



**Employment and Workplace Relations
Legislation Amendment (Welfare to
Work and Other Measures)
(Consequential Amendments) Act 2006**

No. 64, 2006

**An Act to amend the social security law, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to amend the social security law, and for
related purposes**

[Assented to 22 June 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	22 June 2006
2. Schedule 1, item 1	Immediately after the commencement of Part 1 of Schedule 1 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
3. Schedule 1, item 2	Immediately after the commencement of Schedule 5 to the <i>Workplace Relations Amendment (Work Choices) Act 2005</i> .	27 March 2006
4. Schedule 1, items 3 to 7	Immediately after the commencement of Part 1 of Schedule 1 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
5. Schedule 1, item 8	Immediately after the commencement of Schedule 5 to the <i>Workplace Relations Amendment (Work Choices) Act 2005</i> .	27 March 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
6. Schedule 1, items 9 to 16	Immediately after the commencement of Part 1 of Schedule 1 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
7. Schedule 2	Immediately after the commencement of Part 2 of Schedule 4 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
8. Schedule 3, item 1	Immediately after the commencement of item 15 of Schedule 5 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	27 March 2006
9. Schedule 3, items 2 to 4	Immediately after the commencement of Part 3 of Schedule 5 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
10. Schedule 3, item 5	20 September 2006.	20 September 2006
11. Schedule 3, items 6 to 11	Immediately after the commencement of Part 3 of Schedule 5 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
12. Schedule 4	Immediately after the commencement of Part 1 of Schedule 6 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
13. Schedule 5, item 1	Immediately after the commencement of item 28 of Schedule 7 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	27 March 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
14. Schedule 5, items 2 to 4	Immediately after the commencement of Part 4 of Schedule 7 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
15. Schedule 6	Immediately after the commencement of Schedule 8 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
16. Schedule 7, items 1 to 5	Immediately after the commencement of Part 2 of Schedule 10 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
17. Schedule 7, item 6	Immediately after the commencement of item 11 of Schedule 10 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	27 March 2006
18. Schedule 7, items 7 to 13	Immediately after the commencement of Part 2 of Schedule 10 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
19. Schedule 8	1 July 2006.	1 July 2006
20. Schedule 9	Immediately after the commencement of Schedule 11 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
21. Schedule 10	Immediately after the commencement of Schedule 13 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
22. Schedule 11	Immediately after the commencement of Part 2 of Schedule 14 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
23. Schedule 12	Immediately after the commencement of Schedule 15 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
24. Schedule 13, items 1 to 20	Immediately after the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
25. Schedule 13, item 21	Immediately after the commencement of Part 5 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	14 December 2005
26. Schedule 13, items 22 to 24	Immediately after the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
27. Schedule 14, items 1 to 3	1 July 2006.	1 July 2006
28. Schedule 14, items 4 and 5	Immediately after the commencement of Part 4 of Schedule 7 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
29. Schedule 14, items 6 to 10	Immediately after the commencement of Schedule 16 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	20 September 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
30. Schedule 14, items 11 and 12	Immediately before the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
31. Schedule 14, item 13	1 July 2006.	1 July 2006

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 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—Definitions and other interpretative provisions

Social Security Act 1991

1 After subsection 5(20)

Insert:

*Principal carer—*which member of a couple can be a principal carer

- (20A) Subject to subsection (20B), a person is not the principal carer of any child if:
- (a) the person is a member of a couple; and
 - (b) the other member of the couple is, or apart from this subsection would be, the principal carer of one or more children; and
 - (c) the other member of the couple is receiving parenting payment, youth allowance, newstart allowance or special benefit; and
 - (d) the payment, allowance or benefit is based on or affected by the other member of the couple being the principal carer of a child.
- (20B) If:
- (a) a member of a couple is receiving, or has made a claim for, a social security payment that is or would be based on or affected by the person being the principal carer of a child; and
 - (b) the other member of the couple is receiving, or has made a claim for, a social security payment that is or would be based on or affected by the person being the principal carer of a child; and
 - (c) apart from subsection (20C), the application of subsection (20A) would, or would if the claim or claims were granted, prevent each member of the couple from being the principal carer of any child;
- the Secretary must determine in writing that one of them can be a principal carer of a child.
-

(20C) The determination has effect accordingly, despite subsection (20A).

(20D) The Secretary must give a copy of the determination to each member of the couple.

Principal carer—child absent from Australia

Note: The following heading to subsection 5(18) is inserted “*Principal carer—a child can only have one principal carer*”.

2 Before section 17

Insert:

16C Meaning of *applicable statutory conditions*

- (1) For the purposes of this Act, the *applicable statutory conditions*, in relation to particular work, are:
 - (a) if the work would be covered by the Australian Fair Pay and Conditions Standard:
 - (i) the minimum terms and conditions for the work under the Australian Fair Pay and Conditions Standard; and
 - (ii) if the work would also be covered by a transitional award—the minimum terms and conditions for the work under the transitional award, so far as the terms and conditions relate to rates of pay and casual loadings; or
 - (b) if the work would not be covered by the Australian Fair Pay and Conditions Standard, the minimum terms and conditions for the work under whichever of the following would cover the work:
 - (i) a pre-reform certified agreement within the meaning of Schedule 7 to the *Workplace Relations Act 1996*;
 - (ii) a preserved State agreement within the meaning of Schedule 8 to that Act;
 - (iii) a transitional award (unless the employer in relation to the work would be an employer within the meaning of section 858 of that Act);
 - (iv) a State or Territory industrial law within the meaning of that Act;
 - (v) a State award within the meaning of that Act;

(vi) a State employment agreement within the meaning of that Act.

(2) However, if the work would be covered by more than one agreement, award or law of a kind referred to in paragraph (1)(b), do not have regard to such an agreement, award or law to the extent that one or more of the others prevails over it in relation to the work.

(3) In this section:

transitional award means a transitional award within the meaning of Schedule 6 to the *Workplace Relations Act 1996*.

3 Subsection 23(1) (definition of *activity test breach*)

Repeal the definition.

4 Subsection 23(1) (definition of *activity test breach rate reduction period*)

Repeal the definition.

5 Subsection 23(1) (definition of *activity test non-payment period*)

Repeal the definition.

6 Subsection 23(1) (definition of *activity test penalty period*)

Repeal the definition.

7 Subsection 23(1) (definition of *administrative breach rate reduction period*)

Repeal the definition.

8 Subsection 23(1)

Insert:

applicable statutory conditions has the meaning given by section 16C.

9 Subsection 23(1)

Insert:

compliance penalty period, in relation to a person, means:

- (a) a period during which parenting payment is not payable to the person because of section 500ZB or 500ZE; or
- (b) a period during which youth allowance is not payable to the person because of section 550B or 551; or
- (c) a period during which austudy payment is not payable to the person because of section 576A or 577; or
- (d) a period during which newstart allowance is not payable to the person because of section 626 or 629; or
- (e) a period during which special benefit is not payable to the person because of section 742 or 745.

10 Subsection 23(1)

Insert:

current period as an Australian resident, of a person in relation to parenting payment, youth allowance or newstart allowance, is a period that satisfies both the following conditions:

- (a) the person has been an Australian resident for the entire period;
- (b) the person lodged the claim for the payment or allowance during the period.

11 Subsection 23(1)

Insert:

lone parent: a person is a lone parent on a particular day if, on that day:

- (a) the person is not a member of a couple; and
- (b) the person has a dependent child.

12 Subsection 23(1) (definition of *participation agreement*)

Repeal the definition.

13 Subsection 23(1) (definition of *participation agreement breach non-payment period*)

Repeal the definition.

14 Subsection 23(1) (definition of *participation agreement breach rate reduction period*)

Repeal the definition.

15 Subsection 28(3)

Omit “a payment of newstart allowance”, substitute “a social security payment”.

16 Continuation of definitions

The repeal of definitions by items 4 to 7 and 12 to 14 of this Schedule does not affect the operation of provisions of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005* that refer to terms that those definitions defined.

Schedule 2—Parenting payment

Social Security Act 1991

1 Subparagraph 500(1)(d)(i)

Omit “(see subsections (2) and (3))”.

2 At the end of subsection 500(1)

Add:

Note 3: For *lone parent* and *current period as an Australian resident* see subsection 23(1).

3 Subsections 500(2) and (3)

Repeal the subsections.

4 Subsection 500H(3)

Omit “subsection (1)” (first occurring), substitute “subsection (2)”.

5 Section 500R

Repeal the section.

6 Section 500Y

Repeal the section.

7 Paragraph 500ZE(1)(e)

After “fails”, insert “, without reasonable excuse”.

8 Paragraphs 502(4)(e) and (f)

Repeal the paragraphs, substitute:

(e) the terms and conditions for the work would be less generous than the applicable statutory conditions; or

9 Point 1068B-E1 (paragraphs (d) and (e))

Repeal the paragraphs, substitute:

(d) either or both of the following applies:

(i) the person has turned 60, and has been receiving income support payments in respect of a continuous period of at

least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph);

- (ii) under section 502H, the person is covered by a participation exemption under Division 3A of Part 2.10.

Schedule 3—Youth allowance

Social Security Act 1991

1 Paragraphs 541D(1)(e) and (f)

Repeal the paragraphs, substitute:

- (e) the terms and conditions for the work would be less generous than the applicable statutory conditions; or

2 At the end of section 549D

Add:

Exception—lone parent

- (6) Subsection (1) does not apply to a person if the person:
 - (a) is the principal carer of one or more children; and
 - (b) is not a member of a couple; and
 - (c) is not undertaking full-time study; and
 - (d) is not a new apprentice; and
 - (e) was not a lone parent at the start of the person's current period as an Australian resident.

Note 1: For *principal carer* see subsections 5(15) to (24).

Note 2: For *undertaking full-time study* see section 541B.

Note 3: For *new apprentice* see subsection 23(1).

Note 4: For *lone parent* and *current period as an Australian resident* see subsection 23(1).

3 Subsection 550A(1)

Omit “, being a period of not less than 14 days”.

4 Paragraph 551(1)(e)

After “fails”, insert “, without reasonable excuse”.

5 Subsection 553(2)

Repeal the subsection, substitute:

- (2) For the purposes of this Division, a person is subject to an employment-related exclusion:
- (a) if the person is not undertaking full-time study and is not a new apprentice—while one or more of sections 553A to 553C apply to the person; or
 - (b) if the person is undertaking full-time study or is a new apprentice—while section 553C applies to the person.

Note 1: For *undertaking full-time study* see section 541B.

Note 2: For *new apprentice* see subsection 23(1).

6 Subsection 556(1)

Omit “(1)”.

Note: The heading to subsection 556(1) is deleted.

7 Subsections 556(2) to (4)

Repeal the subsections.

8 Division 10 of Part 2.11 of Chapter 2 (heading)

Repeal the heading, substitute:

Division 10—Bereavement payments

9 Before section 567

Insert:

Subdivision A—Bereavement payments on death of partner

10 At the end of Division 10 of Part 2.11 of Chapter 2

Add:

Subdivision B—Continuation of youth allowance rate after death of child

567G Death of child—continuation of youth allowance rate for 14 weeks

If:

- (a) a person is receiving youth allowance; and
 - (b) the person is the principal carer of a child who dies; and
-

(c) the person is not undertaking full-time study and is not a new apprentice; and

(d) apart from this section, the person's rate of youth allowance would be reduced because the person is no longer the child's principal carer;

the person's rate of youth allowance, during the period of 14 weeks that starts on the day of the child's death, is to be worked out as if the child had not died.

Note 1: For *principal carer* see subsections 5(15) to (24).

Note 2: For *undertaking full-time study* see section 541B.

Note 3: For *new apprentice* see subsection 23(1).

11 Subsection 1067G(1)

Omit "subsection 556(1)", substitute "section 556".

Schedule 4—Austudy payment

Social Security Act 1991

1 Subsection 581(1)

Omit “(1)”.

Note: The heading to subsection 581(1) is deleted.

2 Subsections 581(2) to (4)

Repeal the subsections.

3 Subsection 1067L(1)

Omit “subsection 581(1)”, substitute “section 581”.

Schedule 5—Newstart allowance

Social Security Act 1991

1 Paragraphs 601(2A)(e) and (f)

Repeal the paragraphs, substitute:

- (e) the terms and conditions for the work would be less generous than the applicable statutory conditions; or

2 At the end of section 623A

Add:

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

- (a) is the principal carer of one or more children; and
- (b) is not a member of a couple; and
- (c) was not a lone parent at the start of the person's current period as an Australian resident.

Note 1: For *principal carer* see subsections 5(15) to (24).

Note 2: For *lone parent* and *current period as an Australian resident* see subsection 23(1).

3 Paragraph 629(1)(e)

After “fails”, insert “, without reasonable excuse”.

4 At the end of Division 9 of Part 2.12 of Chapter 2

Add:

Subdivision B—Continuation of newstart allowance rate after death of child

660M Death of child—continuation of newstart allowance rate for 14 weeks

If:

- (a) a person is receiving newstart allowance; and
- (b) the person is the principal carer of a child who dies; and

(c) apart from this section, the person's rate of newstart allowance would be reduced because the person is no longer the child's principal carer;
the person's rate of newstart allowance, during the period of 14 weeks that starts on the day of the child's death, is to be worked out as if the child had not died.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 6—Employment entry payment

Social Security Act 1991

1 At the end of Part 2.13 of Chapter 2

Add:

665AB Effect of compliance penalty periods

For the purposes of this Division, a person is taken to have been receiving, or to be receiving, a social security pension or social security benefit if the person would have been receiving, or would be receiving, the pension or benefit except for the application of a compliance penalty period.

Note: For *compliance penalty period* see subsection 23(1).

Schedule 7—Special benefit

Social Security Act 1991

1 Paragraph 729(2)(bc)

Omit “(requirement to enter into a participation agreement)”, substitute “or 500F(1)(f) or (2)(f) (participation requirements)”.

2 Paragraph 729(2)(bd)

Omit “the operation of section 500ZA (person failing to comply with a participation agreement); and”, substitute:

the operation of:

- (i) section 500ZB (parenting payment participation failure); or
- (ii) section 500ZE (repeated or more serious failure); and

3 Subparagraphs 729(2)(d)(i) to (va)

Repeal the subparagraphs, substitute:

- (i) section 626 (newstart participation failure);
- (ii) section 629 (repeated or more serious failure);

4 Subparagraph 729(2)(dc)(i)

Repeal the subparagraph, substitute:

- (i) section 550B (youth allowance participation failure); or
- (ia) section 551 (repeated or more serious failure); or

5 Subparagraph 729(2)(dd)(i)

Repeal the subparagraph, substitute:

- (i) section 576A (austudy participation failure); or
- (ia) section 577 (repeated failure); or

6 Paragraphs 731B(1)(e) and (f)

Repeal the paragraphs, substitute:

- (e) the terms and conditions for the work would be less generous than the applicable statutory conditions; or

7 Paragraph 745(1)(b)

After “the person”, insert “, and as a result the person is unable to earn a sufficient livelihood for the person and the person’s dependants”.

8 Paragraph 745(1)(c)

After “a worker”, insert “, and as a result the person is unable to earn a sufficient livelihood for the person and the person’s dependants”.

9 Paragraph 745(1)(e)

After “fails”, insert “, without reasonable excuse”.

10 Sections 745J and 745K

Repeal the sections.

11 Saving provision

Sections 745J and 745K continue to apply in relation to:

- (a) an activity test penalty period that continues to apply under item 44 of Schedule 10 of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005*; or
- (b) an administrative breach rate reduction period that continues to apply under item 47 of that Schedule;

as if those sections had not been repealed by this Act.

12 Section 745L

Omit “a requirement of the Secretary under section 731A or with”.

13 Subsection 746(3)

After “point 1067G-B3A”, insert “or 1067G-D1”.

Schedule 8—Partner allowance

Social Security Act 1991

1 Subsection 771HA(1B)

Repeal the subsection, substitute:

(1B) For the purposes of paragraph (1)(c), the person’s partner is taken to be receiving newstart allowance if the person’s partner would be receiving newstart allowance except for:

- (a) the application of a compliance penalty period; or
- (b) the application of a period of non-payment under section 634.

Note: For *compliance penalty period* see subsection 23(1).

2 Subsection 771HA(1BA)

Omit “the imposition of”.

3 Paragraph 771HA(1BA)(a)

Repeal the paragraph, substitute:

- (a) the application of a compliance penalty period; or

4 Paragraph 771HA(1BA)(b)

Before “an employment-related”, insert “the application of”.

5 At the end of subsection 771HA(1BA)

Add:

Note: For *compliance penalty period* see subsection 23(1).

6 Subsection 771HA(1BB)

Omit all the words after “except for”, substitute “the application of a compliance penalty period”.

7 At the end of subsection 771HA(1BB)

Add:

Note: For *compliance penalty period* see subsection 23(1).

8 Paragraph 771HA(3)(b)

Repeal the paragraph, substitute:

- (b) a compliance penalty period applies to the person; or
- (ba) a period of non-payment applies to the person under section 634; or

9 At the end of subsection 771HA(3)

Add:

Note 2: For *compliance penalty period* see subsection 23(1).

10 Subsections 771HA(3A) and (3B)

Repeal the subsections.

Schedule 9—Mobility allowance

Social Security Act 1991

1 Subparagraph 1035A(3)(b)(ii)

Omit “a service provider nominated by the Secretary of the Employment Department”, substitute “the person”.

2 Subparagraph 1035A(6)(b)(ii)

Omit “a service provider nominated by the Secretary of the Employment Department”, substitute “the person”.

3 Subsection 1044(3)

Repeal the subsection, substitute:

(3) In this section:

advance payment period, in relation to a person, means the period of:

- (a) 26 weeks; or
- (b) if section 1044A applies—such number of days as is provided for in that section;

that starts at the beginning of the advance entitlement period.

4 After section 1044

Insert:

1044A Reduction of the advance payment period

- (1) A person’s advance payment period is the period worked out using the following Method statement if:
 - (a) the person has received a mobility allowance advance; and
 - (b) the amount of the advance was calculated on the basis that the person qualified for mobility allowance under section 1035; and
 - (c) the person qualifies for mobility allowance under section 1035A, during the period of 26 weeks starting on the day on which the person qualified for the advance; and

- (d) this section has not previously applied to the person in relation to the same advance.

Method statement

Step 1. Work out the number of days that, at the time of qualification under section 1035A, remain from the period of 26 weeks referred to in paragraph (c) (counting the day on which that qualification occurs as a whole day).

Step 2. Multiply the result under Step 1 by the amount worked out under the following formula:

$$\frac{\text{Rate of mobility allowance specified in subsection 1044(1)}}{\text{Rate of mobility allowance specified in subsection 1044(1A)}}$$

If the result is not a whole number, round the result down to the next whole number.

Step 3. Subtract the result under Step 2 from the result under Step 1.

Step 4. Subtract the result under Step 3 from the number 182. The result is the number of days in the person's advance payment period.

5 Subparagraph 1046(2)(b)(iv)

Omit "a service provider nominated by the Secretary of the Employment Department", substitute "the person".

Schedule 10—Pensioner education supplement

Social Security Act 1991

1 Subsection 1061PJ(2A) (at the end of note 3)

Add “See also subsection (2C) of this section.”.

2 Subsection 1061PJ(2B) (at the end of note 3)

Add “See also subsection (2C) of this section.”.

3 After subsection 1061PJ(2B)

Insert:

- (2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2A)(b)(i) and (2B)(b)(i), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child’s death.

Schedule 11—Telephone allowance

Social Security Act 1991

1 Subsection 1061Q(2) (at the end of note 4)

Add “See also subsection (2C) of this section.”.

2 Subsection 1061Q(2A) (at the end of note 2)

Add “See also subsection (2C) of this section.”.

3 Subsection 1061Q(2B) (at the end of note 3)

Add “See also subsection (2C) of this section.”.

4 After subsection 1061Q(2B)

Insert:

(2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2)(d)(ii) and (2A)(b)(ii) and paragraph (2B)(b), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child’s death.

5 Subsection 1061Q(3E) (at the end of note 1)

Add “See also subsection (3K) of this section.”.

6 Subsection 1061Q(3H) (at the end of note 1)

Add “See also subsection (3K) of this section.”.

7 After subsection 1061Q(3J)

Insert:

(3K) If a person was the principal carer of a child who died, the person is taken, for the purposes of subparagraphs (3E)(a)(i) and (3H)(b)(i), to have continued to be the principal carer of the child during the period of 14 weeks that started on the day of the child’s death.

Schedule 12—Concession cards

Social Security Act 1991

1 Subsection 1061ZA(2A) (at the end of note 4)

Add “See also subsection (2C) of this section.”.

2 Subsection 1061ZA(2B) (at the end of note 2)

Add “See also subsection (2C) of this section.”.

3 After subsection 1061ZA(2B)

Insert:

(2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2A)(c)(ii) and (2B)(b)(ii), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child’s death.

4 After subparagraph 1061ZEA(2)(ga)(ii)

Insert:

- (ia) in the case of a person who is a principal carer of a child and who ceases to receive youth allowance—continues, but for the fact that one or both of paragraphs 540(1)(a) and (c) no longer apply to the person, to be qualified for youth allowance; and
- (ib) in the case of a person who is a principal carer of a child and who ceases to receive newstart allowance—continues, but for the fact that one or more of paragraphs 593(1)(a) to (f) no longer apply to the person, to be qualified for newstart allowance; and

5 At the end of subsection 1061ZEA(2)

Add:

Note: For *principal carer* see subsections 5(15) to (24). See also subsection (2A) of this section.

6 After subsection 1061ZEA(2)

Insert:

- (2A) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2)(ga)(ia) and (iib), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child's death.

7 After section 1061ZEB

Insert:

1061ZEC Effect of compliance penalty periods

- (1) For the purposes of this Division, a social security payment is taken to be payable to a person if the payment would be payable to the person except for the application of a compliance penalty period.

Note: For *compliance penalty period* see subsection 23(1).

- (2) For the purposes of this Division, a social security payment is taken to have ceased to be payable to a person if:
- (a) the payment would have ceased to be payable to the person if the payment had been payable to the person; and
 - (b) the payment was not payable to the person because of the application of a compliance penalty period.

Note: For *compliance penalty period* see subsection 23(1).

- (3) In this section:
- (a) a reference to a social security payment being payable to a person includes, in appropriate cases, a reference to the person receiving the payment; and
 - (b) a reference to a social security payment ceasing to be payable to a person includes, in appropriate cases, a reference to the person ceasing to receive the payment.

8 Subsection 1061ZK(5)

After "because of subsection 1061ZA(2A)", insert "or (2B)".

9 Paragraph 1061ZM(1C)(b)

After "full-time study", insert "or being a new apprentice".

10 Subsection 1061ZM(3) (paragraph (b) of the definition of employment-affected person)

Repeal the paragraph, substitute:

- (b) a person who is receiving a youth allowance but who:
 - (i) is not undertaking full-time study; and
 - (ii) is not a new apprentice.

11 Subsection 1061ZM(3) (paragraph (b) of the definition of *qualified recipient*)

Repeal the paragraph, substitute:

- (b) a person who is receiving a youth allowance but who:
 - (i) is not undertaking full-time study; and
 - (ii) is not a new apprentice.

12 At the end of Subdivision A of Division 3 of Part 2A.1 of Chapter 2A

Add:

1061ZNA Effect of compliance penalty periods

- (1) For the purposes of this Subdivision, a person is taken to have been receiving, or to be receiving, a social security pension or social security benefit if the person would have been receiving, or would be receiving, the pension or benefit except for the application of a compliance penalty period.

Note: For *compliance penalty period* see subsection 23(1).

- (2) For the purposes of this Subdivision, a person is taken to have ceased to receive a social security pension or social security benefit if:
 - (a) the person would have ceased to receive the pension or benefit if the person had been receiving it; and
 - (b) the person had not been receiving the pension or benefit because of the application of a compliance penalty period.

Note: For *compliance penalty period* see subsection 23(1).

Schedule 13—Administration

Social Security (Administration) Act 1999

1 Paragraph 37(1A)(b)

Repeal the paragraph, substitute:

- (b) the payment would be payable apart from the application of a compliance penalty period.

2 Subparagraphs 37(2)(b)(ii), (iii) and (iv)

Repeal the subparagraphs, substitute:

- (ii) the application of a compliance penalty period; or

3 At the end of subsection 37(4)

Add:

- ; (ga) special benefit.

4 Subparagraphs 37(6)(b)(ii), (iii) and (iv)

Repeal the subparagraphs, substitute:

- (ii) the application of a compliance penalty period; or

5 Subsection 106B(4) (paragraph (b) of the definition of *listed automatic issue health care card*)

Repeal the paragraph, substitute:

- (b) to a person who is receiving a youth allowance and who, at the time when a determination was made to grant the person the youth allowance:
 - (i) was not undertaking full-time study; and
 - (ii) was not a new apprentice; or

6 Subparagraph 131(1)(b)(ia)

Repeal the subparagraph.

7 Subparagraph 131(1)(b)(ii)

Omit “an activity test non-payment period”, substitute “a compliance penalty period”.

8 Subsection 131(7) (definition of *participation agreement breach non-payment period*)

Repeal the definition.

9 Paragraph 132(1)(a)

Omit “a participation agreement breach non-payment period or to an activity test non-payment period”, substitute “a compliance penalty period”.

10 Paragraph 140(1)(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; and

11 Subsection 143(1A)

Omit “section 501B of the 1991 Act (to the extent to which it relates to the terms of a participation agreement”, substitute “section 501A of the 1991 Act (to the extent to which it relates to the terms of a Parenting Payment Activity Agreement”.

12 Subparagraph 145(1)(b)(ia)

Repeal the subparagraph.

13 Subparagraph 145(1)(b)(ii)

Omit “an activity test non-payment period”, substitute “a compliance penalty period”.

14 Paragraph 146(1)(a)

Repeal the paragraph, substitute:

- (a) is to set guidelines for the exercise of the Secretary’s power to make a declaration under subsection 145(1) affecting payments to persons who are subject to a compliance penalty period; and

15 Saving provision

The amendment of section 146 of the *Social Security (Administration) Act 1999* by this Act does not affect the validity of any guidelines set under that section before the commencement of this item.

16 Paragraph 149(5)(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or

17 Paragraph 150(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or

18 Paragraph 151(4)(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or

19 Paragraph 152(6)(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or

20 Paragraph 153(1)(aa)

Repeal the paragraph, substitute:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; and

21 Subsection 234(7)

After “subsection 23(1)”, insert “of the 1991 Act”.

22 After subclause 5(1) of Schedule 2

Insert:

- (1A) This clause does not apply in relation to payment of parenting payment to a person who is a member of a couple if the Secretary is satisfied that it should not so apply.

23 Subclause 5(2) of Schedule 2 (paragraph (b) of the definition of *exclusion period*)

After “non-payment period”, insert “(including a compliance penalty period)”.

24 Subparagraphs 15(b)(i) and (ii) of Schedule 2

Repeal the subparagraphs, substitute:

- (i) the payment, allowance or benefit is not payable to the person because of subsection 63(4); or
- (ii) a compliance penalty period applies to the person; and

Schedule 14—Other amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

compliance penalty period has the same meaning as in the *Social Security Act 1991*.

2 Subsection 3(1) (paragraphs (b) and (c) of the definition of *receiving*)

Repeal the paragraphs, substitute:

- (b) for the purpose of construing references to a person receiving a social security pension or social security benefit that are references in sections 50S and 50T of the Family Assistance Administration Act and clauses 1 and 17 of Schedule 1, and in clause 7 of Schedule 2, to this Act:
 - (i) is taken to include the meaning provided in subsection 23(4A) of the *Social Security Act 1991* as if those clauses were specified in provisions of that Act referred to in subsection 23(4AA) of that Act; and
 - (ii) subject to subsection (8) of this section, is taken to include a reference to a person being prevented from receiving a social security pension or social security benefit because of the application of a compliance penalty period.

3 At the end of section 3

Add:

- (8) Subparagraph (b)(ii) of the definition of *receiving* in subsection (1) does not apply in relation to a compliance penalty period if:
 - (a) the duration of the period is more than 8 weeks; or
 - (b) in a case where the compliance penalty period immediately succeeded another compliance penalty period—it has been more than 8 weeks since any compliance penalty period did not apply to the person.

(9) However, if:

- (a) the compliance penalty period; or
- (b) in a case where the compliance penalty period immediately succeeded another compliance penalty period—the period since any compliance penalty period did not apply to the person;

started in the income year preceding the income year in which the 8 weeks referred to in subsection (8) elapsed, that subsection does not apply in relation to the compliance penalty period until the start of the later income year.

***Employment and Workplace Relations Legislation
Amendment (Welfare to Work and Other Measures)
Act 2005***

4 Subitem 74(1) of Schedule 7

After “that Subdivision”, insert “, sections 631A and 631B of that Act and Subdivision GB of Division 1 of Part 2.12 of that Act”.

5 Subitem 77(1) of Schedule 7

After “that section”, insert “, sections 631A and 631B of that Act and Subdivision GB of Division 1 of Part 2.12 of that Act”.

6 Item 8 of Schedule 16

Omit “claims for social security payments made”, substitute “termination payments or leave payments to which a person becomes entitled, or that a person receives,”.

7 Item 33 of Schedule 17

Omit “claims for youth allowance made”, substitute “termination payments to which a person becomes entitled, or that a person receives,”.

8 Item 21 of Schedule 18

Omit “claims for austudy payment made”, substitute “termination payments to which a person becomes entitled, or that a person receives,”.

9 Item 27 of Schedule 19

Omit all the words from and including “claims for”, substitute “termination payments to which a person becomes entitled, or that a person receives, on or after 20 September 2006”.

10 Item 35 of Schedule 20

Omit “claims for parenting payment made”, substitute “termination payments to which a person becomes entitled, or that a person receives,”.

11 Item 31 of Schedule 22

Omit “person notice”, substitute “person a notice”.

12 Item 36 of Schedule 22

Repeal the item, substitute:

36 After subsection 80(3)

Insert:

- (3A) Subsection (1) does not authorise the Secretary to make a determination that cancels the payment of a parenting payment, youth allowance, austudy payment, newstart allowance or special benefit to a person if:
- (a) paragraph (1)(a) does not apply to the person; and
 - (b) paragraph (1)(b) applies only because of the application of a compliance penalty period.

Social Security (International Agreements) Act 1999

13 Subparagraph 10(1)(d)(iii)

Repeal the subparagraph, substitute:

- (iii) subsection 5(21), (23) or (24) of that Act;

*[Minister's second reading speech made in—
House of Representatives on 29 March 2006
Senate on 13 June 2006]*

(40/06)