



**Families, Housing, Community Services
and Indigenous Affairs and Other
Legislation Amendment (2009 Measures)
Act 2010**

No. 38, 2010

**An Act to amend the law relating to Aboriginal
land rights, social security, veterans' affairs, family
assistance and child support, and for other
purposes**

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

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Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010

No. 38, 2010

**An Act to amend the law relating to Aboriginal
land rights, social security, veterans' affairs, family
assistance and child support, and for other
purposes**

[Assented to 13 April 2010]

The Parliament of Australia enacts:

*Families, Housing, Community Services and Indigenous Affairs and Other Legislation
Amendment (2009 Measures) Act 2010 No. 38, 2010 1*

1 Short title

This Act may be cited as the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010*.

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 this Act receives the Royal Assent. | 13 April 2010 |
| 2. Schedules 1 and 2 | The day after this Act receives the Royal Assent. | 14 April 2010 |
| 3. Schedule 3, items 1 to 36 | The 28th day after this Act receives the Royal Assent. | 11 May 2010 |
| 4. Schedule 3, items 37 to 39 | The later of: (a) the start of the 28th day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur. | 11 May 2010 |
| 5. Schedule 3, items 40 to 115 | The 28th day after this Act receives the Royal Assent. | 11 May 2010 |

| Commencement information | | |
|---------------------------------|---|--------------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 6. Schedule 3, items 116 to 118 | The later of: (a) the start of the 28th day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur. | 11 May 2010 |
| 7. Schedule 3, items 119 to 134 | The 28th day after this Act receives the Royal Assent. | 11 May 2010 |
| 8. Schedule 3, item 135 | The 28th day after this Act receives the Royal Assent. However, if Schedule 1 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010</i> commences on or before that day, the provision(s) do not commence at all. | Does not commence at all |
| 9. Schedule 3, items 136 to 163 | The 28th day after this Act receives the Royal Assent. | 11 May 2010 |
| 10. Schedules 4 and 5 | The day after this Act receives the Royal Assent. | 14 April 2010 |
| 11. Schedule 6 | The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2010. | 1 July 2010 |
| 12. Schedule 7, items 1 to 7 | The day after this Act receives the Royal Assent. | 14 April 2010 |
| 13. Schedule 7, item 8 | The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2010. | 1 July 2010 |

| Commencement information | | |
|---------------------------------|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 14. Schedule 7, items 9 to 35 | The day after this Act receives the Royal Assent. | 14 April 2010 |

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—Scheduling of land

Aboriginal Land Rights (Northern Territory) Act 1976

1 Part 4 of Schedule 1 (after the item relating to KANTURRPA—KANTTAJI)

Insert:

LOVES CREEK

All that land being the whole of Northern Territory Portion 744 delineated on Survey Plans S2004/007A to H inclusive and S2004/007J lodged with the Surveyor-General, Darwin, known as Loves Creek in the Northern Territory and containing an area of approximately 378,400 hectares.

PATTA

All that land near Tennant Creek in the Northern Territory comprising:

- (a) the whole of Northern Territory Portion 2441 delineated on Survey Plan S2007/18 lodged with the Surveyor-General, Darwin, and containing an area of approximately 1,247 hectares; and
- (b) the whole of Northern Territory Portion 4071 delineated on Survey Plans S91/86A and B lodged with the Surveyor-General, Darwin, and containing an area of approximately 5,582 hectares; and
- (c) the whole of Northern Territory Portion 4073 delineated on Survey Plan S91/87 lodged with the Surveyor-General, Darwin, and containing an area of approximately 1,826 hectares; and
- (d) the whole of Northern Territory Portion 4096 delineated on Survey Plan S92/85 lodged with the Surveyor-General, Darwin, and containing an area of approximately 80.19 hectares; and
- (e) the whole of Northern Territory Portion 4428 delineated on Survey Plan S93/36 lodged with the Surveyor-General, Darwin, and containing an area of approximately 334.9 hectares.

2 Part 5 of Schedule 1 (item relating to WEST MACDONNELL NATIONAL PARK)

After:

2) Alice Valley Extension

All that parcel of land near Owen Springs in the Northern Territory of Australia containing an area of 21,780 hectares more or less being the whole of Northern Territory Portion 6867 more particularly delineated on Survey Plan S2007/29 lodged with the Surveyor General, Darwin.

Insert:

2A) Alice Valley Extension (East)

All that land being the whole of Northern Territory Portion 6991 delineated on Survey Plans S2008/18A and B lodged with the Surveyor-General, Darwin, being near Owen Springs in the Northern Territory of Australia and containing an area of approximately 24,890 hectares.

Schedule 2—Income management regime

Social Security (Administration) Act 1999

1 Section 123TC (paragraph (b) of the definition of *category P welfare payment*)

Omit “(other than an age pension or a carer payment)”.

2 Section 123TC (paragraphs (a) and (b) of the definition of *category R welfare payment*)

Repeal the paragraphs.

3 Paragraphs 123UF(1)(b) and (2)(c)

Omit “subsection”, substitute “section”.

4 At the end of section 123WJ

Add:

Interpretation

(19) This section is subject to section 123WJA.

5 After section 123WJ

Insert:

123WJA Ceasing payment of credit balances of income management accounts—person becomes subject to the income management regime again

(1) This section applies if:

- (a) at a particular time, a person ceases to be subject to the income management regime; and
- (b) at the time referred to in paragraph (a), there is a residual amount in relation to the person; and
- (c) at any time after the cessation, the person becomes subject to the income management regime again; and

- (d) at the time referred to in paragraph (c), the whole or a part of the residual amount has not been paid to the person in accordance with section 123WJ.
- (2) The Secretary may determine that section 123WJ ceases to apply in relation to:
 - (a) the whole of the residual amount; or
 - (b) a part of the residual amount specified in the determination.The determination has effect accordingly.
- (3) In this section:

residual amount has the same meaning as in subsection 123WJ(2).

6 Subsection 123WL(3)

Repeal the subsection, substitute:

Payment of residual amount

- (3) The residual amount is to be paid in one or more of the following ways (as determined by the Secretary):
 - (a) to the legal personal representative of the person;
 - (b) to one or more other persons whom the Secretary is satisfied have carried out, are carrying out, or will carry out, an appropriate activity in relation to the estate or affairs of the person;
 - (c) to the credit of a bank account nominated by the person for the purposes of subsection 55(2).

An amount that is to be paid under this subsection is to be paid as a lump sum on a day determined by the Secretary.

- (3A) A person may be paid more than one amount under subsection (3).

7 Subsection 123WL(4)

After “determination”, insert “under subsection (3)”.

8 Subsection 123WM(1)

Omit “subsection 123WL(3)”, substitute “paragraph 123WL(3)(a) or (b)”.

9 Application—persons becoming subject to the income management regime again

- (1) The amendment made by item 5 applies in relation to persons who:
- (a) cease to be subject to the income management regime before, on or after the commencement of that item; and
 - (b) become subject to the income management regime again before, on or after that commencement.
- (2) However, for a person who became subject to the income management regime again before that commencement, the time applicable for the purposes of paragraph 123WJA(1)(d) of the *Social Security (Administration) Act 1999*, as inserted by this Act, is taken to be the start of the day on which this item commences (instead of the time the person became subject to the income management regime again).

10 Application—payment of credit balances of income management accounts—person dies

The amendments made by items 6, 7 and 8 apply in relation to:

- (a) deaths occurring on or after the commencement of those items; and
- (b) deaths occurring before the commencement of those items if a determination had not been made under subsection 123WL(3) of the *Social Security (Administration) Act 1999* before that commencement.

Schedule 3—Social Security Appeals Tribunal

Part 1—Main amendments

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

1 After section 128

Insert:

128A Power to obtain information or documents

- (1) This section applies to a person if the Principal Member believes on reasonable grounds that the person has information or a document that is relevant to a review.
- (2) The Principal Member may, by written notice given to the person, require the person:
 - (a) to give to the SSAT, within the period and in the manner specified in the notice, any such information; or
 - (b) to produce to the SSAT, within the period and in the manner specified in the notice, any such documents.
- (3) The period specified in a notice given under subsection (2) must be at least 14 days after the notice is given.

Offence

- (4) A person commits an offence if:
 - (a) the person is given a notice under subsection (2); and
 - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 6 months.

Notice to set out the effect of offence provisions

- (5) A notice under subsection (2) must set out the effect of the following provisions:
 - (a) subsection (4);

- (b) section 137.1 of the *Criminal Code* (about giving false or misleading information);
- (c) section 137.2 of the *Criminal Code* (about producing false or misleading documents).

128B Inspecting and copying documents

The following may inspect a document produced under section 128A and may make and retain copies of the whole or a part of the document:

- (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
- (b) a member of the staff of the SSAT.

128C Retention of documents

- (1) The following may take possession of a document produced under section 128A, and retain it for as long as is reasonably necessary:
 - (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
 - (b) a member of the staff of the SSAT.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Principal Member to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Principal Member must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the whole or a part of the document.

2 Before Subdivision C of Division 3 of Part 5

Insert:

Subdivision BC—Pre-hearing conferences

129A Pre-hearing conferences

- (1) Before the hearing of a review commences, the Principal Member may convene one or more conferences with the parties to the review if he or she considers that it would assist in the conduct and consideration of the review to do so.
- (2) At a conference, the Principal Member may:
 - (a) fix a day or days for the hearing; and
 - (b) give directions about the time within which submissions are to be made to the SSAT; and
 - (c) give directions about the time within which evidence is to be brought before the SSAT; and
 - (d) give directions about what evidence is to be brought before the SSAT.
- (3) Paragraph (2)(d) does not limit the evidence that may be brought before the SSAT.

Restrictions on disclosure of information obtained at a conference

- (4) The Principal Member may make an order directing a party to the review who is present at a conference:
 - (a) not to disclose information obtained by the party at the conference; or
 - (b) not to disclose information obtained by the party at the conference except in the circumstances, or for the purposes, specified in the order.
- (5) A person commits an offence if:
 - (a) the person is given an order under subsection (4); and
 - (b) the person contravenes the order.

Penalty for contravention of this subsection: Imprisonment for 2 years.

129B Powers of SSAT if parties reach agreement

- (1) If:
-

- (a) at a pre-hearing conference under section 129A with the parties to a review, the parties agree to the terms of a decision of the SSAT:
 - (i) in the review; or
 - (ii) in relation to a part of the review, or a matter arising out of the review;that would be acceptable to the parties; and
 - (b) before the hearing of the review commences, the terms of the agreement are:
 - (i) put in writing; and
 - (ii) signed by or on behalf of the parties; and
 - (iii) lodged with the SSAT; and
 - (c) before the hearing of the review commences, the SSAT is satisfied that a decision in those terms, or consistent with those terms, would be within the powers of the SSAT;
- the SSAT may act in accordance with whichever of subsection (2) or (3) is relevant.
- (2) If the agreement reached is an agreement as to the terms of a decision of the SSAT in the review, the SSAT may make a decision in accordance with those terms without holding a hearing of the review.
 - (3) If the agreement relates to a part of the review, or a matter arising out of the review, the SSAT may in its decision in the review give effect to the terms of the agreement without dealing at the hearing of the review with the part or matter to which the agreement relates.

3 Section 137

Repeal the section, substitute:

137 Presiding member at SSAT hearing

If the SSAT is constituted by 2 or more members for the purposes of the review of a decision, the Principal Member must designate one of those members as the member who is to preside at the hearing of the review.

4 Before subsection 138(1)

Insert:

*Families, Housing, Community Services and Indigenous Affairs and Other Legislation
Amendment (2009 Measures) Act 2010 No. 38, 2010 13*

- (1A) This section applies if the SSAT is constituted by 2 or more members for the purposes of the review of a decision.

5 At the end of Division 3 of Part 5

Add:

Subdivision F—Correction of errors in decisions or statements of reasons

141B Correction of errors in decisions or statements of reasons

Correction of errors

- (1) If:
- (a) the SSAT makes a decision on a review; and
 - (b) the presiding member of the SSAT as constituted for the purposes of the review, or the Principal Member, is satisfied that there is an obvious error in:
 - (i) the text of the decision; or
 - (ii) a written statement of reasons for the decision;
- the presiding member or the Principal Member may alter the text of the decision or statement.
- (2) If the text of a decision or statement is altered under subsection (1), the altered text is taken to be the decision of the SSAT or the statement of reasons for the decision, as the case may be.

Examples of obvious errors

- (3) Examples of obvious errors in the text of a decision or statement of reasons are:
- (a) an obvious clerical or typographical error in the text of the decision or statement; and
 - (b) an inconsistency between the decision and the statement.

Social Security (Administration) Act 1999

6 After section 165

Insert:

165A Power to obtain information or documents

- (1) This section applies to a person if the Principal Member believes on reasonable grounds that the person has information or a document that is relevant to a review.
- (2) The Principal Member may, by written notice given to the person, require the person:
 - (a) to give to the SSAT, within the period and in the manner specified in the notice, any such information; or
 - (b) to produce to the SSAT, within the period and in the manner specified in the notice, any such documents.
- (3) The period specified in a notice given under subsection (2) must be at least 14 days after the notice is given.

Offence

- (4) A person commits an offence if:
 - (a) the person is given a notice under subsection (2); and
 - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 6 months.

Notice to set out the effect of offence provisions

- (5) A notice under subsection (2) must set out the effect of the following provisions:
 - (a) subsection (4);
 - (b) section 137.1 of the *Criminal Code* (about giving false or misleading information);
 - (c) section 137.2 of the *Criminal Code* (about producing false or misleading documents).

165B Inspecting and copying documents

The following may inspect a document produced under section 165A and may make and retain copies of the whole or a part of the document:

- (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
- (b) a member of the staff of the SSAT.

165C Retention of documents

- (1) The following may take possession of a document produced under section 165A, and retain it for as long as is reasonably necessary:
 - (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
 - (b) a member of the staff of the SSAT.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Principal Member to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Principal Member must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the whole or a part of the document.

7 Before Subdivision C of Division 4 of Part 4

Insert:

Subdivision BC—Pre-hearing conferences

166A Pre-hearing conferences

- (1) Before the hearing of a review commences, the Principal Member may convene one or more conferences with the parties to the review if he or she considers that it would assist in the conduct and consideration of the review to do so.
- (2) At a conference, the Principal Member may:
 - (a) fix a day or days for the hearing; and
 - (b) give directions about the time within which submissions are to be made to the SSAT; and
 - (c) give directions about the time within which evidence is to be brought before the SSAT; and
 - (d) give directions about what evidence is to be brought before the SSAT.

- (3) Paragraph (2)(d) does not limit the evidence that may be brought before the SSAT.

Restrictions on disclosure of information obtained at a conference

- (4) The Principal Member may make an order directing a party to the review who is present at a conference:
- (a) not to disclose information obtained by the party at the conference; or
 - (b) not to disclose information obtained by the party at the conference except in the circumstances, or for the purposes, specified in the order.
- (5) A person commits an offence if:
- (a) the person is given an order under subsection (4); and
 - (b) the person contravenes the order.

Penalty for contravention of this subsection: Imprisonment for 2 years.

166B Powers of SSAT if parties reach agreement

- (1) If:
- (a) at a pre-hearing conference under section 166A with the parties to a review, the parties agree to the terms of a decision of the SSAT:
 - (i) in the review; or
 - (ii) in relation to a part of the review, or a matter arising out of the review;that would be acceptable to the parties; and
 - (b) before the hearing of the review commences, the terms of the agreement are:
 - (i) put in writing; and
 - (ii) signed by or on behalf of the parties; and
 - (iii) lodged with the SSAT; and
 - (c) before the hearing of the review commences, the SSAT is satisfied that a decision in those terms, or consistent with those terms, would be within the powers of the SSAT;
- the SSAT may act in accordance with whichever of subsection (2) or (3) is relevant.

- (2) If the agreement reached is an agreement as to the terms of a decision of the SSAT in the review, the SSAT may make a decision in accordance with those terms without holding a hearing of the review.
- (3) If the agreement relates to a part of the review, or a matter arising out of the review, the SSAT may in its decision in the review give effect to the terms of the agreement without dealing at the hearing of the review with the part or matter to which the agreement relates.

8 Section 173

Repeal the section, substitute:

173 Presiding member at SSAT hearing

If the SSAT is constituted by 2 or more members for the purposes of the review of a decision, the Principal Member must designate one of those members as the member who is to preside at the hearing of the review.

9 Before subsection 174(1)

Insert:

- (1A) This section applies if the SSAT is constituted by 2 or more members for the purposes of the review of a decision.

10 At the end of Division 4 of Part 4

Add:

Subdivision F—Correction of errors in decisions or statements of reasons

177A Correction of errors in decisions or statements of reasons

Correction of errors

- (1) If:
 - (a) the SSAT makes a decision on a review; and

- (b) the presiding member of the SSAT as constituted for the purposes of the review, or the Principal Member, is satisfied that there is an obvious error in:
- (i) the text of the decision; or
 - (ii) a written statement of reasons for the decision;
- the presiding member or the Principal Member may alter the text of the decision or statement.
- (2) If the text of a decision or statement is altered under subsection (1), the altered text is taken to be the decision of the SSAT or the statement of reasons for the decision, as the case may be.

Examples of obvious errors

- (3) Examples of obvious errors in the text of a decision or statement of reasons are:
- (a) an obvious clerical or typographical error in the text of the decision or statement; and
 - (b) an inconsistency between the decision and the statement.

11 Subclause 10(1) of Schedule 3

Omit “members who are”, substitute “member who is, or members who are,”.

12 Subclause 10(2) of Schedule 3

Omit “members who are”, substitute “member who is, or members who are,”.

13 Subclause 10(3) of Schedule 3

Omit “members”, substitute “member or members”.

14 Subclause 12(1) of Schedule 3

Repeal the subclause, substitute:

- (1) This clause applies if:
- (a) the hearing of a review of a decision has been commenced or completed by the SSAT; and
 - (b) before the matter to which the proceeding relates has been determined, a member (the *unavailable member*) who constitutes, or is one of the members who constitute, the SSAT for the purposes of the review has:

- (i) ceased to be a member; or
- (ii) ceased to be available for the purposes of the review.

Single member Tribunal

- (1A) If the unavailable member constituted the SSAT for the purposes of the review, the Principal Member must:
- (a) give a direction under clause 10 reconstituting the SSAT for the purposes of the review; and
 - (b) either:
 - (i) direct that the hearing and determination, or the determination, of the review must be completed by the SSAT as so reconstituted; or
 - (ii) direct that the review must be reheard by the SSAT as so reconstituted.

Multiple member Tribunal

- (1B) If the unavailable member was one of the members who constituted the SSAT for the purposes of the review:
- (a) if the Principal Member does not give a direction under clause 10 reconstituting the SSAT for the purposes of the review—the hearing and determination, or the determination, of the review must be completed by the SSAT constituted by the remaining member or members; or
 - (b) if the Principal Member does give a direction under clause 10 reconstituting the SSAT for the purposes of the review—the review must be reheard by the SSAT as so reconstituted.

Note: The following heading to subclause 12(2) of Schedule 3 is inserted “*Rehearing of review*”.

15 After subclause 21(1) of Schedule 3

Insert:

- (1A) A person who is, or has been, a member must not be required to give evidence to a court in relation to any SSAT review of a decision. For the purposes of this subclause, *court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

16 Application

- (1) The amendments made by items 1 to 4 and 6 to 9 apply in relation to applications for review made on or after the commencement of those items.
- (2) The amendments made by items 5 and 10 apply in relation to decisions made on or after the commencement of those items.
- (3) The amendment made by item 14 applies in relation to hearings that commence on or after the commencement of that item.

17 Saving—directions for constituting the SSAT

The amendments made by items 11, 12 and 13 do not affect the validity of a direction given under subclause 10(1) of Schedule 3 to the *Social Security (Administration) Act 1999* before the commencement of those items.

Part 2—Other amendments

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

18 Subsection 3(1) (definition of *Executive Director*)

Repeal the definition.

19 Subsection 3(1)

Insert:

Principal Member means the Principal Member of the Social Security Appeals Tribunal.

20 Subsection 106(6)

Omit “Executive Director”, substitute “Principal Member”.

21 Subsections 118(2) and (4)

Omit “Executive Director”, substitute “Principal Member”.

22 Subsection 119(1)

Omit “Executive Director”, substitute “Principal Member”.

23 Subsections 119(2) and (3)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

24 Subsection 119(4)

Omit “Executive Director”, substitute “Principal Member”.

25 Subsection 119(4)

Omit “Executive Director’s”, substitute “Principal Member’s”.

26 Paragraph 119(5)(c)

Omit “Executive Director”, substitute “Principal Member”.

27 Subsections 120(1) and (2)

Omit “Executive Director”, substitute “Principal Member”.

28 Subsections 121(1), (2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

29 Subsection 122(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

30 Paragraph 122(2)(b)

Omit “Executive Director”, substitute “Principal Member”.

31 Subsection 122(3)

Omit “Executive Director”, substitute “Principal Member”.

32 Subsections 123(4), (5) and (6)

Omit “Executive Director”, substitute “Principal Member”.

33 Subsections 125(1) and (2)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

34 Subsection 126(2)

Omit “Executive Director”, substitute “Principal Member”.

35 Subsections 126(3) and (4)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

36 Subsections 126(5) and (6)

Omit “Executive Director”, substitute “Principal Member”.

37 Subsection 126A(2)

Omit “Executive Director”, substitute “Principal Member”.

38 Subsections 126A(3) and (4)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

39 Subsection 126A(5)

Omit “Executive Director”, substitute “Principal Member”.

40 Subsection 128(1)

Omit “Executive Director”, substitute “Principal Member”.

41 Subsection 129(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

42 Subsections 131(2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

43 Subsection 133(1)

Omit “Executive Director”, substitute “Principal Member”.

44 Subsection 135(4)

Omit “Executive Director”, substitute “Principal Member”.

45 Subsection 136(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

46 Subsection 136(2)

Omit “Executive Director”, substitute “Principal Member”.

47 Subsection 139(1)

Omit “Executive Director”, substitute “Principal Member”.

48 Subsection 141(2)

Omit “Executive Director”, substitute “Principal Member”.

49 Section 150

Omit “Executive Director”, substitute “Principal Member”.

50 Subsection 234(1)

Omit “Executive Director”, substitute “Principal Member”.

Child Support (Registration and Collection) Act 1988

51 Subsection 4(1) (definition of SSAT Executive Director)

Repeal the definition.

52 Subsection 4(1)

Insert:

SSAT Principal Member means the Principal Member of the SSAT.

53 Subsection 91(1)

Omit “Executive Director”, substitute “Principal Member”.

54 Subsections 92(1), (1A), (3), (4) and (7)

Omit “Executive Director”, substitute “Principal Member”.

55 Paragraphs 93(aa) and (a)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

56 Subsection 95(1)

Omit “Executive Director”, substitute “Principal Member”.

57 Subsection 95(2)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

58 Subsections 95(3) and (4)

Omit “Executive Director”, substitute “Principal Member”.

59 Paragraphs 95(5)(c) and (6)(a)

Omit “Executive Director”, substitute “Principal Member”.

60 Subsection 96(2)

Omit “Executive Director”, substitute “Principal Member”.

61 Paragraph 96(3)(a)

Omit “Executive Director”, substitute “Principal Member”.

62 Paragraph 97(1)(c)

Omit “Executive Director”, substitute “Principal Member”.

63 Subsections 98(1), (2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

64 Paragraph 99(3)(d)

Omit “Executive Director”, substitute “Principal Member”.

65 Subsections 100(1) and (2)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

66 Subsection 101(2)

Omit “Executive Director”, substitute “Principal Member”.

Note: The heading to subsection 101(2) is altered by omitting “*Executive Director*” and substituting “*Principal Member*”.

67 Subsection 101(4)

Omit “Executive Director”, substitute “Principal Member”.

68 Subsection 101(5)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

Note: The heading to subsection 101(5) is altered by omitting “*Executive Director*” and substituting “*Principal Member*”.

69 Subsection 102(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

70 Paragraph 102(3)(b)

Omit “Executive Director”, substitute “Principal Member”.

71 Subsection 102(4)

Omit “Executive Director”, substitute “Principal Member”.

72 Subsections 103(1) and (2)

Omit “Executive Director”, substitute “Principal Member”.

73 Subsection 103A(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

74 Subsection 103A(2)

Omit “Executive Director”, substitute “Principal Member”.

75 Subsection 103C(1) (note)

Omit “Executive Director”, substitute “Principal Member”.

76 Subsections 103C(3), (4) and (5)

Omit “Executive Director”, substitute “Principal Member”.

77 Subsections 103D(1) and (2)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

78 Subsection 103E(1)

Omit “Executive Director”, substitute “Principal Member”.

79 Subsections 103E(2) and (3)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

80 Subsections 103E(4) and (5)

Omit “Executive Director”, substitute “Principal Member”.

81 Subsection 103F(2)

Omit “Executive Director”, substitute “Principal Member”.

82 Subsections 103F(3) and (4)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

83 Subsection 103J(1)

Omit “Executive Director”, substitute “Principal Member”.

84 Subsection 103K(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

85 Paragraph 103K(2)(a)

Omit “Executive Director”, substitute “Principal Member”.

86 Subsection 103L(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

87 Subsections 103M(1) and (2)

Omit “Executive Director”, substitute “Principal Member”.

88 Subsection 103N(2) (note)

Omit “Executive Director”, substitute “Principal Member”.

89 Subsections 103P(2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

90 Subsection 103Q(1)

Omit “Executive Director”, substitute “Principal Member”.

91 Paragraph 103Q(2)(a)

Omit “Executive Director”, substitute “Principal Member”.

92 Subsection 103ZA(1)

Omit “Executive Director”, substitute “Principal Member”.

Note: The heading to subsection 103ZA(1) is altered by omitting “*Executive Director*” and substituting “*Principal Member*”.

93 Subsection 110H(2)

Omit “Executive Director”, substitute “Principal Member”.

94 Section 110K

Omit “Executive Director”, substitute “Principal Member”.

Social Security (Administration) Act 1999

95 Paragraph 9(1)(b)

Omit “Executive Director”, substitute “Principal Member”.

96 Subsection 9(2)

Omit “Executive Director”, substitute “Principal Member”.

97 Subsection 9(4)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

98 Subsection 10(1)

Omit “Executive Director”, substitute “Principal Member”.

99 Subsection 128(1)

Omit “Executive Director”, substitute “Principal Member”.

Note: The heading to section 128 is altered by omitting “**Executive Director**” and substituting “**Principal Member**”.

100 Subsections 156(2) and (4)

Omit “Executive Director”, substitute “Principal Member”.

101 Subsection 157(1)

Omit “Executive Director”, substitute “Principal Member”.

102 Subsections 157(2) and (3)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

103 Subsection 157(4)

Omit “Executive Director”, substitute “Principal Member”.

104 Subsection 157(4)

Omit “Executive Director’s”, substitute “Principal Member’s”.

105 Paragraph 157(5)(c)

Omit “Executive Director”, substitute “Principal Member”.

106 Subsections 158(1) and (2)

Omit “Executive Director”, substitute “Principal Member”.

107 Subsections 159(1), (2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

108 Subsection 160(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

109 Paragraph 160(2)(b)

Omit “Executive Director”, substitute “Principal Member”.

110 Subsection 160(3)

Omit “Executive Director”, substitute “Principal Member”.

111 Subsections 161(4), (5) and (6)

Omit “Executive Director”, substitute “Principal Member”.

112 Subsections 162(1) and (2)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

113 Subsection 163(1)

Omit “Executive Director”, substitute “Principal Member”.

114 Subsections 163(2) and (3)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

115 Subsections 163(4) and (5)

Omit “Executive Director”, substitute “Principal Member”.

116 Subsection 163A(2)

Omit “Executive Director”, substitute “Principal Member”.

117 Subsections 163A(3) and (4)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

118 Subsection 163A(5)

Omit “Executive Director”, substitute “Principal Member”.

119 Subsection 165(1)

Omit “Executive Director”, substitute “Principal Member”.

120 Subsection 166(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

121 Subsections 168(2) and (3)

Omit “Executive Director”, substitute “Principal Member”.

122 Subsection 169(1)

Omit “Executive Director”, substitute “Principal Member”.

123 Subsection 171(4)

Omit “Executive Director”, substitute “Principal Member”.

124 Subsection 172(1)

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

125 Subsection 172(2)

Omit “Executive Director”, substitute “Principal Member”.

126 Subsection 175(1)

Omit “Executive Director”, substitute “Principal Member”.

127 Subsection 177(2)

Omit “Executive Director”, substitute “Principal Member”.

128 Section 187

Omit “Executive Director”, substitute “Principal Member”.

129 Paragraph 1(a) of Schedule 3

Repeal the paragraph, substitute:

(a) a Principal Member; and

130 Paragraph 1(b) of Schedule 3

Omit “Directors”, substitute “Senior Members”.

131 After paragraph 1(b) of Schedule 3

Insert:

(ba) such number of Assistant Senior Members as are appointed in accordance with this Act; and

132 Subclause 2(1) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

Note: The heading to clause 2 of Schedule 3 is altered by omitting “Executive Director” and substituting “Principal Member”.

133 Subclauses 2(2) and (3) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

134 Subclause 3(2) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

135 Paragraph 4(2)(a) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

136 Subclauses 6(1) and (2) of Schedule 3

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

Note: The heading to clause 6 of Schedule 3 is altered by omitting “Executive Director” and substituting “Principal Member”.

137 Subclause 7(1) of Schedule 3

Omit “a Director or a member referred to in paragraph 1(c) of this Schedule”, substitute “a member referred to in paragraph 1(b), (ba) or (c) of this Schedule”.

Note: The heading to clause 7 of Schedule 3 is altered by omitting “Directors and”.

138 Paragraph 7(1)(a) of Schedule 3

Omit “a Director or”.

139 Paragraph 7(1)(b) of Schedule 3

Omit “a Director or such a member during any period, or during all periods, when the Director or member”, substitute “such a member during any period, or during all periods, when the member”.

140 Subclause 7(2) of Schedule 3

Omit “a Director or a member referred to in paragraph 1(c) of this Schedule”, substitute “a member referred to in paragraph 1(b), (ba) or (c) of this Schedule”.

141 Paragraph 7(2)(a) of Schedule 3

Omit “a Director or”.

142 Paragraph 7(2)(b) of Schedule 3

Omit “a Director or such a member during any period, or during all periods, when the Director or member”, substitute “such a member during any period, or during all periods, when the member”.

143 Paragraphs 8(7)(a) and (b) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

144 Paragraphs 8(7)(c) and (d) of Schedule 3

Omit “Director or”.

145 Subclause 10(1) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

146 Subclause 10(2) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

147 Subclauses 14(2) and (3) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

148 Subclause 15(1) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

149 Subclause 15(2) of Schedule 3

Omit “Executive Director directions as to the exercise of the Executive Director’s power under subclause (1), and the Executive Director”, substitute “Principal Member directions as to the exercise of the Principal Member’s power under subclause (1), and the Principal Member”.

150 Subclauses 17(9), (10) and (11) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

151 Subclause 18(2) of Schedule 3

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

152 Clause 20 of Schedule 3

Omit “Executive Director” (wherever occurring), substitute “Principal Member”.

Note: The heading to clause 20 of Schedule 3 is altered by omitting “**Executive Director**” and substituting “**Principal Member**”.

153 Subclause 22(1) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

154 Subclause 25(1) of Schedule 3

Omit “Executive Director”, substitute “Principal Member”.

155 Schedule 4

Omit “Executive Director (or Director or member)”, substitute “Principal Member (or Senior Member or Assistant Senior Member or member)”.

156 Schedule 4

Omit “Executive Director (or Director or member)”, substitute “Principal Member (or Senior Member or Assistant Senior Member or member)”.

Part 3—Transitional provisions

157 Definitions

In this Part:

commencement day means the day this item commences.

Director means a Director of the SSAT.

Executive Director means the Executive Director of the SSAT.

Principal Member means the Principal Member of the SSAT.

Senior Member means a Senior Member of the SSAT.

SSAT means the Social Security Appeals Tribunal.

158 Existing members of the SSAT

Executive Director

- (1) The person holding office as the Executive Director under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* immediately before the commencement day is taken, at the start of the commencement day, to have been duly appointed as the Principal Member by the Governor-General under that clause:
 - (a) for the balance of the person's term of appointment that remained immediately before the commencement day; and
 - (b) on the same terms and conditions as applied to the person immediately before the commencement day.
- (2) This item does not prevent those terms and conditions being varied on or after the commencement day.

Directors

- (3) A person holding office as a Director under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* immediately before the commencement day is taken, at the start of the commencement day, to have been duly appointed as a Senior Member by the Governor-General under that clause:
 - (a) for the balance of the person's term of appointment that remained immediately before the commencement day; and

- (b) on the same terms and conditions as applied to the person immediately before the commencement day.
- (4) This item does not prevent those terms and conditions being varied on or after the commencement day.

Assistant Directors

- (5) If:
- (a) before the commencement day, a person was appointed under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* as a member of the SSAT referred to in paragraph 1(c) of that Schedule; and
 - (b) the person was described in the instrument of appointment as an Assistant Director of the SSAT; and
 - (c) the appointment was in force immediately before the commencement day;
- the person is taken, at the start of the commencement day, to have been duly appointed as an Assistant Senior Member by the Governor-General under that clause:
- (d) for the balance of the person's term of appointment that remained immediately before the commencement day; and
 - (e) on the same terms and conditions as applied to the person immediately before the commencement day.
- (6) This item does not prevent those terms and conditions being varied on or after the commencement day.

159 Operation of laws

Things done by Executive Director taken to be done by Principal Member

- (1) If, before the commencement day, a thing was done by, or in relation to, the Executive Director, then, for the purposes of the operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the Principal Member.

Things done by Director taken to be done by Senior Member

- (2) If, before the commencement day, a thing was done by, or in relation to, a person in the capacity as a Director, then, for the purposes of the
-

operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the person in the capacity as a Senior Member.

Minister may provide otherwise

- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified thing.

*Meaning of **doing***

- (4) To avoid doubt, for the purposes of this item, **doing** a thing includes making an instrument.

Determinations are not legislative instruments

- (5) A determination made under subitem (3) is not a legislative instrument.

160 References in instruments

References to Executive Director taken to be references to Principal Member

- (1) If:
- (a) an instrument is in force immediately before the commencement day; and
 - (b) the instrument contains a reference to the Executive Director;
- the instrument has effect from the commencement day as if the reference were a reference to the Principal Member.

References to a Director taken to be references to Senior Member

- (2) If:
- (a) an instrument is in force immediately before the commencement day; and
 - (b) the instrument contains a reference to a Director;
- the instrument has effect from the commencement day as if the reference were a reference to a Senior Member.

Minister may provide otherwise

- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified reference.

Determinations are not legislative instruments

- (4) A determination under subitem (3) is not a legislative instrument.

161 Substitution of Principal Member or Senior Member as a party to pending proceedings

- (1) If any proceedings to which the Executive Director was a party were pending in any court or tribunal immediately before the commencement day, the Principal Member is substituted for the Executive Director, from the commencement day, as a party to the proceedings.
- (2) If any proceedings to which a person, in the capacity as a Director, was a party were pending in any court or tribunal immediately before the commencement day, the person, in the capacity as a Senior Member, is substituted for the Director, from the commencement day, as a party to the proceedings.

162 Reviews by SSAT

If:

- (a) before the commencement day, a person who was the Executive Director or a Director was one of the members who constituted the SSAT for the purposes of the review of a decision; and
- (b) the SSAT had not made its decision on the review before that day;

then, from the commencement day, that person is taken to be one of the members who constitute the SSAT for the purposes of the review in the capacity as the Principal Member or a Senior Member, as the case may be.

163 Regulations

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Part to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
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- (2) The regulations may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments made by Part 2 of this Schedule.

Schedule 4—Disposal of assets

Social Security Act 1991

1 At the end of paragraph 9(4)(b)

Add “or an amount is included in the value of the person’s assets in respect of the disposal by section 1126E (so far as that section relates to section 1126AA, 1126AB, 1126AC or 1126AD)”.

2 Section 93UA

Omit “or 1126AD”, substitute “, 1126AD or 1126E (so far as section 1126E relates to section 1126AA, 1126AB, 1126AC or 1126AD)”.

3 At the end of subsections 1126AA(2), 1126AB(2), 1126AC(2), 1126AD(2), 1126C(2) and 1126D(2)

Add:

Note: See also section 1126E (about modification of this Division in respect of certain assets).

4 After section 1126D

Insert:

1126E Modification of this Division in respect of certain assets

(1) This section applies if:

- (a) in respect of a disposal (the *relevant disposal*) of an asset, an amount (the *current amount*) is being included under this Division (including because of this section) in the value of the assets of a person (the *affected person*); and
- (b) during the 5-year period referred to in subsection 1126AA(2), 1126AB(2), 1126AC(2), 1126AD(2), 1126C(2) or 1126D(2), one of the following events happens:
 - (i) in the case of section 1126AA or 1126AB—the person referred to in subsection 1126AA(1) or 1126AB(1) acquires the asset or receives consideration for the asset;
 - (ii) in the case of section 1126AC or 1126AD—the person referred to in paragraph 1126AC(1)(a) or 1126AD(1)(a),

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- or the person's partner, acquires the asset or receives consideration for the asset or they jointly acquire the asset or jointly receive consideration for the asset;
- (iii) in the case of section 1126C or 1126D—the relevant person referred to in subsection 1126C(1) or 1126D(1) acquires the asset or receives consideration for the asset; and
- (c) during that 5-year period, the Secretary is notified in writing of the circumstances covered by paragraph (b).
- (2) The Secretary may, having regard to the event, determine in writing that:
- (a) from the start of the day on which the notification occurs, section 1126AA, 1126AB, 1126AC, 1126AD, 1126C or 1126D ceases to apply in respect of the relevant disposal; or
- (b) both:
- (i) from the start of the day on which the notification occurs, the current amount ceases to be included in the value of the affected person's assets; and
- (ii) from the start of the day on which the notification occurs until the end of that 5-year period, an amount specified in the determination (being an amount less than the current amount) is to be included in the value of the affected person's assets in respect of the relevant disposal.
- (3) The Secretary must give the affected person written notice of the determination.
- (4) A determination under subsection (2) is not a legislative instrument.

5 Subparagraph 1129(1)(b)(i)

Omit “and 1126AD”, substitute “, 1126AD and 1126E (so far as section 1126E relates to sections 1126AA, 1126AB, 1126AC and 1126AD)”.

6 Paragraph 1130(9)(a)

Omit “or 1126AD”, substitute “, 1126AD or 1126E (so far as section 1126E relates to section 1126AA, 1126AB, 1126AC or 1126AD)”.

7 Subparagraph 1130B(1)(c)(i)

Omit “and 1126AD”, substitute “, 1126AD and 1126E (so far as section 1126E relates to sections 1126AA, 1126AB, 1126AC and 1126AD)”.

8 Paragraph 1130C(8)(a)

Omit “or 1126AD”, substitute “, 1126AD or 1126E (so far as section 1126E relates to section 1126AA, 1126AB, 1126AC or 1126AD)”.

9 Subparagraph 1131(1)(d)(i)

Omit “and 1126AD”, substitute “, 1126AD and 1126E (so far as section 1126E relates to sections 1126AA, 1126AB, 1126AC and 1126AD)”.

10 Paragraph 1132(7)(a)

Omit “or 1126AD”, substitute “, 1126AD or 1126E (so far as section 1126E relates to section 1126AA, 1126AB, 1126AC or 1126AD)”.

11 Application

Section 1126E of the *Social Security Act 1991*, as inserted by this Act, applies in relation to an event referred to in paragraph 1126E(1)(b) of that Act that occurs on or after the commencement of this item (whether the disposal referred to in paragraph 1126E(1)(a) of that Act occurred before, on or after that commencement).

Schedule 5—Controlled private trusts

Social Security Act 1991

1 After paragraph 1207V(2)(c)

Insert:

- (ca) it could reasonably be expected that the trustee of the trust would make an application of the corpus or income of the trust to the individual if the individual could not meet his or her reasonable costs of living (within the meaning of subsection 19C(5)); or

2 After paragraph 1207V(2)(d)

Insert:

- (da) either or both of the following apply:
 - (i) the individual is eligible to receive an application of the corpus or income of the trust;
 - (ii) one or more of the individual's associates are eligible to receive an application of the corpus or income of the trust;and the aggregate number of entities covered by subparagraphs (i) and (ii) is 50% or more of the total number of entities eligible to receive an application of the corpus or income of the trust; or

3 After subsection 1207V(2)

Insert:

- (2A) For the purposes of paragraph (2)(da), an entity is eligible to receive an application of the corpus or income of the trust if the trustee of the trust has a discretion to make an application of the corpus or income of the trust to the entity.
- (2B) For the purposes of applying paragraph (2)(da) at a particular time, subparagraph (2)(da)(i) is taken to apply at that particular time to the individual if the individual was eligible to receive an application of the corpus or income of the trust at any time during:

- (a) the period beginning at the start of the financial year in which that particular time occurs and ending at that particular time; or
 - (b) the preceding financial year.
- (2C) For the purposes of applying paragraph (2)(da) at a particular time, subparagraph (2)(da)(ii) is taken to apply at that particular time to an entity that is an associate of the individual at that particular time if:
- (a) the entity was eligible to receive an application of the corpus or income of the trust at any time during:
 - (i) the period beginning at the start of the financial year in which that particular time occurs and ending at that particular time; or
 - (ii) the preceding financial year; and
 - (b) the entity was an associate of the individual at the time the entity was so eligible.
- (2D) For the purposes of applying paragraph (2)(da) at a particular time, in working out the total number of entities eligible to receive an application of the corpus or income of the trust, take into account an entity that was eligible to receive an application of the corpus or income of the trust at any time during:
- (a) the period beginning at the start of the financial year in which that particular time occurs and ending at that particular time; or
 - (b) the preceding financial year.
- (2E) No paragraph of subsection (2) limits any other paragraph of that subsection.

Veterans' Entitlements Act 1986

4 After paragraph 52ZZH(2)(c)

Insert:

- (ca) it could reasonably be expected that the trustee of the trust would make an application of the corpus or income of the trust to the individual if the individual could not meet his or her reasonable costs of living; or

5 After paragraph 52ZZH(2)(d)

Insert:

- (da) either or both of the following apply:
 - (i) the individual is eligible to receive an application of the corpus or income of the trust;
 - (ii) one or more of the individual's associates are eligible to receive an application of the corpus or income of the trust;and the aggregate number of entities covered by subparagraphs (i) and (ii) is 50% or more of the total number of entities eligible to receive an application of the corpus or income of the trust; or

6 After subsection 52ZZH(2)

Insert:

- (2A) For the purposes of paragraph (2)(da), an entity is eligible to receive an application of the corpus or income of the trust if the trustee of the trust has a discretion to make an application of the corpus or income of the trust to the entity.
- (2B) For the purposes of applying paragraph (2)(da) at a particular time, subparagraph (2)(da)(i) is taken to apply at that particular time to the individual if the individual was eligible to receive an application of the corpus or income of the trust at any time during:
 - (a) the period beginning at the start of the tax year in which that particular time occurs and ending at that particular time; or
 - (b) the preceding tax year.
- (2C) For the purposes of applying paragraph (2)(da) at a particular time, subparagraph (2)(da)(ii) is taken to apply at that particular time to an entity that is an associate of the individual at that particular time if:
 - (a) the entity was eligible to receive an application of the corpus or income of the trust at any time during:
 - (i) the period beginning at the start of the tax year in which that particular time occurs and ending at that particular time; or
 - (ii) the preceding tax year; and
 - (b) the entity was an associate of the individual at the time the entity was so eligible.

- (2D) For the purposes of applying paragraph (2)(da) at a particular time, in working out the total number of entities eligible to receive an application of the corpus or income of the trust, take into account an entity that was eligible to receive an application of the corpus or income of the trust at any time during:
- (a) the period beginning at the start of the tax year in which that particular time occurs and ending at that particular time; or
 - (b) the preceding tax year.
- (2E) No paragraph of subsection (2) limits any other paragraph of that subsection.

Schedule 6—Baby bonus

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

1 At the end of Division 3 of Part 3

Add:

47B Claimant for payment of baby bonus to notify changes in care of the child

- (1) This section applies if:
 - (a) an individual makes a claim for payment of baby bonus in normal circumstances, based on eligibility for baby bonus under subsection 36(2) or (3) of the Family Assistance Act; and
 - (b) there is a change in the care of the child after the individual makes the claim and before the end of the period of:
 - (i) if the claim is based on eligibility for baby bonus under subsection 36(2) of that Act—26 weeks beginning on the day of the child's birth; and
 - (ii) if the claim is based on eligibility for baby bonus under subsection 36(3) of that Act—26 weeks beginning on the day the child is entrusted to care as mentioned in paragraph 36(3)(b) of that Act; and
 - (c) the child ceases to be an FTB child of the individual as a result of that change in care; and
 - (d) before or after that change in care, the Secretary gives the individual a notice (the *entitlement notice*) under section 46 of this Act stating that the individual is entitled to be paid the baby bonus.
- (2) The individual must notify the Secretary of that change in care:
 - (a) in the manner set out in a written notice given to the individual under section 47C; and
 - (b) as soon as practicable after:

- (i) if that change in care occurs before the individual receives the entitlement notice—receiving the entitlement notice; and
- (ii) if that change in care occurs after the individual receives the entitlement notice—that change in care.

47C Secretary’s power to approve a manner of notification

- (1) The Secretary must approve a manner of notification that an individual is to use when notifying the Secretary under section 47B of a change in care of a child.
- (2) The Secretary must, by written notice, notify the individual of the approved manner of notification.

2 Application

The amendment made by item 1 applies in relation to claims made on or after the commencement of that item.

Schedule 7—Other amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (subparagraph (a)(iii) of the definition of *maintenance income*)

Omit “a parent of the child, or the partner or former partner of a parent of the child”, substitute “a parent or relationship parent of the child, or the former partner of a parent or relationship parent of the child”.

2 Subsection 3(1) (paragraph (b) of the definition of *maintenance income*)

Omit “individual’s partner or former partner”, substitute “individual’s former partner”.

3 Subsection 3(1) (subparagraphs (c)(i) and (ii) of the definition of *maintenance income*)

Repeal the subparagraphs, substitute:

- (i) a parent or relationship parent of the child; or
- (ii) the former partner of a parent or relationship parent of the child;

4 Subsection 3(1) (paragraph (b) of the definition of *receiving*)

After “clauses 1”, insert “, 28B”.

5 Paragraph 3AA(1)(b)

After “clauses 1”, insert “, 28B”.

6 Subparagraphs 19(3)(d)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) a parent or relationship parent of the child; or
- (ii) the former partner of a parent or relationship parent of the child.

7 Paragraph 8(2)(b) of Schedule 3

Omit “payer’s natural or adopted child”, substitute “payer’s natural, adopted or relationship child”.

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

8 At the end of section 10

Add:

- (5) Paragraph (4)(f) does not apply if, at the time the claim for payment of family tax benefit for a past period is made, subsection 32AE(2) or (3) applies in respect of the claimant or the claimant’s partner.

***Corporations (Aboriginal and Torres Strait Islander) Act
2006***

9 Subsection 1-10(1)

Omit “subsections 516-1(3), 521-1(3), 526-35(3) and 526-40(3)”, substitute “sections 516-1, 521-1, 526-35 and 526-40”.

10 Paragraph 42-10(1)(a)

Omit “his or her”, substitute “the person’s”.

11 Section 57-5 (before table item 1)

Insert:

**Chapter 3—Basic features of an Aboriginal
and Torres Strait Islander corporation**

1A Resolution of disputes subsection 66-1(3A)

12 Section 57-5 (table item 9)

Repeal the item.

13 Paragraph 138-1(1)(b)

Omit “his or her”, substitute “the person’s”.

14 Subsection 138-1(2)

Omit “his or her”, substitute “the person’s”.

15 Paragraph 150-20(1)(b)

Omit “his or her”, substitute “the member’s”.

16 At the end of section 150-35

Add:

Strict liability offence

(5) An offence against subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

17 Paragraph 201-25(1)(d)

Omit “officer”, substitute “person”.

18 Subsection 220-10(7)

Omit “subsection (3), (4) or (5)”, substitute “subsection (3), (5) or (6)”.

19 Section 262-1

Omit “section 558G”, substitute “section 588G”.

20 Subsection 279-1(1)

After “managing Aboriginal and Torres Strait”, insert “Islander”.

21 Subparagraphs 333-5(4A)(a)(i) and (ii)

Omit “1 June”, substitute “1 July”.

22 Paragraph 456-10(1)(a)

Omit “or” (second occurring).

23 Paragraph 546-5(1)(a)

Omit “return” (wherever occurring), substitute “report”.

24 Subsection 589-5(8)

After “of a State”, insert “, the Australian Capital Territory”.

25 Section 604-20

Omit “section 658-10”, substitute “this Act”.

26 Application

- (1) The amendment made by item 16 applies in relation to cancellations occurring on or after the commencement of that item.
- (2) The amendment made by item 21 applies in relation to registrations occurring on or after the commencement of that item.
- (3) The amendment made by item 25 applies in relation to uses and disclosures of protected information on or after the commencement of that item (whether the persons were engaged as consultants before, on or after that commencement).

Social Security Act 1991

27 Subsections 94(4A) and (4B)

Repeal the subsections.

28 Point 1064-A1 (note 2)

Repeal the note, substitute:

Note 2: Section 1210 deals with the application of income and assets test reductions.

29 Point 1064-A1 (note 6)

Repeal the note.

30 Point 1066-A1 (note 2)

Repeal the note, substitute:

Note 2: Section 1210 deals with the application of income and assets test reductions.

31 Point 1066-A1 (note 5)

Repeal the note.

32 Point 1066A-A1 (note 2)

Repeal the note, substitute:

Note 2: Section 1210 deals with the application of income and assets test reductions.

33 Point 1066A-A1 (note 5)

Repeal the note.

Social Security (Administration) Act 1999

34 Paragraph 129(4)(b)

Repeal the paragraph.

35 Paragraph 144(l)

Repeal the paragraph.

*[Minister's second reading speech made in—
House of Representatives on 25 November 2009
Senate on 24 February 2010]*

(248/09)

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