



**Families, Community Services and
Indigenous Affairs and Veterans' Affairs
Legislation Amendment (2006 Budget
Measures) Act 2006**

No. 156, 2006

**An Act to amend the law relating to social security,
veterans' entitlements, family assistance, student
assistance, aged care and child support, 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 law relating to social security,
veterans' entitlements, family assistance, student
assistance, aged care and child support, and for
related purposes**

[Assented to 8 December 2006]

The Parliament of Australia enacts:

*Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation
Amendment (2006 Budget Measures) Act 2006 No. 156, 2006 1*

1 Short title

This Act may be cited as the *Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget 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.

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.	8 December 2006
2. Schedule 1	1 January 2007.	1 January 2007
4. Schedules 3 and 4	The day on which this Act receives the Royal Assent.	8 December 2006

Note: This table relates only to the provisions of this Act as originally passed by both Houses of 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Inclusion of land adjacent to a dwelling-house in a principal home

Social Security Act 1991

1 Subsection 4(6A) (note)

Omit “section 11”, substitute “sections 11 and 11A”.

2 Paragraph 8(8)(zn) (note 2)

Omit “11(6A) and (7)”, substitute “11A(8) and (9)”.

3 Subsection 11(1) (definition of *principal home*)

Omit “subsections (5) to (7)”, substitute “section 11A”.

4 Subsection 11(1) (definition of *reasonable security of tenure*)

Omit “subsection (8)”, substitute “subsection 11A(10)”.

5 Subsections 11(5) to (8)

Repeal the subsections.

6 After section 11

Insert:

11A *Principal home* definition for the purpose of the assets test

Principal home

- (1) A reference in this Act to the *principal home* of a person includes a reference to:
 - (a) if the principal home is a dwelling-house—the land adjacent to the dwelling-house to the extent that:
 - (i) the land is held under the same title document as the land on which the dwelling-house is located; and
 - (ii) the private land use test in subsection (3) is satisfied in relation to the land or, if the person is one to whom the extended land use test applies in relation to the land, the

extended land use test in subsection (6) is satisfied in relation to the land; or

- (b) if the principal home is a flat or home unit—a garage or storeroom that is used primarily for private or domestic purposes in association with the flat or home unit.
- (2) The Secretary may determine that land is to be treated, for the purpose of subparagraph (1)(a)(i), as if it were held on the same title document as other land if any of the following apply:
- (a) the dwelling-house is located on both blocks of land;
 - (b) the dwelling-house is located on one of the blocks of land but that block and the other block, taken together, are a place, or are part of a place, that is protected under a law of the Commonwealth, or of a State or Territory, because of its natural, historic or indigenous heritage;
 - (c) the alienation of one of the blocks of land without the other would seriously undermine the function of the house as a dwelling.

Note: A mere loss of amenity, such as the loss of a swimming pool, garden, tennis court or view, would not seriously undermine the function of a house as a dwelling.

Private land use test

- (3) The ***private land use test*** is satisfied in relation to land if:
- (a) the area of the land, together with the area of the ground floor of the dwelling-house, is not more than 2 hectares; and
 - (b) the land is used primarily for private or domestic purposes in association with the dwelling-house.

To whom does the extended land use test apply?

- (4) The extended land use test applies to a person in relation to land adjacent to the dwelling-house if:
- (a) the person has reached pension age; and
 - (b) the person is qualified for an age pension or carer payment and that pension or payment is payable to the person; and
 - (c) the dwelling-house has been the person's principal home for 20 years or more continuously.

- (5) Where a person (the *first person*) to whom the extended land use test applies in relation to land adjacent to the dwelling-house in which the person lives is a member of a couple:
- (a) the extended land use test applies to the first person's partner (the *second person*); and
 - (b) the extended land use test continues to apply to the second person if the first person and the second person cease to be members of a couple for any reason, provided the dwelling-house continues to be the second person's principal home.

Extended land use test

- (6) The *extended land use test* is satisfied in relation to land if:
- (a) the area of the land, together with the area of the ground floor of the dwelling-house, is more than 2 hectares; and
 - (b) the Secretary determines that, given the circumstances of the person to whom the test is applied in relation to the land, the person is making effective use of the land.
- (7) In determining whether a person is making effective use of the land, the Secretary is to take into account the following matters:
- (a) where the land is located;
 - (b) the size of the block of land;
 - (c) the person's family situation;
 - (d) the person's health;
 - (e) whether the land contains a dwelling-house occupied by a family member of the person, or a child of a family member of the person, receiving an income support payment;
 - (f) whether the land is being used to support:
 - (i) a family member of the person; or
 - (ii) a child of a family member of the person;
 - (g) any current commercial use of the land;
 - (h) any potential commercial use of the land;
 - (i) whether the person's capacity to make commercial use of the land is diminished because the person, or the person's partner, has responsibility for the care of another person;
 - (j) whether the block of land is an amalgamation of 2 or more blocks and, if so:
 - (i) when the amalgamation occurred; and
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- (ii) whether the amalgamation reduced the potential for the land to produce personal income or to support the person;
- (k) environmental issues relating to the land;
- (l) any other matter that the Secretary considers relevant.

Effect of absences from principal home

(8) A residence of a person is taken to be the person's **principal home** during:

- (a) if the Secretary is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation—any period during which:
 - (i) the person is accruing a liability to pay an accommodation charge (or would be accruing such a liability, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and

Note 1: For **rent**, see subsection 13(2).

Note 2: A person can be liable to pay an accommodation charge only if certain conditions are met: see Division 57A of the *Aged Care Act 1997*.

- (b) if the Secretary is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation—any period during which:
 - (i) the person is liable to pay all or some of an accommodation bond by periodic payments (or would be liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and
- (c) any period during which the residence is, because of paragraph (a) or (b), the principal home of the person's partner.

Note: This subsection is not meant to imply that a person may have more than one principal home at the same time.

- (9) A residence of a person is to be taken to continue to be the person's *principal home* during:
- (a) any period (not exceeding 12 months) during which the person is temporarily absent from the residence; and
 - (b) if the person is in a care situation or residential care—the period of 2 years beginning when the person started to be in a care situation or residential care; and
 - (c) any period during which:
 - (i) the person is in a care situation or residential care; and
 - (ii) the residence is, or because of paragraph (a) or (b) continues to be, the principal home of the person's partner; and
 - (d) if:
 - (i) the person is in a care situation or residential care; and
 - (ii) the person's partner dies while in a care situation or residential care; and
 - (iii) the person's partner had been in a care situation or residential care for less than 2 years;
the period of 2 years beginning at the time the person's partner started to be in a care situation or residential care; and
 - (e) where:
 - (i) the person is in a care situation or residential care; and
 - (ii) the person's partner dies while in a care situation or residential care;
the period of 2 years from the partner's death; and
 - (f) any period of up to 2 years while the person is absent from the residence and is personally providing a substantial level of care in another private residence for another person who needs, or in the Secretary's opinion is likely to need, that level of care in a private residence for at least 14 consecutive days.

Note: For *in a care situation*, see subsection 13(9); for *in residential care* see subsection 23(4CA).

Reasonable security of tenure

- (10) If a person has a right or interest in the person's principal home, the person is to be taken to have a right or interest that gives the
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person *reasonable security of tenure* in the home unless the Secretary is satisfied that the right or interest does not give the person reasonable security of tenure in the home.

Definition of title document

(11) In this section:

title document, in relation to land, means:

- (a) in relation to land title which is registered under a Torrens system of registration—the certificate of title for the land; or
- (b) in any other case—the last instrument by which title to the land was conveyed.

Application of Legislative Instruments Act 2003

(12) A determination under subsection (2) or paragraph (6)(b) is not a legislative instrument.

7 Subsections 12A(2A) and (2B)

Omit “the adjacent private land”, substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

8 Subsection 13(1) (note to definition of *ineligible homeowner*)

Omit “subsections 11(5) to (7)”, substitute “section 11A”.

9 Subparagraph 13(2)(a)(iii)

Omit “subsection 11(6A) or (7)”, substitute “subsection 11A(8) or (9)”.

10 Subsection 13(2) (note)

Omit “subsections 11(5) to (7)”, substitute “section 11A”.

11 Subsection 13(3A) (note)

Omit “subsection 11(6A) or (7)”, substitute “subsection 11A(8) or (9)”.

12 Subsection 13(3B) (note)

Omit “subsection 11(6A) or (7)”, substitute “subsection 11A(8) or (9)”.

13 Subsection 1118(1) (note 2)

Omit “subsections (5) to (7)”, substitute “section 11A”.

14 Subsection 1118(1) (note 3)

Omit “subsection 11(8)”, substitute “subsection 11A(10)”.

15 Subsection 1185C(2)

Omit “the adjacent private land” (wherever occurring), substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

16 Paragraphs 1185S(5)(b) and (d)

Omit “the adjacent private land”, substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

17 Paragraph 1208J(1)(a)

Omit “section 11”, substitute “sections 11 and 11A”.

18 Paragraph 1208X(a)

Omit “section 11”, substitute “sections 11 and 11A”.

19 Transitional arrangements—one title rule

- (1) Section 11A of the *Social Security Act 1991*, inserted by item 6 of this Schedule, applies in relation to a person as if it did not include subparagraph 11A(1)(a)(i) in the cases set out in this item.
- (2) The first case is where:
 - (a) the person is receiving a social security payment immediately before 1 January 2007; and
 - (b) that payment would cease to be payable to the person, or would be payable to the person at a lower rate, on 1 January 2007, if:
 - (i) subparagraph 11A(1)(a)(i) were applied; and
 - (ii) there were no determination in effect on that day under paragraph 11A(6)(b) of the *Social Security Act 1991*, inserted by item 6 of this Schedule, in relation to land adjacent to the dwelling-house in which the person lived immediately before 1 January 2007; and

Schedule 1 Inclusion of land adjacent to a dwelling-house in a principal home

- (c) the dwelling-house continues to be the person's principal home; and
 - (d) the person does not cease to receive a social security payment.
- (3) The second case is where:
- (a) the person is receiving a social security payment immediately before 1 January 2007; and
 - (b) the payment has been paid at a particular rate immediately before 1 January 2007 because land adjacent to the dwelling-house in which the person lived at that time was not included in the person's principal home because it was not held on the same title document as the land on which the dwelling-house was located; and
 - (c) the dwelling-house continues to be the person's principal home; and
 - (d) the person does not cease to receive a social security payment.

20 Transitional arrangements—effective use test

- (1) If:
- (a) a person is receiving a social security payment immediately before 1 January 2007; and
 - (b) the person notifies the Secretary during the notification period of circumstances relevant to the determination by the Secretary under paragraph 11A(6)(b) of the *Social Security Act 1991*, inserted by item 6 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives; and
 - (c) the Secretary makes a determination under that paragraph that the person is making effective use of the land (the *effective use determination*); and
 - (d) the rate at which the payment is payable to the person increases as a result of the effective use determination; and
 - (e) a determination is made under section 78 of the *Social Security (Administration) Act 1999* increasing the rate at which the payment is to be paid to the person because of the effective use determination;

the determination under section 78 of that Act takes effect on 1 January 2007 or, if a later day is specified in the determination, that later day.

(2) If:

- (a) a person is not receiving a social security payment immediately before 1 January 2007; and
- (b) the person makes a claim for a social security payment during the notification period; and
- (c) the person notifies the Secretary (whether in the claim or otherwise) during the notification period of circumstances relevant to the determination by the Secretary under paragraph 11A(6)(b) of the *Social Security Act 1991*, inserted by item 6 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives; and
- (d) the Secretary makes a determination under that paragraph that the person is making effective use of the land (the ***effective use determination***);

then:

- (e) the effective use determination takes effect on 1 January 2007 or, if a later day is specified in the determination, that later day; and
- (f) the person's start day in relation to the social security payment is the earlier of:
 - (i) the day on which the effective use determination takes effect; and
 - (ii) the day worked out in accordance with Schedule 2 to the *Social Security (Administration) Act 1999* as the start day in relation to the payment.

(3) If:

- (a) a person is not receiving a social security payment immediately before 1 January 2007; and
- (b) the person makes a claim for a social security payment during the notification period; and
- (c) on the day on which the claim is made:
 - (i) the person is not qualified for the payment; or
 - (ii) the payment is not payable to the person; and
- (d) the person was qualified for the payment, and the payment was payable to the person, during a period (the ***claim period***) that fell before that day and within the notification period; and

- (e) the extended land use test applied to the person under subsection 11A(4) or (5) of the *Social Security Act 1991*, inserted by item 6 of this Schedule, during all or part of the claim period; and
 - (f) the person notifies the Secretary (whether in the claim or otherwise) during the notification period of circumstances that would have been relevant, during all or part of the claim period, to a determination by the Secretary under paragraph 11A(6)(b) of the *Social Security Act 1991*, inserted by item 6 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives;
- then:
- (g) the Secretary may make a determination in relation to the claim period or a specified part of the claim period, that the person was making effective use of the land during the period or that part of the period, and that determination has effect in relation to the period or that part of the period as if it were a determination under paragraph 11A(6)(b) of the *Social Security Act 1991*; and
 - (h) the Secretary may grant the claim; and
 - (i) the person's start day in relation to the social security payment is the first day of the claim period or the specified part of the claim period.
- (4) The Secretary may determine in writing that a person is to be treated for the purposes of paragraph (1)(b) as if the person notified the Secretary within the notification period of the circumstances mentioned in that paragraph if:
- (a) the person notifies the Secretary of those circumstances between 1 April 2007 and 30 June 2007 (inclusive); and
 - (b) the Secretary is satisfied that special circumstances apply in respect of the person.
- (5) The Secretary may determine in writing that a person is to be treated:
- (a) for the purposes of paragraph (2)(b) or (3)(b), as if the person had made a claim for a social security payment within the notification period; and
 - (b) for the purposes of paragraph (2)(c) or (3)(f), as if the person notified the Secretary within the notification period of the circumstances mentioned in that paragraph;
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if:

- (c) the person makes the claim between 1 April 2007 and 30 June 2007 (inclusive); and
- (d) the person notifies the Secretary in relation to the circumstances between 1 April 2007 and 30 June 2007 (inclusive); and
- (e) the Secretary is satisfied that special circumstances apply in respect of the person.

(6) In this item:

notification period means the period commencing on 1 January 2007 and ending on 31 March 2007.

Veterans' Entitlements Act 1986

21 Section 5 (item relating to interest that gives reasonable security of tenure)

Repeal the item.

22 Section 5 (item relating to principal home)

Repeal the item, substitute:

principal home 5LA

23 Section 5

Insert:

reasonable security of tenure 5LA(10)

24 Subsection 5E(4A) (note)

Omit "section 5L", substitute "sections 5L and 5LA".

25 Paragraph 5H(8)(nc) (note 3)

Omit "subsections 5L(6A) and (7)", substitute "subsections 5LA(8) and (9)".

26 Subsection 5L(1) (definition of *interest that gives reasonable security of tenure*)

Repeal the definition.

27 Subsection 5L(1) (definition of *principal home*)

Omit “subsections (5) to (7)”, substitute “section 5LA”.

28 Subsection 5L(1)

Insert:

reasonable security of tenure has the meaning given by subsection 5LA(10).

29 Subsections 5L(5) to (8)

Repeal the subsections.

30 After section 5L

Insert:

5LA *Principal home* definition for the purpose of the assets test

Principal home

- (1) A reference in this Act to the *principal home* of a person includes a reference to:
 - (a) if the principal home is a dwelling-house—the land adjacent to the dwelling-house to the extent that:
 - (i) the land is held on the same title document as the land on which the dwelling-house is located; and
 - (ii) the private land use test in subsection (3) is satisfied in relation to the land or, if the person is one to whom the extended land use test applies in relation to the land, the extended land use test in subsection (6) is satisfied in relation to the land; or
 - (b) if the principal home is a flat or home unit—a garage or storeroom that is used primarily for private or domestic purposes in association with the flat or home unit.
- (2) The Commission may determine that land is to be treated, for the purpose of subparagraph (1)(a)(i), as if it were held on the same title document as other land if any of the following apply:
 - (a) the dwelling-house is located on both blocks of land;
 - (b) the dwelling-house is located on one of the blocks of land but that block and the other block, taken together, are a place, or are part of a place, that is protected under a law of the

Commonwealth, or of a State or Territory, because of its natural, historic or indigenous heritage;

- (c) the alienation of one of the blocks of land without the other would seriously undermine the function of the house as a dwelling.

Note: A mere loss of amenity, such as the loss of a swimming pool, garden, tennis court or view, would not seriously undermine the function of a house as a dwelling.

Private land use test

- (3) The **private land use test** is satisfied in relation to land if:
 - (a) the area of land, together with the area of the ground floor of the dwelling-house, is not more than 2 hectares; and
 - (b) the land is used primarily for private or domestic purposes in association with the dwelling-house.

To whom does the extended land use test apply?

- (4) The extended land use test applies to a person in relation to land adjacent to the dwelling-house if:
 - (a) the person has reached the qualifying age; and
 - (b) the person is eligible to receive a service pension or income support supplement and that pension or supplement is payable to the person; and
 - (c) the dwelling-house has been the person's principal home for 20 years or more continuously.

Note: Paragraph (a)—for the **qualifying age** for a service pension and income support supplement, see subsection 45A(2).

- (5) Where a person (the **first person**) to whom the extended land use test applies in relation to land adjacent to the dwelling-house in which the person lives is a member of a couple:
 - (a) the extended land use test applies to the first person's partner (the **second person**); and
 - (b) the extended land use test continues to apply to the second person if the first person and the second person cease to be members of a couple for any reason, provided the dwelling-house continues to be the second person's principal home.

Extended land use test

- (6) The ***extended land use test*** is satisfied in relation to land if:
- (a) the area of the land, together with the area of the ground floor of the dwelling-house, is more than 2 hectares; and
 - (b) the Commission determines that, given the circumstances of the person to whom the test is applied in relation to the land, the person is making effective use of the land.
- (7) In determining whether a person is making effective use of the land, the Commission is to take into account the following matters:
- (a) where the land is located;
 - (b) the size of the block of land;
 - (c) the person's family situation;
 - (d) the person's health;
 - (e) whether the land contains a dwelling-house occupied by a family member of the person, or a child of a family member of the person, receiving an income support payment (within the meaning of the *Social Security Act 1991*);
 - (f) whether the land is being used to support:
 - (i) a family member of the person; or
 - (ii) a child of a family member of the person;
 - (g) any current commercial use of the land;
 - (h) any potential commercial use of the land;
 - (i) whether the person's capacity to make commercial use of the land is diminished because the person, or the person's partner, has responsibility for the care of another person;
 - (j) whether the block of land is an amalgamation of 2 or more blocks and, if so:
 - (i) when the amalgamation occurred; and
 - (ii) whether the amalgamation reduced the potential for the land to produce personal income or to support the person;
 - (k) environmental issues relating to the land;
 - (l) any other matter that the Commission considers relevant.

Effect of absences from principal home

- (8) A residence of a person is taken to be the person's ***principal home*** during:
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- (a) if the Commission is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation or becoming an aged care resident—any period during which:
 - (i) the person is accruing a liability to pay an accommodation charge (or would be accruing such a liability, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and
- (b) if the Commission is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation or becoming an aged care resident—any period during which:
 - (i) the person is liable to pay all or some of an accommodation bond by periodic payments (or would be liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and
- (c) any period during which the residence is, because of paragraph (a) or (b), the principal home of the person's partner.

Note 1: *Accommodation charge* and *accommodation bond* have the same meaning as in the *Aged Care Act 1997*: see subsection 5L(1).

Note 2: For *rent*, see subsection 5N(2). For *in a care situation*, see subsection 5NC(2). For *aged care resident*, see subsection 5NC(5).

Note 3: This subsection is not meant to imply that a person may have more than one principal home at the same time.

Note 4: A person can be liable to pay an accommodation charge only if certain conditions are met: see Division 57A of the *Aged Care Act 1997*. For rules about accommodation bonds, see Division 57 of that Act.

- (9) A residence of a person is to be taken to continue to be the person's ***principal home*** during:
 - (a) any period (not exceeding 12 months) during which the person is temporarily absent from the residence; and

- (b) if the person is in a care situation or is an aged care resident—the period of 2 years beginning when the person started to be in a care situation or an aged care resident; and
- (c) any period during which:
 - (i) the person is in a care situation or is an aged care resident; and
 - (ii) the residence is, or because of paragraph (a) or (b) continues to be, the principal home of the person’s partner or non-illness separated spouse; and
- (d) if:
 - (i) the person is in a care situation or is an aged care resident; and
 - (ii) while paragraph (c) applies, the person’s partner or non-illness separated spouse dies while in a care situation or while an aged care resident; and
 - (iii) the person’s partner or non-illness separated spouse had been in a care situation or an aged care resident for less than 2 years;
the period of 2 years beginning at the time the person’s partner or non-illness separated spouse started to be in a care situation or an aged care resident; and
- (e) where:
 - (i) the person is in a care situation or is an aged care resident; and
 - (ii) while paragraph (c) applies, the person’s partner or non-illness separated spouse dies (but not while in a care situation or while an aged care resident);
the period of 2 years from that death; and
- (f) any period of up to 2 years while the person is absent from the residence and is personally providing community-based care for another person.

Note 1: For *in a care situation*, see subsection 5NC(2).

Note 2: For *aged care resident*, see subsection 5NC(5).

Reasonable security of tenure

- (10) If a person has a right or interest in the person’s principal home, the person is to be taken to have a right or interest that gives the person *reasonable security of tenure* in the home unless the

Commission is satisfied that the right or interest does not give the person reasonable security of tenure in the home.

Definition of title document

(11) In this section:

title document, in relation to land, means:

- (a) in relation to land title which is registered under a Torrens system of registration—the certificate of title for the land; or
- (b) in any other case—the last instrument by which title to the land was conveyed.

Application of Legislative Instruments Act 2003

(12) A determination under subsection (2) or paragraph (6)(b) is not a legislative instrument.

31 Subsection 5MA(2A)

Omit “the adjacent private land”, substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

32 Subsection 5MA(2B)

Omit “the adjacent private land”, substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

33 Subsection 5N(1) (definition of *ineligible property owner*) (note)

Omit “subsections 5L(5) to (7)”, substitute “section 5LA”.

34 Subparagraph 5N(2)(a)(iii)

Omit “subsection 5L(6A) or (7)”, substitute “subsection 5LA(8) or (9)”.

35 Subsection 5N(2) (note)

Omit “subsections 5L(5) to (7)”, substitute “section 5LA”.

36 Subsection 5N(3A) (note)

Omit “subsection 5L(6A) or (7)”, substitute “subsection 5LA(8) or (9)”.

37 Subsection 5N(3B) (note)

Omit “subsection 5L(6A) or (7)”, substitute “subsection 5LA(8) or (9)”.

38 Subsection 49B(2)

Omit “the adjacent private land” (wherever occurring), substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

39 Subsection 49R(5)

Omit “the adjacent private land” (wherever occurring), substitute “any adjacent area of land used primarily for private or domestic purposes in association with that dwelling-house”.

40 Paragraph 52(1)(n) (note)

Omit “section 5L”, substitute “sections 5L and 5LA”.

41 Paragraph 52ZZV(1)(a)

Omit “section 5L”, substitute “sections 5L and 5LA”.

42 Paragraph 52ZZZI(a)

Omit “section 5L”, substitute “sections 5L and 5LA”.

43 Subclause 17A(2) of Schedule 5 (note 2)

Omit “subsections 5L(6A) and (7)”, substitute “subsections 5LA(8) and (9)”.

44 Transitional arrangements—one title rule

- (1) Section 5LA of the *Veterans’ Entitlements Act 1986*, inserted by item 30 of this Schedule, applies in relation to a person as if it did not include subparagraph 5LA(1)(a)(i) in the cases set out in this item.
- (2) The first case is where:
 - (a) the person is receiving a service pension or income support supplement immediately before 1 January 2007; and
 - (b) that payment would cease to be payable to the person, or would be payable to the person at a lower rate, on 1 January 2007, if:
 - (i) subparagraph 5LA(1)(a)(i) were applied; and

- (ii) there were no determination in effect on that day under paragraph 5LA(6)(b) of the *Veterans' Entitlements Act 1986*, inserted by item 30 of this Schedule, in relation to land adjacent to the dwelling-house in which the person lived immediately before 1 January 2007; and
 - (c) the dwelling-house continues to be the person's principal home; and
 - (d) the person does not cease to receive a service pension or income support supplement.
- (3) The second case is where:
 - (a) the person is receiving a service pension or income support supplement immediately before 1 January 2007; and
 - (b) the payment has been paid at a particular rate immediately before 1 January 2007 because land adjacent to the dwelling-house in which the person lived at that time was not included in the person's principal home because it was not held on the same title document as the land on which the dwelling-house was located; and
 - (c) the dwelling-house continues to be the person's principal home; and
 - (d) the person does not cease to receive a service pension or income support supplement.

45 Transitional arrangements—effective use test

- (1) If:
 - (a) a person is receiving a service pension or income support supplement immediately before 1 January 2007; and
 - (b) the person notifies the Commission during the notification period of circumstances relevant to the determination by the Commission under paragraph 5LA(6)(b) of the *Veterans' Entitlements Act 1986*, inserted by item 30 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives; and
 - (c) the Commission makes a determination under that paragraph that the person is making effective use of that land (the *effective use determination*); and
 - (d) the rate at which the pension or supplement is payable to the person increases as a result of the effective use determination; and
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- (e) a determination is made under section 56C of the *Veterans' Entitlements Act 1986* increasing the rate at which the pension or supplement is to be paid to the person because of the effective use determination;

the determination under section 56C of that Act has effect on 1 January 2007 or, if a later day is specified in the determination, that later day.

(2) If:

- (a) a person is not receiving a service pension or income support supplement immediately before 1 January 2007; and
- (b) the person makes a claim for a service pension or income support supplement during the notification period; and
- (c) the person notifies the Commission (whether in the claim or otherwise) during the notification period of circumstances relevant to the determination by the Commission under paragraph 5LA(6)(b) of the *Veterans' Entitlements Act 1986*, inserted by item 30 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives; and
- (d) the Commission makes a determination under that paragraph that the person is making effective use of the land (the ***effective use determination***);

then:

- (e) the effective use determination takes effect on 1 January 2007 or, if a later day is specified in the determination, that later day; and
- (f) if the service pension is an age service pension—the day on which the determination under section 36L of the *Veterans' Entitlements Act 1986* in relation to that pension takes effect is the earlier of:
 - (i) the day on which the determination would take effect under section 36M of that Act, but for this item; and
 - (ii) the day on which the effective use determination takes effect; and
- (g) if the service pension is an invalidity service pension—the day on which the determination under section 37L of the *Veterans' Entitlements Act 1986* in relation to that pension takes effect is the earlier of:
 - (i) the day on which the determination would take effect under section 37M of that Act, but for this item; and

- (ii) the day on which the effective use determination takes effect; and
 - (h) if the service pension is a partner service pension—the day on which the determination under section 38L of the *Veterans' Entitlements Act 1986* in relation to that pension takes effect is the earlier of:
 - (i) the day on which the determination would take effect under section 38M of that Act, but for this item; and
 - (ii) the day on which the effective use determination takes effect; and
 - (i) in relation to the income support supplement—the day on which the determination under section 45Q of the *Veterans' Entitlements Act 1986* in relation to the income support supplement takes effect is the earlier of:
 - (i) the day on which the determination would take effect under section 45R of that Act, but for this item; and
 - (ii) the day on which the effective use determination takes effect.
 - (3) If:
 - (a) a person is not receiving a service pension or income support supplement immediately before 1 January 2007; and
 - (b) the person makes a claim for a service pension or income support supplement during the notification period; and
 - (c) on the day on which the claim is made:
 - (i) the person is not eligible to receive the pension or supplement; or
 - (ii) the pension or supplement is not payable to the person; and
 - (d) the person was eligible to receive the pension or supplement, and the pension or supplement was payable to the person, during a period (the *claim period*) that fell before that day and within the notification period; and
 - (e) the extended land use test applied to the person under subsection 5LA(4) or (5) of the *Veterans' Entitlements Act 1986*, inserted by item 30 of this Schedule, during all or part of the claim period; and
 - (f) the person notifies the Commission (whether in the claim or otherwise) during the notification period of circumstances that would have been relevant, during all or part of the claim
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period, to a determination by the Commission under paragraph 5LA(6)(b) of the *Veterans' Entitlements Act 1986*, inserted by item 30 of this Schedule, of whether the person is making effective use of land adjacent to the dwelling-house in which the person lives;

then:

- (g) the Commission may make a determination in relation to the claim period or a specified part of the claim period, that the person was making effective use of the land during the period or that part of the period, and that determination has effect in relation to the period or that part of the period as if it were a determination under paragraph 5LA(6)(b) of the *Veterans' Entitlements Act 1986*; and
 - (h) the Commission may make a determination granting the claim; and
 - (i) the day on which the determination under section 36L, 37L, 38L or 45Q of the *Veterans' Entitlements Act 1986* takes effect (despite sections 36M, 37M, 38M and 45R of that Act) is the first day of the claim period or the specified part of the claim period.
- (4) The Commission may determine in writing that a person is to be treated for the purposes of paragraph (1)(b) as if the person notified the Commission within the notification period of the circumstances mentioned in that paragraph if:
- (a) the person notifies the Commission of those circumstances between 1 April 2007 and 30 June 2007 (inclusive); and
 - (b) the Commission is satisfied that special circumstances apply in respect of the person.
- (5) The Commission may determine in writing that a person is to be treated:
- (a) for the purposes of paragraph (2)(b) or (3)(b), as if the person had made a claim for a service pension or income support supplement within the notification period; and
 - (b) for the purposes of paragraph (2)(c) or (3)(f), as if the person notified the Commission within the notification period of the circumstances mentioned in that paragraph; and
- if:
- (c) the person makes the claim between 1 April 2007 and 30 June 2007 (inclusive); and
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- (d) the person notifies the Commission in relation to the circumstances between 1 April 2007 and 30 June 2007 (inclusive); and
 - (e) the Commission is satisfied that special circumstances apply in respect of the person.
- (6) In this item:
notification period means the period commencing on 1 January 2007 and ending on 31 March 2007.

Schedule 3—Crisis payment

Social Security Act 1991

1 Subsection 19D(1)

Omit “and 1061JH”, substitute “, 1061JH and 1061JHA”.

2 Paragraph 1061JH(1)(g)

Repeal the paragraph, substitute:

- (g) during the 12 months immediately preceding the day on which the claim is made, no more than 3 crisis payments have been payable to the person based on:
 - (i) the qualifications set out in this section; or
 - (ii) the qualifications set out in section 1061JHA (remaining in home after removal of family member due to domestic or family violence).

3 After section 1061JH

Insert:

1061JHA Qualification—remaining in home after removal of family member due to domestic or family violence

- (1) A person is qualified for a crisis payment if:
 - (a) the person has been subjected to domestic or family violence, in Australia, by a family member of the person; and
 - (b) at the time of the domestic or family violence the person was living with that family member; and
 - (c) the family member leaves, or is removed from, the person’s home because of the domestic or family violence; and
 - (d) the person remains living in the person’s home after the family member leaves or is removed; and
 - (e) the person’s home is in Australia; and
 - (f) the person makes a claim for a crisis payment within 7 days after the day on which the family member left or was removed; and
 - (g) on the day on which the claim is made:

- (i) the person is in severe financial hardship (see section 19D); and
 - (ii) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit and the person is qualified for the pension or benefit; and
- (h) during the 12 months immediately preceding the day on which the claim is made, no more than 3 crisis payments have been payable to the person based on:
- (i) the qualifications set out in this section; or
 - (ii) the qualifications set out in section 1061JH (extreme circumstances forcing departure from home).

Note: For *family member* see subsection 23(14).

- (2) A person is not qualified for a crisis payment if the Secretary is satisfied that the family member left the person's home with a view to the person obtaining a crisis payment.

4 Paragraph 1061JL(2)(b)

After "section 1061JH", insert "or 1061JHA".

5 Application

The amendments made by this Schedule apply in respect of domestic or family violence to which a person is subjected by a family member of the person where the family member leaves, or is removed from, the person's home on or after 1 January 2007.

Schedule 4—Miscellaneous

Aged Care Act 1997

1 After paragraph 86-3(c)

Insert:

- (ca) to the Chief Executive Officer of Centrelink for the purpose of administering the social security law (within the meaning of the *Social Security Act 1991*); and
- (cb) to the Secretary of the Department dealing with matters relating to the social security law (within the meaning of the *Social Security Act 1991*), for the purpose of administering that law; and

2 Clause 1 of Schedule 1

Insert:

Centrelink means the Commonwealth Services Delivery Agency.

Child Support (Assessment) Act 1989

3 After paragraph 150(3)(ba)

Insert:

- (bb) to the Chief Executive Officer or an employee of Medicare Australia for the purposes of the performance of functions or the exercise of powers under the *Medicare Australia Act 1973*; or

Child Support (Registration and Collection) Act 1988

4 After paragraph 16(3)(ba)

Insert:

- (bb) to the Chief Executive Officer or an employee of Medicare Australia for the purposes of the performance of functions or the exercise of powers under the *Medicare Australia Act 1973*; or

Social Security (Administration) Act 1999

5 After paragraph 195(2)(h)

Insert:

- (ha) in relation to any legal or equitable estate or interest in real property held by the person:
- (i) the name of the owner of the property;
 - (ii) the address of the property;
 - (iii) the details of the title documents for the property;
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*[Minister's second reading speech made in—
House of Representatives on 14 September 2006
Senate on 11 October 2006]*

(127/06)

*Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation
Amendment (2006 Budget Measures) Act 2006 No. 156, 2006 29*