



Social Security Amendment (Training Incentives) Act 2009

No. 43, 2009

An Act to amend the *Social Security Act 1991*, and for related purposes

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

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Amendments		3
Part 1—Training supplement for parenting payment and newstart allowance		3
<i>Social Security Act 1991</i>		3
Part 2—Youth allowance for early school leavers		8
<i>Social Security Act 1991</i>		8



Social Security Amendment (Training Incentives) Act 2009

No. 43, 2009

An Act to amend the *Social Security Act 1991*, and for related purposes

[Assented to 23 June 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security Amendment (Training Incentives) Act 2009*.

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.	23 June 2009
2. Schedule 1	The later of: (a) immediately after the commencement of items 2 to 5, 8 and 9 of Schedule 4 to the <i>Social Security Legislation Amendment (Employment Services Reform) Act 2009</i> ; and (b) the day on which this Act receives the Royal Assent.	1 July 2009

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Training supplement for parenting payment and newstart allowance

Social Security Act 1991

1 Subsection 23(1)

Insert:

approved training course for training supplement, for a person, means a training course that is approved by the Secretary under section 28B for training supplement for the person.

2 Subsection 23(1)

Insert:

training supplement means:

- (a) an amount payable under subsection 503B(2) to a person receiving a parenting payment; or
- (b) an amount payable under subsection 644AAC(2) to a person receiving newstart allowance.

3 After paragraph 23(4AA)(a)

Insert:

- (aa) provisions in Chapter 2 that provide for an increase in a person's rate of payment by an amount to be known as the training supplement;

4 After section 28A

Insert:

28B Approved training courses for training supplement

- (1) The Secretary may approve a training course for training supplement for a person if:
 - (a) subsection (2) applies in relation to the person; and
 - (b) subsection (3) applies in relation to the course; and

Schedule 1 Amendments

Part 1 Training supplement for parenting payment and newstart allowance

- (c) the Secretary is satisfied that the person will meet the requirements set out in paragraph (4)(a) or (b).
- (2) This subsection applies in relation to the person if:
 - (a) the person has not completed the final year of secondary school or an equivalent level of education; or
 - (b) the person:
 - (i) has been awarded a VET qualification accredited at Certificate I, Certificate II, Certificate III or Certificate IV level in the Australian Qualifications Framework; and
 - (ii) is not studying for, and has not been awarded, a qualification accredited at diploma level or higher in the Australian Qualifications Framework.
- (3) This subsection applies in relation to the course if:
 - (a) the course lasts not more than 12 months; and
 - (b) the course:
 - (i) is accredited at Certificate I, Certificate II, Certificate III or Certificate IV level in the Australian Qualifications Framework; or
 - (ii) in the Secretary's opinion, is equivalent to a course accredited at any of those levels; and
 - (c) in a case where paragraph (2)(b) applies in relation to the person, the course:
 - (i) leads to a qualification that, in the Australian Qualifications Framework, is directly related to, and at a higher level than, the person's VET qualification; or
 - (ii) would, in the Secretary's opinion, enhance the person's prospects of employment by allowing the person to acquire skills in a trade or field other than the trade or field covered by the person's VET qualification.
- (4) The requirements referred to in paragraph (1)(c) are that:
 - (a) the person will be a full-time student in respect of the course within the meaning given by section 569C; or
 - (b) if the person has a partial capacity to work or is the principal carer of at least one child—the person will undertake a number of hours of study per week in respect of the course as is reasonable in the person's circumstances.

(5) In this section:

Australian Qualifications Framework has the meaning given by the *Higher Education Support Act 2003*.

5 Section 503AA

Before “An approved”, insert “(1)”.

6 At the end of section 503AA

Add:

- (2) An approved program of work supplement under section 503A is not payable to a person in respect of a fortnight if a training supplement is payable to the person in respect of the fortnight.

7 At the end of Subdivision A of Division 4 of Part 2.10

Add:

503B Training supplement

- (1) This section applies if a person:
- (a) is receiving a parenting payment; and
 - (b) is a person to whom paragraph 500(1)(c) applies; and
 - (c) is participating in an approved training course for training supplement for the person; and
 - (d) started participating in the course during the period beginning on the day on which this section commenced and ending on 30 June 2011.
- (2) The rate of the person’s parenting payment is increased by an amount of \$41.60 (to be known as a training supplement) for each fortnight during which the person participates in the course.
- (3) However, a training supplement is not payable for a fortnight during which the person participates in the course if:
- (a) a Parenting Payment Employment Pathway Plan is in force in relation to the person; and
 - (b) during the fortnight, the person ceases to participate in the course in circumstances that constitute a failure to comply with the plan.

8 After subsection 601(4A)

Insert:

- (4B) A person also satisfies the activity test in respect of a period if, throughout the period, the person:
- (a) is participating in an approved training course for training supplement; and
 - (b) is, in the Secretary's opinion, making satisfactory progress towards completing the course.
- (4C) In forming an opinion about whether a person is making satisfactory progress for the purpose of paragraph (4B)(b), the Secretary must have regard to guidelines set under subsection 541B(3B).

9 Subsection 601(5)

After "subsection (1)", insert "or (4B)".

10 After section 644AAA

Insert:

644AAB Approved program of work supplement not payable in certain circumstances

An approved program of work supplement under section 644AAA is not payable to a person in respect of a fortnight if a training supplement is payable to the person in respect of the fortnight.

644AAC Training supplement

- (1) This section applies if a person:
- (a) is receiving newstart allowance; and
 - (b) is participating in an approved training course for training supplement for the person; and
 - (c) started participating in the course during the period beginning on the day on which this section commenced and ending on 30 June 2011.
- (2) The rate of the person's newstart allowance is increased by an amount of \$41.60 (to be known as a training supplement) for each fortnight during which the person participates in the course.

- (3) However, a training supplement is not payable for a fortnight during which the person participates in the course if, during the fortnight, the person ceases to participate in the course in circumstances that constitute:
- (a) a failure of the activity test to which the person is subject; or
 - (b) if a Newstart Employment Pathway Plan is in force in relation to the person—a failure to comply with a requirement in the plan.

11 After subsection 1049(2)

Insert:

- (2A) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight if a training supplement is payable to the person in respect of the fortnight.

12 At the end of Division 3 of Part 3.15A

Add:

1188KA CDEP Scheme Participant Supplement not payable in certain circumstances

A CDEP Scheme Participant Supplement is not payable to a person in respect of a fortnight if a training supplement is payable to the person in respect of the fortnight.

13 Subparagraph 1223(7)(b)(iii)

Repeal the subparagraph, substitute:

- (iii) if the person was receiving a parenting payment or newstart allowance—the rate of the person’s parenting payment or newstart allowance was increased by an amount of training supplement when that rate should not have been so increased; or

14 Paragraph 1223(7)(e)

Omit “newstart”.

Part 2—Youth allowance for early school leavers

Social Security Act 1991

15 Subsection 23(1)

Insert:

early school leaver means a person who:

- (a) is less than 21 years old; and
- (b) has not completed the final year of secondary school, or an equivalent level of education; and
- (c) is not undertaking full-time study.

16 Paragraph 541(1)(b)

After “person” (first occurring), insert “(not being an early school leaver)”.

17 Paragraph 541(1AA)(b)

Omit “either”, substitute “any of the following subparagraphs applies in relation to the person”.

18 Before subparagraph 541(1AA)(b)(i)

Insert:

- (ia) the person is an early school leaver;

19 Subparagraph 541(1AA)(b)(i)

Omit “or”.

20 Before paragraph 541(2)(a)

Insert:

- (aa) the person is not an early school leaver; and

21 Section 541A

Before “A person”, insert “(1)”.

22 Paragraph 541A(c)

After “person”, insert “(not being an early school leaver)”.

23 Paragraph 541A(f)

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

24 Paragraphs 541A(g) and (h)

Repeal the paragraphs.

25 At the end of section 541A

Insert:

- (2) Paragraphs (1)(d) to (f) apply in relation to a person who is an early school leaver only if:
 - (a) a Youth Allowance Employment Pathway Plan is in force in relation to the person; and
 - (b) the plan requires the person to take part in a labour market program or, as the case may be, to undertake an approved program of work for income support payment.

26 After subparagraph 542A(1)(a)(i)

Insert:

- (ia) if the person is an early school leaver and a Youth Allowance Employment Pathway Plan is in force in relation to the person—does not have the capacity to undertake the required activities; or

27 Subparagraphs 542A(1)(d)(iii) and (iv)

Omit “study”, substitute “study, the required activities”.

28 Subsection 542A(3)

Insert:

required activities, in relation to an early school leaver in relation to whom a Youth Allowance Employment Plan is in force, means the activities required to be undertaken by the plan.

Note: The heading to subsection 542A(3) is replaced by the heading “*Definitions*”.

29 Subparagraph 542C(2)(a)(i)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

30 Paragraph 542C(2)(b)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

31 Paragraphs 542C(3)(c) and (d) and (4)(c) and (d)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

32 Paragraph 542C(5)(b)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

33 Subparagraph 542C(5)(c)(ii)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

34 Paragraph 542C(6)(b)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

35 Subparagraph 542C(6)(c)(ii)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

36 Paragraph 542C(7)(c)

Omit “work or study”, substitute “study, the required activities or work (as the case may be)”.

37 At the end of section 542C

Add:

Definition

(9) In this section:

required activities has the meaning given by subsection 542A(3).

38 At the end of paragraph 542E(1)(a)

Add:

- (iii) in a case where the person is an early school leaver—
there is no locally accessible approved course of
training or education within the meaning given by
subsection 544DA(6) (including any such course
available by distance education); and

39 Paragraph 543A(2)(c)

After “has”, insert “entered into or”.

40 Paragraph 543A(2A)(e)

Repeal the paragraph.

41 Paragraph 543A(2A)(l)

Omit “20”, substitute “25”.

42 Paragraph 543A(2A)(o)

Repeal the paragraph.

43 Subsection 544B(1)

Omit “544C and 544D”, insert “544C, 544D and 544DA”.

44 After section 544D

Insert:

544DA Youth Allowance Employment Pathway Plans—early school leavers

- (1) This section applies in relation to a Youth Allowance Employment Pathway Plan that is in force in relation to a person who is an early school leaver.
- (2) Unless subsection (5) applies in relation to the person, the plan must require the person to undertake for at least the appropriate number of hours per week:
 - (a) one or more approved courses of training or education; or
 - (b) a combination of:
 - (i) one or more approved courses of training or education;
and
 - (ii) one or more other activities that the Secretary considers suitable for the person.

Schedule 1 Amendments

Part 2 Youth allowance for early school leavers

- (3) If subsection (5) applies in relation to the person, the plan must require the person to undertake, for at least the appropriate number of hours per week, one or more activities (other than an approved course of training or education) that the Secretary considers suitable for the person.
- (4) The appropriate number of hours per week is:
- (a) 25; or
 - (b) such other number as the Secretary determines to be appropriate having regard to the person's circumstances.
- (5) This subsection applies in relation to a person if:
- (a) there is no locally accessible approved course of training or education (including any such course available by distance education); or
 - (b) where there is such a course:
 - (i) there is no place available on the course for the person; or
 - (ii) the person is not qualified to undertake the course; or
 - (iii) the person lacks capacity to undertake the course because he or she has a physical, psychiatric or intellectual disability or a learning disability such as attention deficit disorder; or
 - (c) in the Secretary's opinion, special circumstances exist that make it unreasonable to require the person to undertake an approved course of training or education.
- (6) For the purposes of this section, a course is an ***approved course of training or education*** for a person if it:
- (a) is a course of study or instruction determined under section 5D of the *Student Assistance Act 1973* as a secondary course or a tertiary course for the purposes of that Act; and
 - (b) would, in the Secretary's opinion, assist or allow the person to complete the final year of secondary school or an equivalent level of education.
- (7) The Secretary may, by legislative instrument, set guidelines for the exercise of the Secretary's discretion under (either or both):
- (a) paragraph (5)(c); and
 - (b) paragraph (6)(b).
-

- (8) In forming an opinion for the purposes of paragraph (5)(c) or (6)(b), the Secretary must have regard to the guidelines.

45 Application of amendments

- (1) The amendments made by this Part apply in relation to:
- (a) payment of youth allowance claimed on or after the day on which the amendments commence; and
 - (b) payment of youth allowance on or after 1 July 2010 in respect of existing youth allowance recipients.
- (2) Despite paragraph (1)(b), if, during the transition period, an existing youth allowance recipient (being an early school leaver) enters into a Youth Allowance Employment Pathway Plan complying with the requirements of section 544DA, the amendments made by this Part apply to the payment of youth allowance to the existing youth allowance recipient from the time the plan is entered into.
- (3) In this item:
- existing youth allowance recipient*** means a person in receipt of youth allowance as a result of a claim for youth allowance made before the day on which the amendments made by this Part commence.
- transition period*** means the period beginning on 1 January 2010 and ending on 30 June 2010.

[Minister's second reading speech made in—
House of Representatives on 28 May 2009
Senate on 16 June 2009]

(103/09)
