



# **Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) Act 2006**

**No. 108, 2006**

**An Act to amend the social security law and the  
family assistance law, repeal redundant housing  
Acts and make technical amendments, 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 the  
family assistance law, repeal redundant housing  
Acts and make technical amendments, and for  
related purposes**

*[Assented to 27 September 2006]*

The Parliament of Australia enacts:

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## 1 Short title

This Act may be cited as the *Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) 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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
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.	27 September 2006
2. Schedules 1 and 2	The day on which this Act receives the Royal Assent.	27 September 2006
3. Schedule 3, items 1 to 26	The day on which this Act receives the Royal Assent.	27 September 2006
4. Schedule 3, item 27	The later of: (a) the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 7 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	27 September 2006 (paragraph (a) applies)
5. Schedule 3, items 28 to 84	The day on which this Act receives the Royal Assent.	27 September 2006
6. Schedules 4 and 5	The day on which this Act receives the Royal Assent.	27 September 2006

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
7. Schedule 6, item 1	Immediately after the time specified in the <i>New Tax System (Compensation Measures Legislation Amendment) Act 1999</i> for the commencement of item 22 of Schedule 2 to that Act.	1 July 2000
8. Schedule 6, item 2	Immediately after the commencement of item 21 of Schedule 1 to the <i>Disability Services Amendment (Improved Quality Assurance) Act 2002</i> .	1 July 2002
9. Schedule 6, item 3	Immediately after the commencement of item 17 of Schedule 2 to the <i>Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004</i> .	1 December 2004
10. Schedule 6, item 4	The day on which this Act receives the Royal Assent.	27 September 2006
11. Schedules 7 and 8	The day on which this Act receives the Royal Assent.	27 September 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—Amendment of the A New Tax System (Family Assistance) Act 1999

### 1 At the end of section 16

Add:

- (3) The Minister may, by legislative instrument, determine that individuals included in a specified class are individuals who are taken to have recognised training commitments for the purposes of this section.

### 2 At the end of section 17

Add:

- (3) The Minister may, by legislative instrument, determine that individuals included in a specified class are individuals who are taken to have recognised study commitments for the purposes of this section.

### 3 After paragraph 43(1)(b)

Insert:

- (ba) the care is not provided as part of the compulsory education program in the State or Territory where the care is provided; and

### 4 After paragraph 44(1)(b)

Insert:

- (ba) the care is not provided as part of the compulsory education program in the State or Territory where the care is provided; and

### 5 Subsection 57(1)

Omit “Minister” (wherever occurring), substitute “Secretary”.

Note: The heading to section 57 is altered by omitting “**Minister’s**” and substituting “**Secretary’s**”.

### 6 Subsections 57(3) and (4)

Omit “Minister”, substitute “Secretary”.

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**7 Paragraph 57B(c)**

Omit “Minister’s”, substitute “Secretary’s”.

**8 Paragraph 57C(c)**

Omit “Minister”, substitute “Secretary”.

**9 Saving of determinations under sections 57 and 57B**

- (1) A determination in force under section 57 of the *A New Tax System (Family Assistance) Act 1999* just before the commencement of the amendments of that section by this Schedule continues in force despite those amendments as if it had been made by the Secretary on that commencement.
- (2) A determination in force under paragraph 57B(c) of the *A New Tax System (Family Assistance) Act 1999* just before the commencement of the amendment of that paragraph by this Schedule continues to apply after that commencement in relation to the Secretary’s determinations under section 57 in the same way as it applied to the Minister’s determinations under that section before that commencement.
- (3) This item does not prevent the variation or revocation of a determination.

**10 Section 84**

Repeal the section, substitute:

**84 Weekly limit on child care benefit for care provided by a registered carer**

The total amount of child care benefit for care provided to a child by a registered carer or carers in a week is not to exceed the lesser of the following:

- (a) the amount worked out as follows:

Hourly rate under section 83 × 50

- (b) the amount paid for the care.

**Schedule 2—Amendment of the A New Tax  
System (Family Assistance)  
(Administration) Act 1999**

**1 Paragraph 66(2)(a)**

Omit “56(2) and 56A(2)”, substitute “56(3) and 56A(3)”.

**2 At the end of paragraph 109G(2)(e)**

Add “and”.

## **Schedule 3—Amendment of the Social Security Act 1991**

### **1 Paragraph 4(9A)(b)**

Repeal the paragraph.

### **2 Subsection 8(1) (definition of *ordinary income*) (note 2)**

Omit “1171”, substitute “1176”.

### **3 Paragraph 8(8)(d)**

Repeal the paragraph.

### **4 Paragraph 8(11)(a)**

Omit “10(1A)”, substitute “(11A)”.

### **5 After subsection 8(11)**

Insert:

(11A) An amount is a *periodic amount* if it is:

- (a) the amount of one payment in a series of related payments, even if the payments are irregular in time and amount; or
- (b) the amount of a payment making up for arrears in such a series.

### **6 Subsection 11(14)**

Repeal the subsection.

### **7 Subsection 14(1) (at the end of the definition of *remote area*)**

Add:

; and (d) Lord Howe Island.

### **8 Subsection 23(1) (definition of *financial hardship farmer*)**

Repeal the definition.

### **9 Subsection 23(1) (definition of *life insurance policy*)**

Repeal the definition.

**10 Subsection 23(1) (definition of section 26 certificate date)**

Repeal the definition.

**11 Subsection 23(5)**

Repeal the subsection, substitute:

(5) For the purposes of this Act, a person is *in gaol* if:

- (a) the person is being lawfully detained (in prison or elsewhere) while under sentence for conviction of an offence and not on release on parole or licence; or
- (b) the person is undergoing a period of custody pending trial or sentencing for an offence.

**12 Subsection 82(2) (note)**

Repeal the note.

**13 Paragraph 83(1)(a)**

After “pension”, insert “or social security benefit”.

Note: The heading to section 83 is altered by omitting “partner’s pension or allowance” and substituting “deceased partner’s previous entitlement”.

**14 Subparagraph 92C(a)(ii)**

Omit “(within the meaning of section 1208)”, substitute “(see section 5 of the *Social Security (International Agreements) Act 1999*)”.

**15 Paragraph 93H(a)**

Repeal the paragraph, substitute:

- (a) if the person is not permanently blind—the rate that would be the person’s provisional annual payment rate under the method statement in point 1064-A1, ascertained as at the date of grant of the age pension, if it were assumed that steps 2 and 3 were omitted from that method statement; or

**16 Paragraph 93J(3)(a)**

Repeal the paragraph, substitute:

- (a) if the person is not permanently blind—the adjusted percentage of the sum of:
  - (i) the person’s maximum basic rate under Table B in point 1064-B1; and

- (ii) the person's pension supplement worked out under point 1064-BA2;  
calculated in each case as at the date of grant of the age pension and assuming that the person was not a member of a couple at that date; or

**17 Paragraph 93J(4)(a)**

Repeal the paragraph, substitute:

- (a) if the person is not permanently blind—the adjusted percentage of the sum of:
  - (i) the person's maximum basic rate under Table B in point 1064-B1; and
  - (ii) the person's pension supplement worked out under point 1064-BA2;  
calculated in each case as at the date of grant of the age pension and assuming that the person was a member of a couple at that date; or

**18 Subsection 93J(5) (definition of *maximum basic rate*)**

Repeal the definition, substitute:

*maximum basic rate* is the sum of the amounts worked out under steps 1 and 1A of the method statement in point 1064-A1.

**19 Paragraph 146G(1)(a)**

After "pension", insert "or social security benefit".

Note 1: The heading to section 146G is altered by omitting "**partner's pension or allowance**" and substituting "**deceased partner's previous entitlement**".

Note 2: The heading to section 238 is altered by omitting "**partner's pension or allowance**" and substituting "**deceased partner's previous entitlement**".

**20 Subparagraph 198C(6)(b)(i)**

Omit "subsection 222(1A)", substitute "section 70 of the Administration Act".

**21 Subsection 237(2) (note)**

Repeal the note.

**22 Subsection 246(2) (note 1)**

Repeal the note.

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**23 Subsection 246(2) (note 2)**

Omit “Note 2:”, substitute “Note:”.

**24 Subsection 359(2) (note)**

Repeal the note.

**25 Subsection 547C(1)**

Omit “(1)”.

**26 Subsection 573B(1)**

Omit “(1)”.

**27 Subsection 593(2)**

Repeal the subsection.

**28 Section 665ZFC**

Omit “section 665ZC”, substitute “section 665ZFA”.

**29 Paragraphs 739(c), (d) and (e)**

Repeal the paragraphs, substitute:

- (c) the person meets the conditions in subsection 1067A(9) (which is about being independent).

**30 Paragraph 823(1)(a)**

After “pension”, insert “or social security benefit”.

Note: The heading to section 823 is altered by omitting “**partner’s pension or allowance**” and substituting “**deceased partner’s previous entitlement**”.

**31 Paragraph 1037(aa)**

Omit “provided; or”, substitute “provided.”.

**32 Paragraph 1037(b)**

Repeal the paragraph.

**33 Paragraphs 1061EM(1)(b) and (2)(a)**

Omit “application”, substitute “claim”.

**34 Subsection 1061EM(3)**

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Omit “application”, substitute “claim”.

**35 Section 1061JG**

Before “A person”, insert “(1)”.

**36 Paragraph 1061JG(a)**

Repeal the paragraph, substitute:

- (a) the person spends at least 14 days in gaol, or in psychiatric confinement that starts because he or she has been charged with an offence, and is released so that he or she is neither in gaol nor in psychiatric confinement; and

**37 At the end of section 1061JG**

Add:

Note: A person does not cease to be in gaol merely because he or she is transferred between a prison and a psychiatric institution where he or she is lawfully detained while still under sentence. See subsection 23(5).

- (2) Disregard subsection 23(9) in determining whether a person meets the condition in paragraph (1)(a) of this section.

Note: Subsection 23(9) provides that the confinement of a person in a psychiatric institution when the person is undertaking a course of rehabilitation is not to be taken to be psychiatric confinement.

**38 Paragraph 1061ZK(5)(a)**

Repeal the paragraph, substitute:

- (a) on that day the person is receiving a youth allowance (except because of section 540AA) and is not undertaking full-time study; or

**39 Subsection 1061ZK(7)**

Repeal the subsection, substitute:

- (7) This section applies to a person on a day if, on that day, the person is receiving mobility allowance.

**40 Point 1064-A2**

Omit “, 1064-F2”.

Note: The heading to section 1066 is altered by omitting “**sole parent pension,**”.

**41 Paragraph (a) of point 1068-D1**

Repeal the paragraph.

**42 Subsection 1070L(2) (cells at table items 3 and 4, column 4)**

Repeal the cells, substitute:

Half the rate  
specified in  
column 4 of  
item 2

**43 Subsection 1070N(2) (cells at table items 3 and 4, column 4)**

Repeal the cells, substitute:

Half the rate  
specified in  
column 4 of  
item 2

**44 Subsection 1070P(2) (cells at table items 3 and 4, column 4)**

Repeal the cells, substitute:

Half the rate  
specified in  
column 4 of  
item 2

**45 Subsection 1070Q(2) (cell at table item 3, column 4)**

Repeal the cell, substitute:

Half the rate  
specified in  
column 4 of  
item 2

**46 Subsection 1070R(2) (cell at table item 2, column 4)**

Repeal the cell, substitute:

Half the rate  
specified in  
column 4 of  
item 1

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**47 Point 1071A-4 (before paragraph (a) of the definition of *income*)**

Insert:

- (aa) payments of a social security pension or a social security benefit; and

**48 Point 1071A-4 (after paragraph (c) of the definition of *income*)**

Insert:

- (ca) payments of income support supplement; and
- (cb) a payment under Part VIIAB (DFISA) of the Veterans' Entitlements Act (including a payment made under regulations made under that Part); and

**49 Section 1072**

Omit "2 or 3", substitute "1A".

**50 Section 1073F (method statement, step 3)**

Omit "participant's fortnightly", substitute "participant's".

**51 Paragraphs 1075(1)(b) and (ba)**

Repeal the paragraphs, substitute:

- (b) depreciation that relates to the business and is an allowable deduction for the purposes of subsection 54(1) of the *Income Tax Assessment Act 1936*; and
- (ba) amounts that relate to the business and can be deducted under a provision of Division 40 of the *Income Tax Assessment Act 1997* corresponding to a provision of repealed Division 42 of that Act; and

**52 Subsection 1100(2)**

Omit "15th", substitute "fifth".

**53 At the end of Division 2 of Part 3.10**

Add:

**1100A Determining value of a payment originally denominated in a foreign currency but made in Australian currency**

- (1) This section applies if, for the purposes of working out for a calculation day the rate of a payment to be made to a person under this Act, it is necessary to take account of a payment (the *foreign payment*):
  - (a) that the person received from a source overseas; and
  - (b) that was originally denominated in a foreign currency but was received by the person in Australian currency.
- (2) For those purposes, the value in Australian currency of the foreign payment is taken to be the value that would have been determined under section 1100 had the person received the foreign payment in the foreign currency.
- (3) Subsection (2) has effect regardless of the amount of the foreign payment actually received by the person in Australian currency.
- (4) In this section:

*calculation day* has the same meaning as in section 1100.

**54 Subsection 1118(1)**

Omit “198H, 198HA, 198HB, 198J, 198JA, 198JB, 198K and 198L, subparagraph 501E(1)(d)(iv), Division 1B of Part 3.10 and sections 1125, 1126,” substitute “198F to 198MA (inclusive), Division 1B of Part 3.10, Division 2 and sections”.

**55 Subsection 1124A(1)**

Omit “Subject to subsection (2), if”, substitute “If”.

**56 Subsection 1124A(2)**

Repeal the subsection.

**57 Subsection 1125(1)**

Omit “Subject to subsection (2), if”, substitute “If”.

**58 Subsection 1125(2)**

Repeal the subsection.

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**59 Subsection 1125A(1)**

Omit “(2),”.

**60 Subsection 1125A(2)**

Repeal the subsection.

**61 Subsection 1126(1)**

Omit “(2),”.

**62 Subsection 1126(2)**

Repeal the subsection.

**63 Subsection 1130C(3)**

After “The”, insert “person’s”.

**64 Subsection 1130C(3)**

Omit “of a person who is not a financial hardship farmer”.

**65 Subsection 1130C(3) (note)**

Repeal the note.

**66 Subsection 1130C(4)**

Repeal the subsection.

**67 Subsection 1130C(5)**

Omit “subsections (3) and (4)”, substitute “paragraph (3)(b)”.

**68 Subsection 1132(3)**

After “The”, insert “person’s”.

**69 Subsection 1132(3)**

Omit “of a person who is not a financial hardship farmer”.

**70 Subsection 1132(3A)**

Repeal the subsection.

**71 Subsection 1132(4)**

Omit “subsections (3) and (3A)”, substitute “paragraph (3)(b)”.

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**72 Section 1158**

After “parenting payment,”, insert “a carer allowance,”.

**73 At the end of Part 3.13**

Add:

**1159A Person not qualified for some concession cards when in gaol or in psychiatric confinement following criminal charge**

- (1) A person is not qualified under section 1061ZG or 1061ZO for a seniors health card or health care card on a day on which the person is:
- (a) in gaol; or
  - (b) undergoing psychiatric confinement because the person has been charged with an offence.

Note 1: For *in gaol* see subsection 23(5).

Note 2: For *psychiatric confinement* see subsections 23(8) and (9).

- (2) This section has effect despite sections 1061ZG and 1061ZO.

**74 Subparagraphs 1185K(3)(d)(ii) and (iia)**

Repeal the subparagraphs, substitute:

- (ii) depreciation that relates to a relevant farm asset and is an allowable deduction for the purposes of subsection 54(1) of the *Income Tax Assessment Act 1936*; and
- (iia) amounts that relate to a relevant farm asset and can be deducted under a provision of Division 40 of the *Income Tax Assessment Act 1997* corresponding to a provision of repealed Division 42 of that Act; and

**75 Section 1190 (cell at table item 17, column 4)**

Repeal the cell, substitute:

[Part 3.7—section 1070L—Table—  
column 4—items 1, 2, 5, 6, 7, 8, 9 and  
10]

[Part 3.7—section 1070M—Table—  
column 3—amount]

[Part 3.7—sections 1070N and  
1070P—Table—column 4—items 1,  
2, 5, 6, 7, 8, 9 and 10]

[Part 3.7—section 1070Q—Table—  
column 4—items 1, 2, 4, 5, 6 and 7]

[Part 3.7—section 1070R—Table—  
column 4—items 1, 3, 4, 5 and 6]

**76 Subsection 1206GC(5) (table item 6, column 2)**

Omit “547C(1)(a)”, substitute “547C(a)”.

**77 Subsection 1206GC(5) (table item 7, column 2)**

Omit “573B(1)(a)”, substitute “573B(a)”.

**78 Paragraphs 1208B(1)(b) and (ba)**

Repeal the paragraphs, substitute:

- (b) depreciation that relates to the business or investment and is an allowable deduction for the purposes of subsection 54(1) of the *Income Tax Assessment Act 1936*; and
- (ba) amounts that relate to the business or investment and can be deducted under a provision of Division 40 of the *Income Tax Assessment Act 1997* corresponding to a provision of repealed Division 42 of that Act; and

**79 Paragraphs 1209C(1)(b) and (ba)**

Repeal the paragraphs, substitute:

- (b) depreciation that relates to the primary production enterprise and is an allowable deduction for the purposes of subsection 54(1) of the *Income Tax Assessment Act 1936*; and
- (ba) amounts that relate to the primary production enterprise and can be deducted under a provision of Division 40 of the *Income Tax Assessment Act 1997* corresponding to a provision of repealed Division 42 of that Act; and

**80 Section 1216**

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Omit “remote area allowance,”.

**81 Subparagraph 1223(1B)(b)(iii)**

Omit “subsection 222(1A)”, substitute “section 70 of the Administration Act”.

**82 Paragraphs 1223AA(1)(a), (1B)(a) and (b) and (1BA)(a) and (d)**

Omit “benefit”, substitute “payment”.

**83 Paragraph 1231(1)(b)**

Omit “or” (last occurring).

**84 After paragraph 1231(1)(ba)**

Insert:

(bb) a debt described in subsection 1228(2A) or (2B);

## **Schedule 4—Amendment of the Social Security (Administration) Act 1999**

### **1 Subsection 14(5)**

Repeal the subsection.

### **2 Subsections 29(1) and (2)**

After “30,”, insert “30A,”.

### **3 Subparagraph 30(b)(ii)**

Repeal the subparagraph.

### **4 Subparagraph 30(b)(iii)**

Omit “determined by the Minister to be a visa to which this subparagraph applies”, substitute “that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act”.

### **5 After section 30**

Insert:

#### **30A Exclusion from section 29 residence requirement of crisis payment claimants holding certain visas**

Despite paragraph 29(1)(a), a person who is not an Australian resident may make a claim for a crisis payment if the person is qualified for special benefit because he or she is the holder of a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act.

### **6 Section 70**

Before “If a person”, insert “(1)”.

### **7 At the end of section 70**

Add:

- (2) The notice may describe the event or change of circumstances specified in the notice as a notifiable event for the purposes of section 198C of the 1991 Act.

## **8 After section 95**

Insert:

### **95A Automatic cancellation of carer payment for non-compliance with section 70 notice**

If:

- (a) a care receiver or parent of a care receiver is given a notice under section 70; and
- (b) the notice requires the care receiver or parent to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the care receiver or parent does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances:
  - (i) the person receiving the carer payment ceases to be qualified for the payment; or
  - (ii) the carer payment ceases to be payable to the person;the carer payment is cancelled, by force of this section, on the day on which the event or change of circumstances occurs.

## **9 Paragraph 99(2)(g)**

Omit “so”.

## **10 Subparagraph 99(3)(c)(i)**

After “day”, insert “before the day”.

## **11 Paragraphs 144(a) and (b)**

Repeal the paragraphs.

## **12 Saving**

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The repeal of paragraphs 144(a) and (b) of the *Social Security (Administration) Act 1999* does not enable the SSAT to review a decision it was prohibited by either of those paragraphs from reviewing.

## **Schedule 5—Amendment of the Social Security (International Agreements) Act 1999**

### **1 Subsection 14A(1) (table item 2)**

Omit “15”, substitute “16”.

### **2 At the end of subsection 14A(1)**

Add:

Note: Additional child amounts are indexed annually in line with CPI increases (see sections 1190 and 1191 of the *Social Security Act 1991*).

## **Schedule 6—Amendment of other Acts**

### ***A New Tax System (Compensation Measures Legislation Amendment) Act 1999***

#### **1 Item 22 of Schedule 2 (heading)**

After “statement”, insert “2”.

### ***Disability Services Act 1986***

#### **2 Section 9**

Omit “paragraph (d)”, substitute “paragraph (h)”.

### ***Family and Community Services and Veterans’ Affairs Legislation Amendment (2004 Election Commitments) Act 2004***

#### **3 Item 17 of Schedule 2 (heading)**

Repeal the heading, substitute:

#### **17 Before paragraph 5H(8)(h)**

Note: This item ensures that an amendment is located correctly.

### ***Veterans’ Entitlements Act 1986***

#### **4 Paragraph 5H(8)(k)**

Repeal the paragraph.

## **Schedule 7—Repeal of redundant housing Acts**

### **1 Repeal of Acts**

The Acts specified in this Schedule are repealed.

*Home Deposit Assistance Act 1982*

*Homeless Persons Assistance Act 1974*

*Homes Savings Grant Act 1964*

*Homes Savings Grant Act 1976*

*States Grants (Housing) Act 1971*

*Supported Accommodation Assistance Act 1985*

*Supported Accommodation Assistance Act 1989*

## **Schedule 8—Technical amendments relating to legislative instruments**

### ***A New Tax System (Family Assistance) Act 1999***

**1 Subsection 3(1) (paragraph (c) of the definition of *disabled person*)**

After “Minister”, insert “, by legislative instrument,”.

**2 Subsection 3(1) (paragraph (e) of the definition of *disabled person*)**

After “Minister”, insert “, by legislative instrument,”.

**3 Subsection 3(4)**

Repeal the subsection.

**4 Subsection 4(1)**

Omit “(1)”.

**5 Subsection 4(1)**

After “section 3,”, insert “by legislative instrument,”.

**6 Subsection 4(2)**

Repeal the subsection.

**7 Subsection 7(1)**

After “Minister may”, insert “, by legislative instrument,”.

**8 Subsection 7(2)**

After “Minister may”, insert “, by legislative instrument,”.

**9 Subsection 7(3)**

Repeal the subsection.

**10 Subsection 8(4)**

After “Minister may”, insert “, by legislative instrument,”.

**11 Subsection 8(5)**

Repeal the subsection.

**12 Subsection 9(1)**

After “Minister must”, insert “, by legislative instrument,”.

**13 Subsection 9(3)**

Repeal the subsection.

**14 Subparagraph 10(2)(b)(iv)**

Omit “subsection 11(1)”, substitute “section 11”.

**15 Paragraph 10A(2)(b)**

Omit “subsection 11(1)”, substitute “section 11”.

**16 Subsection 11(1)**

Omit “(1) The Minister may”, substitute “The Minister may, by legislative instrument,”.

**17 Subsection 11(2)**

Repeal the subsection.

**18 Subsection 14(2)**

After “Minister may”, insert “, by legislative instrument,”.

**19 Subsection 14(4)**

Repeal the subsection.

**20 Subsection 15(2)**

After “Minister may”, insert “, by legislative instrument,”.

**21 Subsection 15(3)**

Repeal the subsection.

**22 Subsection 18(2)**

After “Minister may”, insert “, by legislative instrument,”.

**23 Subsection 18(3)**

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After “Minister may”, insert “, by legislative instrument,”.

**24 Subsection 18(4)**

Repeal the subsection.

**25 Subsection 48(3)**

After “Minister may”, insert “, by legislative instrument,”.

**26 Subsection 48(4)**

Repeal the subsection.

**27 Subsection 49(2)**

After “Minister may”, insert “, by legislative instrument,”.

**28 Subsection 49(3)**

After “Minister may”, insert “, by legislative instrument,”.

**29 Subsection 49(4)**

Repeal the subsection.

**30 Subsection 51(1)**

Omit “(1) The Minister may”, substitute “The Minister may, by legislative instrument,”.

**31 Subsection 51(2)**

Repeal the subsection.

**32 Subsection 57A(1)**

After “Minister must”, insert “, by legislative instrument,”.

**33 Section 57B**

After “Minister may”, insert “, by legislative instrument,”.

**34 Section 57D**

Repeal the section.

**35 Subparagraph 76(1)(b)(ii)**

Omit “a determination”, substitute “an instrument”.

**36 Paragraph 81(2)(c)**

Omit “a determination”, substitute “an instrument”.

**37 Subsection 82(3)**

Omit “determination”, substitute “legislative instrument”.

**38 Subsection 82(4)**

Repeal the subsection.

**39 Clause 8 of Schedule 4**

Repeal the clause.

***A New Tax System (Family Assistance) (Administration) Act  
1999***

**40 Subsection 32Q(1)**

Omit “(1) The Secretary may, by writing”, substitute “The Secretary may, by legislative instrument”.

**41 Subsection 32Q(2)**

Repeal the subsection.

**42 Subsection 32R(1)**

Omit “by writing”, substitute “by legislative instrument”.

**43 Subsection 32R(2)**

Repeal the subsection.

**44 Subsection 79(2)**

Omit “determine, in writing”, substitute “, by legislative instrument, determine”.

**45 Subsection 79(3)**

Repeal the subsection.

**46 Subsection 79A(1)**

Omit “(1)”.

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**47 Subsection 79A(1)**

Omit “by writing”, substitute “by legislative instrument”.

**48 Subsection 79A(2)**

Repeal the subsection.

**49 Subsection 100(6) (definition of *interest*)**

Omit “determination in writing”, substitute “legislative instrument”.

**50 Subsection 100(7)**

Repeal the subsection.

**51 Subsection 102(1)**

Omit “determination in writing”, substitute “legislative instrument”.

**52 Subsection 102(1A)**

Omit “A determination”, substitute “An instrument made”.

**53 Subsection 102(1A)**

Omit “Minister’s determination”, substitute “instrument”.

**54 Subsection 102(3)**

Repeal the subsection.

**55 Subsection 162(3)**

Omit “by instrument in writing”, substitute “by legislative instrument”.

**56 Subsection 162(4)**

Repeal the subsection.

**57 Subsection 162(5)**

Omit “For the purposes of the application of section 48 of the *Acts Interpretation Act 1901*, an instrument”, substitute “An instrument under subsection (3)”.

**58 Subsection 169(2)**

Omit “disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*”, substitute “legislative instrument”.

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**59 Subsection 198(1)**

Omit “determination”, substitute “instrument”.

**60 Subsection 198(2)**

Omit “by determination”, substitute “by legislative instrument”.

**61 Subsection 200(5)**

After “Minister may”, insert “, by legislative instrument,”.

**62 Subsection 202(7)**

After “Minister may”, insert “, by legislative instrument,”.

**63 Subsection 205(1)**

After “Minister may”, insert “, by legislative instrument,”.

**64 At the end of section 205**

Add:

(4) A determination under paragraph (3)(b) is a legislative instrument.

**65 Section 206**

After “Minister may”, insert “, by legislative instrument,”.

**66 Section 208**

Repeal the section.

**67 Subsection 210(3)**

After “Minister may”, insert “, by legislative instrument,”.

**68 Subsection 210(4)**

After “Minister may”, insert “, by legislative instrument,”.

**69 Subsection 213(3)**

Omit “by determination”, substitute “by legislative instrument”.

**70 Subsection 214(5)**

After “Minister may”, insert “, by legislative instrument,”.

**71 Section 219**

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Repeal the section.

**72 Subsection 219E(2)**

After “Secretary may”, insert “, by legislative instrument,”.

**73 Subsection 219E(3)**

Repeal the subsection.

**74 Subsection 219F(3)**

After “Secretary must”, insert “, by legislative instrument,”.

**75 Subsection 219F(4)**

Repeal the subsection.

***Child Care Act 1972***

**76 Subsection 4C(1)**

Omit “(1)”.

**77 Subsection 4C(1)**

Omit “determination in writing”, substitute “legislative instrument”.

**78 Subsection 4C(2)**

Repeal the subsection.

**79 Subsection 12P(1)**

Omit “determination in writing”, substitute “legislative instrument”.

**80 Subsection 12P(3)**

Omit “a determination”, substitute “an instrument”.

**81 Subsection 12P(4)**

Repeal the subsection.

***Data-matching Program (Assistance and Tax) Act 1990***

**82 Subsection 3A(1)**

After “Secretary may”, insert “, by legislative instrument,”.

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**83 Subsection 3A(3)**

Omit “day it is notified in the *Gazette*”, substitute “first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*”.

**84 Subsection 3A(4)**

Repeal the subsection.

**85 Subsection 12(2)**

Omit “by notice in writing”, substitute “by legislative instrument”.

**86 Subsections 12(4) and (5)**

Repeal the subsections, substitute:

- (4) Guidelines issued under subsection (2) take effect from:
  - (a) the first day on which the guidelines are no longer liable to be disallowed; or
  - (b) if the guidelines make provision for their commencement after that day—in accordance with that provision.

***Disability Services Act 1986***

**87 Subsection 5(1)**

After “Minister must”, insert “, by legislative instrument,”.

**88 Subsection 5A(1)**

After “Minister may”, insert “, by legislative instrument,”.

**89 Subsection 5A(2)**

After “Minister must”, insert “, by legislative instrument,”.

**90 Section 7 (paragraph (h) of the definition of *research or development activity*)**

After “the Minister”, insert “, by legislative instrument,”.

**91 Sections 9, 9A and 14F**

After “Minister may”, insert “, by legislative instrument,”.

**92 Subsections 24(2) and (4)**

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After “determined”, insert “, by legislative instrument,”.

**93 Section 31**

Repeal the section.

***Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004***

**94 Subitem 1(1) of Schedule 3**

Omit “in writing” (wherever occurring), substitute “by legislative instrument”.

**95 Subitem 1(5) of Schedule 3**

Repeal the subitem.

***Housing Assistance Act 1996***

**96 Subsection 5(1)**

After “Minister may”, insert “, by legislative instrument,”.

**97 Subsection 5(4)**

Repeal the subsection, substitute:

- (4) Section 42 of the *Legislative Instruments Act 2003* applies to an instrument determining, varying or revoking a form of agreement under subsection (1).

Note: Section 42 of the *Legislative Instruments Act 2003* deals with disallowance of legislative instruments.

**98 Subsection 6(1)**

Omit “disallowable”, substitute “legislative”.

**99 Subsections 6(2) and (5)**

Omit “disallowable”, substitute “legislative”.

***Social Security Act 1991***

**100 Paragraph 7(6AA)(f)**

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After “class of visas determined”, insert “, by legislative instrument”.

**101 Subparagraph 7(6B)(c)(iii)**

Omit “subsection 25(1)”, substitute “section 25”.

**102 Subsection 7(6E)**

Omit “determination in writing”, substitute “legislative instrument”.

**103 Paragraph 7(6E)(b)**

Omit “may”.

**104 Subsection 7(6F)**

Repeal the subsection.

**105 Subsection 9(1E)**

Omit “determine, in writing,”, substitute “, by legislative instrument, determine”.

**106 Subsection 9(1E) (second sentence)**

Repeal the sentence.

**107 Subsection 9A(6)**

Omit “determine, in writing,”, substitute “, by legislative instrument, determine”.

**108 Subsection 9A(6) (second sentence)**

Repeal the sentence.

**109 Subsection 9B(5)**

Omit “determine, in writing,”, substitute “, by legislative instrument, determine”.

**110 Subsection 9B(5) (second sentence)**

Repeal the sentence.

**111 Subsection 9BA(5) (definition of *PF*)**

Omit “in writing”, substitute “, by legislative instrument”.

**112 Subsection 9BA(12)**

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Omit “in writing”, substitute “by legislative instrument”.

**113 Subsection 9BA(12) (second sentence)**

Repeal the sentence.

**114 Subsection 9BA(13)**

Repeal the subsection.

Note: The following heading to subsection 9BA(14) is inserted “*Definitions*”.

**115 Subsection 16A(2)**

Omit “determine in writing”, substitute “, by legislative instrument, determine”.

**116 Subsection 16A(2) (second sentence)**

Repeal the sentence.

**117 Subsection 17(1) (paragraph (t) of the definition of *former payment type*)**

After “by the Minister”, insert “, by legislative instrument,”.

**118 Subsection 17(9)**

Repeal the subsection.

**119 Subsection 23(1) (definition of *disallowable instrument*)**

Repeal the definition.

**120 Subsection 25(1)**

Omit “(1)”.

**121 Subsection 25(1)**

Omit “declare in writing”, substitute “, by legislative instrument, declare”.

**122 Subsection 25(2)**

Repeal the subsection.

**123 Subsection 38C(1)**

Omit “determination in writing”, substitute “legislative instrument (the *determination*)”.

**124 Subsection 38C(4)**

Repeal the subsection.

**125 Subsection 38D(1)**

Omit “determination in writing”, substitute “legislative instrument (the *determination*)”.

**126 Subsection 38D(5)**

Repeal the subsection.

**127 Subsection 500Q(6)**

Repeal the subsection.

**128 Subsection 541B(3B)**

Omit “determination in writing”, substitute “legislative instrument”.

**129 Subsection 541B(3C)**

Repeal the subsection.

**130 Subsection 542H(1B)**

Omit “determination in writing”, substitute “legislative instrument”.

**131 Subsection 542H(1C)**

Repeal the subsection.

**132 Subsection 546(2)**

Repeal the subsection, substitute:

- (2) The Minister, by legislative instrument:
  - (a) must determine 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.

**133 Subsection 600(2)**

Repeal the subsection, substitute:

- (2) The Minister, by legislative instrument:
- (a) must determine 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.

**134 Subsection 660YCJ(3)**

Repeal the subsection (not including the notes).

**135 Paragraph 739A(1)(e)**

After “determined by the Minister”, insert “, by legislative instrument,”.

**136 Paragraph 739A(3)(b)**

After “determined by the Minister”, insert “, by legislative instrument,”.

**137 Paragraph 739A(4)(b)**

After “determined by the Minister”, insert “, by legislative instrument,”.

**138 Subsection 739A(6)**

After “determined by the Minister”, insert “, by legislative instrument,”.

**139 Subsection 739A(8)**

Repeal the subsection.

**140 Section 739B**

Omit “subsection 739C(1)”, substitute “section 739C”.

**141 Subsection 739C(1)**

Omit “(1) The Minister, by determination in writing”, substitute “The Minister, by legislative instrument”.

**142 Subsection 739C(2)**

Repeal the subsection.

**143 Paragraph 954A(2)(e)**

Omit “in a written instrument made”, substitute “, by legislative instrument,”.

**144 Subsection 954A(3)**

Repeal the subsection.

**145 Subsection 1061A(2)**

Omit “determine in writing”, substitute “, by legislative instrument, determine”.

**146 Subsection 1061A(2) (second sentence)**

Repeal the sentence.

**147 Subsection 1061EO(1)**

Omit “(1) A person”, substitute “A person”.

**148 Paragraph 1061EO(1)(d)**

Omit “in writing”, substitute “by legislative instrument”.

**149 Subsection 1061EO(2)**

Repeal the subsection.

**150 Subsection 1061ZAAK(8)**

Omit “make written determinations”, substitute “, by legislative instrument, make determinations”.

**151 Subsection 1061ZAAK(9)**

Repeal the subsection.

**152 Subsection 1061ZN(2)**

After “The Minister may”, insert “, by legislative instrument,”.

**153 Subsection 1061ZN(4)**

Repeal the subsection.

**154 Subsection 1061ZO(7)**

After “The Minister may”, insert “, by legislative instrument,”.

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**155 Subsection 1061ZO(9)**

Repeal the subsection.

**156 Subsection 1061ZZGH(1)**

Omit “make a written determination”, substitute “, by legislative instrument, make a determination”.

**157 Subsection 1061ZZGH(1) (note 1)**

Omit “*Acts Interpretation Act 1901*”, substitute “*Legislative Instruments Act 2003*”.

**158 Subsection 1061ZZGH(1) (note 2)**

Omit “written determination”, substitute “legislative instrument”.

**159 Subsection 1061ZZGH(4)**

Repeal the subsection.

**160 Point 1068-B1AA**

Repeal the point.

**161 Subsections 1068A(4) and (5)**

Repeal the subsections.

**162 Subsection 1082(1)**

After “is the rate determined”, insert “, by legislative instrument,”.

**163 Subsection 1082(2)**

After “is the rate determined”, insert “, by legislative instrument,”.

**164 Subsection 1082(4)**

Repeal the subsection.

**165 Subsection 1118(1A) (paragraph (c) of the definition of *partially asset-test exempt income stream*)**

Omit “in writing”, substitute “, by legislative instrument,”.

**166 Subsection 1118(5)**

Repeal the subsection.

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**167 Subsection 1120(3) (definition of *pension valuation factor*)**

After “with the determination made”, insert “, by legislative instrument,”.

**168 Subsection 1120(4)**

Repeal the subsection.

**169 Subsection 1135(4)**

Omit “determination in writing”, substitute “legislative instrument”.

**170 Subsection 1135(5)**

Repeal the subsection.

**171 Subsection 1157M(1)**

After “The Minister may”, insert “, by legislative instrument,”.

**172 Subsections 1157M(2) and (3)**

Repeal the subsections, substitute:

(2) The determination:

- (a) takes effect from the first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*; and
- (b) ceases to have effect 6 months after the day it starts to have effect, if it has not already been revoked.

**173 Subsection 1157Q(4A)**

Omit “written determination made”, substitute “determination made, by legislative instrument,”.

**174 Subsection 1157Q(4B)**

Repeal the subsection.

**175 Subsection 1157R(1)**

After “The Minister may”, insert “, by legislative instrument,”.

**176 Subsections 1157R(2) and (3)**

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Repeal the subsections, substitute:

- (2) The determination:
  - (a) takes effect from the first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*; and
  - (b) ceases to have effect 6 months after the day it starts to have effect, if it has not already been revoked.

**177 Subsection 1157U(1)**

After “The Minister may”, insert “, by legislative instrument,”.

**178 Subsections 1157U(2) and (3)**

Repeal the subsections, substitute:

- (2) A determination under subsection (1):
  - (a) takes effect from the first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*; and
  - (b) ceases to have effect 6 months after the day it starts to have effect, if it has not already been revoked.

**179 Subsection 1185N(2)**

Omit “written determination”, substitute “legislative instrument”.

**180 Subsection 1185N(3)**

Repeal the subsection.

**181 Subsection 1207C(2)**

Omit “writing”, substitute “legislative instrument”.

**182 Subsection 1207C(4)**

Repeal the subsection.

**183 Subsection 1207N(2)**

Omit “writing”, substitute “legislative instrument”.

**184 Subsection 1207N(4)**

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Repeal the subsection.

**185 Subsection 1207N(5)**

Omit “writing”, substitute “legislative instrument”.

**186 Subsection 1207N(7)**

Repeal the subsection.

**187 Subsection 1207P(4)**

Omit “writing”, substitute “legislative instrument”.

**188 Subsection 1207P(6)**

Repeal the subsection.

**189 Subsections 1208B(3), (4) and (5)**

Omit “writing”, substitute “legislative instrument”.

**190 Subsection 1208B(7)**

Repeal the subsection.

**191 Subsections 1209C(3), (4) and (5)**

Omit “writing”, substitute “legislative instrument”.

**192 Subsection 1209C(7)**

Repeal the subsection.

**193 Subsection 1209E(1)**

Omit “(1) The Secretary may, by writing”, substitute “The Secretary may, by legislative instrument”.

**194 Subsection 1209E(2)**

Repeal the subsection.

**195 Subsection 1229B(2)**

Omit “notice in writing”, substitute “legislative instrument”.

**196 Subsection 1229B(3)**

Repeal the subsection.

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**197 Subsection 1229C(1)**

Omit “(1)”.

**198 Subsection 1229C(1)**

Omit “writing”, substitute “legislative instrument”.

**199 Subsection 1229C(2)**

Repeal the subsection.

**200 Subsection 1237AAB(6) (definition of *interest*)**

Omit “in a written notice”, substitute “by legislative instrument”.

**201 Subsection 1237AAB(7)**

Repeal the subsection (not including the note).

**202 Subsection 1237AB(1)**

Omit “by the Minister by notice published in the *Gazette*”, substitute “, by legislative instrument, by the Minister”.

**203 Subsection 1237AB(3)**

Repeal the subsection, substitute:

- (3) A legislative instrument under subsection (1) does not take effect before the end of the period for disallowing the instrument.

***Social Security (Administration) Act 1999***

**204 Subsection 37(11)**

After “The Minister may”, insert “, by legislative instrument,”.

**205 Subsection 37(12)**

Repeal the subsection.

**206 Section 125**

Omit “regulations or a disallowable instrument”, substitute “an instrument that is a legislative instrument”.

**207 Subsection 132(1)**

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Omit “(1) The Minister, by determination in writing”, substitute “The Minister, by legislative instrument”.

**208 Subsection 132(2)**

Repeal the subsection.

**209 Subsection 146(1)**

Omit “(1) The Minister, by determination in writing”, substitute “The Minister, by legislative instrument”.

**210 Subsection 146(2)**

Repeal the subsection.

**211 Subsection 202(3)**

Omit “instrument in writing”, substitute “legislative instrument”.

**212 Subsection 202(4)**

Repeal the subsection.

**213 Subsection 202(5)**

Omit “the application of section 48 of the *Acts Interpretation Act 1901*”, substitute “subsection 12(1) of the *Legislative Instruments Act 2003*”.

**214 Subsection 209(1)**

Omit “(1) The Minister, by determination in writing”, substitute “The Minister, by legislative instrument”.

**215 Subsection 209(2)**

Repeal the subsection.

**216 After subsection 240B(4)**

Insert:

(4A) The Minister may, by legislative instrument, determine a class of visas for the purposes of paragraph (4)(a).

**217 Subsection 240B(5)**

After “The Minister may”, insert “, by legislative instrument,”.

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**218 Subsection 240B(7)**

Repeal the subsection.

**219 Subsection 243(5)**

Omit “a disallowable instrument”, substitute “an instrument that is a legislative instrument”.

**220 Subclause 22(2) of Schedule 3**

After “The Minister may”, insert “, by legislative instrument,”.

**221 Subclause 22(3) of Schedule 3**

Repeal the subclause.

**222 Subclause 2(2) of Schedule 5**

After “The Secretary may”, insert “, by legislative instrument,”.

**223 Subclause 2(4) of Schedule 5**

Omit “day on which it is notified in the *Gazette*”, substitute “first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*”.

**224 Subclause 2(5) of Schedule 5**

Repeal the subclause.

***Social Security (International Agreements) Act 1999***

**225 Subsection 14A(1)**

Omit “(1) For”, substitute “For”.

**226 Subsections 14A(2) and (3)**

Repeal the subsections.

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*[Minister's second reading speech made in—  
House of Representatives on 30 March 2006  
Senate on 16 August 2006]*

(18/06)

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46 *Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) Act 2006* No. 108, 2006