, mother, son, daughter, brother or sister.

Ordinary income generally taken into account when first earned, derived or received

1067G-H23 Subject to points 1067G-H24 and 1067G-H25, ordinary income is to be taken into account in the fortnight in which it is first earned, derived or received.

Ordinary income received at intervals longer than one fortnight

1067G-H24 Subject to points 1067G-H10 to 1067G-H20 (inclusive), if:

- (a) a person receives a number of ordinary income payments; and
- (b) each payment is in respect of a period (*work period*) that is greater than a fortnight; and
- (c) there is reasonable predictability or regularity as to the timing of the payments; and
- (d) there is reasonable predictability as to the quantum of the payments;

the person is taken to receive in a fortnight falling within, or overlapping with, a work period an amount calculated by:

- (e) dividing the amount received by the number of days in the work period (*daily rate*); and
- (f) multiplying the daily rate by the number of days in the fortnight that are also within the work period.

Payment of arrears of periodic compensation payments

1067G-H25 If:

- (a) at the time of an event that gives rise to an entitlement of a person to compensation, the person is receiving youth allowance; and

(b) in relation to that entitlement, the person receives a payment of arrears of periodic compensation;

the person is taken to receive, in a fortnight falling within, or overlapping with, the periodic payments period, an amount calculated by:

(c) dividing the amount received by the number of days in the periodic payments period (*daily rate*); and

(d) multiplying the daily rate by the number of days in the fortnight that are also within the periodic payments period.

Note: For *periodic payments period* see section 17.

Partner income free area

1067G-H26 The partner income free area for a person is:

(a) if the person is not receiving a social security benefit—the amount of income of the person (rounded up to the nearest dollar) beyond which newstart allowance would not be payable to the person if the person were qualified for a newstart allowance; or

(b) if the person is receiving a social security benefit—the amount of income of the person (rounded up to the nearest dollar) beyond which that benefit would not be payable to the person.

Partner income excess

1067G-H27 If:

(a) a person is a member of a couple; and

(b) the person's partner is not receiving a social security pension, service pension or a rehabilitation allowance; and

(c) the partner's ordinary income exceeds the partner income free area for the partner;

then:

(d) the person has a partner income excess; and

(e) the person's partner income excess is the amount by which the partner's ordinary income exceeds the partner income free area.

Partner income reduction

1067G-H28 If a person has a partner income excess, the person's partner income reduction is an amount equal to 70% of the person's partner income excess.

Example:

Facts: Alice's partner Martin has an ordinary income of \$612. Assume that the partner income free area under point 1067G-H26 is \$462.

Result: Martin's ordinary income exceeds the partner income free area. Alice therefore has a partner income excess under point 1067G-H27 of:

$$\$612 - \$462 = \$150$$

Alice's partner income reduction under point 1067G-H28 is therefore:

$$70\% \times \$150 = \$105$$

Ordinary income free area

1067G-H29 A person's ordinary income free area is:

- (a) if the person is undertaking full-time study at any time in the fortnight in respect of which a youth allowance may be payable—\$230; or
- (b) otherwise—\$60.

Ordinary income excess

1067G-H30 If a person's ordinary income exceeds the person's ordinary income free area:

- (a) the person has an ordinary income excess; and
- (b) the person's ordinary income excess is the amount by which the person's ordinary income exceeds the person's ordinary income free area.

Ordinary income reduction

1067G-H31 If a person has an ordinary income excess, the person's ordinary income reduction is the sum of:

- (a) the person's lower range reduction (if any)(see point 1067G-H32); and
- (b) the person's upper range reduction (if any) (see point 1067G-H33).

Lower range reduction

1067G-H32 The person's lower range reduction is an amount equal to 50% of the part of the person's ordinary income excess that does not exceed \$80.

Upper range reduction

1067G-H33 The person's upper range reduction is an amount equal to 70% of the part (if any) of the person's ordinary income excess that exceeds \$80.

Example:

Facts: Further to the example at the end of point 1067G-H28, Alice is receiving youth allowance and is not undertaking full-time study. Her ordinary income is \$95.

Result: Alice's ordinary income free area under point 1067G-H29 is \$60.

Her ordinary income exceeds her ordinary income free area. She therefore has an ordinary income excess under point 1067G-H30 of:

$$\$95 - \$60 = \$35$$

Because her ordinary income excess does not exceed \$80:

(a) her lower range reduction under point 1067G-H32 is:

$$50\% \times \$35 = \$17.50$$

(b) there is no upper range reduction under point 1067G-H33.

Her ordinary income reduction under point 1067G-H31 is therefore \$17.50.

Alice's income reduction referred to in Step 12 of point 1067G-A1 is:

$$\$105 + \$17.50 = \$122.50$$

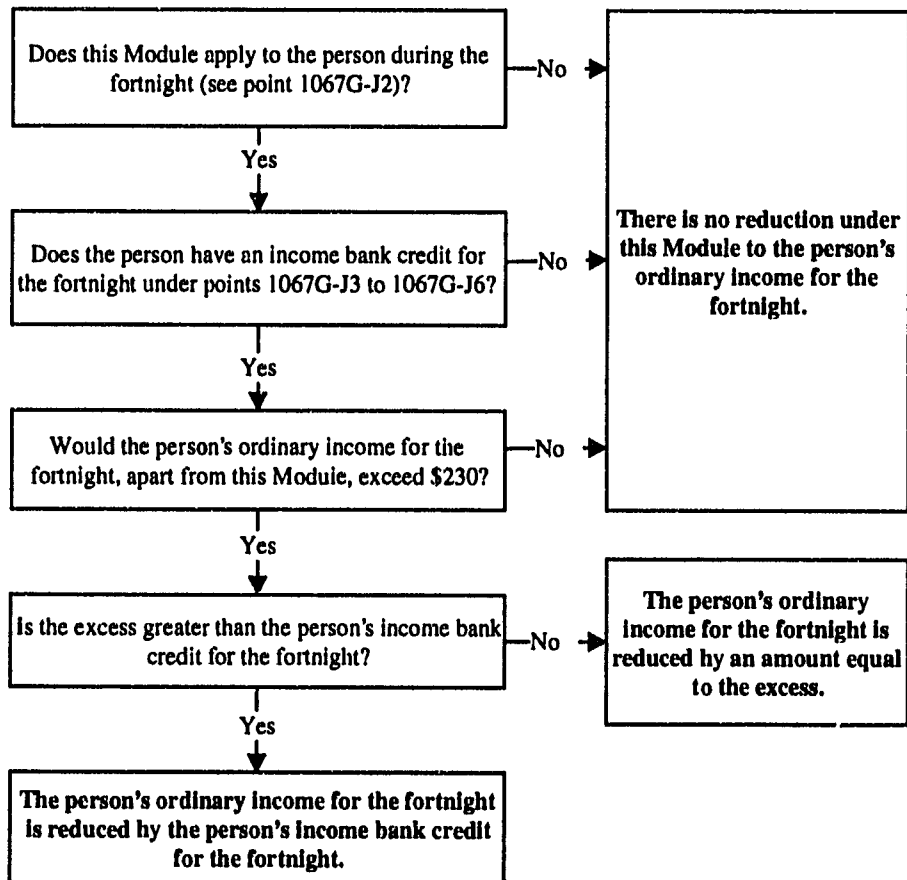
Module J—Student income bank

Student income bank

1067G-J1 A person's ordinary income under Module H may be reduced under this Module. This diagram sets out how to work out:

- (a) whether the person's ordinary income for a particular fortnight, in respect of which youth allowance may be payable to the person, is to be reduced; and
- (b) if it is to be reduced, the amount of the reduction.

Schedule 2 Youth Allowance Rate Calculator



Application of this Module

1067G-J2 This Module applies to a person during a particular fortnight, in respect of which youth allowance may be payable to the person, if the person is undertaking full-time study (see section 541B) at any time during the fortnight.

Income bank credit

1067G-J3 A person's income bank credit for a particular income bank fortnight of the person is to be worked out as follows:

Method statement

- Step 1.** Assume that the person's income bank credit, at the time this Module starts applying to the person, is an opening balance of zero.
- Step 2.** If, for the person's first income bank fortnight, the person has an income credit under point 1067G-J4, add it to the opening balance.
- Step 3.** For each subsequent income bank fortnight of the person, up to but not including the fortnight in question, either:
- (a) if the person has an income credit for that fortnight under point 1067G-J4—add it to the balance of the person's income bank credit in respect of all the previous fortnights, but not so as to increase the balance beyond \$6,000; or
 - (b) if the person has, in respect of that fortnight, drawn from the person's income bank credit under point 1067G-J5—deduct from that balance the amount drawn, but not so as to reduce the balance below zero.

The result is the person's income bank credit for the fortnight in question.

Income credit

1067G-J4 For the purposes of point 1067G-J3, if the amount that would, apart from this Module, be the person's ordinary income for an income bank fortnight of the person is less than \$230:

- (a) the person has an income credit for that fortnight; and
- (b) the income credit is an amount equal to the difference between \$230 and the first-mentioned amount.

Drawing from income bank credit

- 1067G-J5 For the purposes of point 1067G-J3, if the amount that would, apart from this Module, be the person's ordinary income for an income bank fortnight of the person is greater than \$230:
- (a) the person is taken to have drawn from the person's income bank credit in respect of that fortnight; and
 - (b) the amount drawn is taken to be an amount equal to the difference between the first-mentioned amount and \$230.

Income bank fortnight

- 1067G-J6 For the purposes of this Module, an income bank fortnight of a person is any fortnight, in respect of which youth allowance may be payable to the person, during the whole or a part of which this Module applies to the person.

Module K—Remote area allowance

Remote area allowance—person physically in remote area

- 1067G-K1 An amount by way of remote area allowance is to be added to a person's rate of youth allowance if:
- (a) the person's rate of youth allowance apart from this point is greater than nil; and
 - (b) the person's usual place of residence is situated in the remote area; and
 - (c) the person is physically present in the remote area.

Note 1: For *remote area* see subsection 14(1).

Note 2: A person may be considered to be physically present in a remote area during temporary absences (see subsection 14(2)).

Rate of remote area allowance

- 1067G-K2 A person's rate of remote area allowance is worked out using Table K. Work out which family situation in the table applies to the person. The rate of remote area allowance is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each child of the person, being a child to whom point 1067G-K8 applies.

Table K—Remote area allowance

Column 1	Column 2	Column 3	Column 4
Item	Person's family situation	Basic allowance	Additional allowance for each child
1	Not a member of a couple	\$17.50	\$7.00
2	Partnered	\$15.00	\$7.00
3	Member of an illness separated couple	\$17.50	\$7.00
4	Partnered (partner in gaol)	\$17.50	\$7.00

Note: For *member of a couple, partnered, illness separated couple* and *partnered (partner in gaol)* see section 4.

Meaning of remote area allowance

1067G-K3 In Table K, remote area allowance means an amount added to a person's youth allowance by way of remote area allowance.

In remote area

1067G-K4 For the purposes of Table K, a person is in the remote area if:

- (a) the person's usual place of residence is in the remote area; and
- (b) the person is physically present in the remote area.

Children must be physically present in Australia

1067G-K5 A person's remote area allowance is not to include additional allowance for a child unless the child is physically present in Australia.

Special rule if partner has a child but is not receiving a pension

1067G-K6 If:

- (a) an additional allowance is to be included in the rate of remote area allowance for a person who is a member of a couple; and

Schedule 2 Youth Allowance Rate Calculator

(b) the person's partner is not receiving a social security pension or social security benefit; and

(c) the person's partner has a child to whom point 1067G-K8 applies;

the child is taken, for the purposes of this Module, to be a child of the person, being a child to whom point 1067G-K8 applies.

Special rule if partner has a child but is not receiving additional allowance for the child

1067G-K7 If:

(a) an additional allowance is to be included in the rate of remote area allowance for a person who is a member of a couple; and

(b) the person's partner has a child to whom point 1067G-K8 applies; and

(c) the person's partner is not receiving additional allowance for the child;

the child is taken, for the purposes of this Module, to be a child of the person, being a child to whom point 1067G-K8 applies.

Child to whom this point applies

1067G-K8 This point applies to a dependent child in respect of whom family payment is payable at a rate exceeding the minimum family payment rate.

Note 1: For *dependent child* see subsections 5(2) to (9).

Note 2: For *minimum family payment rate* see subsection 6(1).

Module L—Table of pensions, benefits and allowances

Table of pensions, benefits and allowances

Item	Type of pension, benefit and allowance
1	Age pension (Part 2.2)
2	Service pension (age) (Section 36 of the Veterans' Entitlements Act)
3	Defence widow's pension—if the widow has no dependent children (Section 70 of the Veterans' Entitlements Act)

Table of pensions, benefits and allowances

Item	Type of pension, benefit and allowance	
4	War widow's pension—if the widow has no dependent children	(Section 13 of the Veterans' Entitlements Act)
5	Bereavement allowance	(Part 2.7)
6	Wife pension—if husband gets age pension	(Part 2.4)
7	Service pension (partner)—if husband gets service pension (age)	(Section 38 of the Veterans' Entitlements Act)
8	Mature age allowance	(Part 2.12A or 2.12B)
9	Mature age partner allowance	(Part 2.12A or 2.12B)
10	Rehabilitation allowance	(Clause 35 of Schedule 1A)
11	Commonwealth allowance	(New Enterprise Incentive Scheme (NEIS))
12	Carer payment	(Part 2.5)
13	Service pension (carer)	(Section 39 of the Veterans' Entitlements Act)
14	Defence widow's pension—if the widow has a dependent child	(Section 70 of the Veterans' Entitlements Act)
15	Disability support pension	(Part 2.3)
16	Service pension (invalidity)	(Section 37 of the Veterans' Entitlements Act)
17	Pension PP (single)	(Part 2.10)
18	Widow B pension	(Part 2.8)
19	Tuberculosis allowance	(Section 9 of the <i>Tuberculosis Act 1984</i>)
20	War widow's pension—if the widow has a dependent child	(Section 13 of the Veterans' Entitlements Act)
21	Wife pension—if husband gets a disability support pension	(Part 2.4 as in force on 11 November 1991)
22	Wife's service pension—if husband gets an invalidity service pension	(Section 40 of the Veterans' Entitlements Act)
23	Newstart allowance	(Part 2.12)
24	Sickness allowance	(Part 2.14)
25	Special benefit	(Part 2.15)
26	Benefit PP (partnered)	(Part 2.10)

Schedule 2 Youth Allowance Rate Calculator

Table of pensions, benefits and allowances

Item	Type of pension, benefit and allowance
27	Commonwealth allowance for full-time vocational training, except: (a) AUSTUDY; (b) an allowance under the Veterans' Children Education Scheme; (c) an allowance under: (i) the Assistance for Isolated Children Scheme; or (ii) the ABSTUDY Scheme; or (iii) the Aboriginal Overseas Study Assistance Scheme.

9 Point 1068B-A1

Repeal the point, substitute:

Method of calculating rate—general

1068B-A1 The rate of PP (partnered) is a fortnightly rate. There are 3 ways of working out a person's rate:

- (a) one for non-benefit PP (partnered) (see point 1068B-A2); and
- (b) one for benefit PP (partnered) if the person is not a partner of a non-independent YA recipient (see point 1068B-A3); and
- (c) one for benefit PP (partnered) if the person is a partner of a non-independent YA recipient (see point 1068B-A3A).

Use Module B to decide whether parenting payment is a non-benefit PP (partnered) or a benefit PP (partnered).

Note: For *partner of a non-independent YA recipient* see subsection 23(1).

10 Point 1068B-A3

After "benefit PP (partnered)", insert "and the person is not a partner of a non-independent YA recipient".

11 At the end of point 1068B-A3

Add:

Note: For *partner of a non-independent YA recipient* see subsection 23(1).

12 After point 1068B-A3

Insert:

Method of calculating rate—benefit PP (partnered) for partner of a non-independent YA recipient

1068B-A3A If parenting payment is a benefit PP (partnered) and the person is a partner of a non-independent YA recipient, the rate of parenting payment is worked out as follows:

Method statement

- Step 1.** Work out the person's *maximum basic rate* using Module C below.
- Step 2.** Apply the income test using Module E of the rate calculator in section 1068A to work out the person's income reduction as if the person was not a member of a couple.
- Step 3.** Take the income reduction away from the person's maximum basic rate: the result is the *income reduced rate*.
- Note: The result may be a negative amount.
- Step 4.** Work out the amount per fortnight (if any) of rent assistance (see Module F below).
- Step 5.** Work out the amount per fortnight (if any) of pharmaceutical allowance (see Module E below).
- Step 6.** Add up the amounts obtained in Steps 3, 4 and 5: the result is the *provisional payment rate*. If the result is a negative amount the provisional payment rate is taken to be nil.

Step 7. The rate of benefit PP (partnered) is the difference between:

- (a) the provisional payment rate; and
- (b) any advance payment deduction (see Part 3.16A);

plus any amount payable by way of remote area allowance (see Module G).

Note: For *partner of a non-independent YA recipient* see subsection 23(1).

13 Point 1068B-B1

Omit "The question", substitute "Subject to point 1068B-B8, the question".

14 Point 1068B-B1 (note)

Renumber as Note 1.

15 At the end of point 1056B-B1

Add:

Note 2: If the person is a partner of a non-independent YA recipient, use point 1068B-B8 to work out whether parenting payment payable to the person is a non-benefit PP (partnered) or a benefit PP (partnered).

16 Point 1068B-B4

Omit "If the person", substitute "For the purposes of point 1068B-B1, if the person".

17 Point 1068B-B5

Omit "If the person", substitute "For the purposes of point 1068B-B1, if the person".

16 After point 1068B-B7

Insert:

Partner of a non-independent YA recipient

1068B-B8 If the person is a partner of a non-independent YA recipient:

- (a) parenting payment is a non-benefit PP (partnered) if the value of the person's assets exceeds what would be the person's assets value limit under subsection 500Q(2) if the person were not a member of a couple; or
- (b) parenting payment is a benefit PP (partnered) if the value of the person's assets does not exceed what would be the person's assets value limit under that subsection if the person were not a member of a couple.

Note: For *partner of a non-independent YA recipient* see subsection 23(1).

*[Minister's second reading speech—
made in House of Representatives on 2 October 1997
tabled in Senate on 3 December 1997]*

(181/97)