



# **Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018**

**No. 168, 2018**

**An Act to amend the law relating to social security,  
farm household support, family assistance and paid  
parental leave, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**An Act to amend the law relating to social security,  
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*[Assented to 10 December 2018]*

The Parliament of Australia enacts:

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*No. 168, 2018*

*Social Services and Other Legislation Amendment (Promoting  
Sustainable Welfare) Act 2018*

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## 1 Short title

This Act is the *Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018*.

## 2 Commencement

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

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	10 December 2018
2. Schedules 1 to 4	1 January 2019.	1 January 2019
3. Schedule 5	1 July 2019.	1 July 2019

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### **Part 1—Extending existing newly arrived resident's waiting periods**

#### *Social Security Act 1991*

**3 Paragraph 549D(1)(b)**  
Omit “104”, substitute “208”.

**4 Paragraph 549E(b)**  
Omit “104”, substitute “208”.

**5 Paragraph 575D(1)(b)**  
Omit “104”, substitute “208”.

**6 Paragraph 575E(b)**  
Omit “104”, substitute “208”.

**7 Paragraph 623A(1)(b)**  
Omit “104”, substitute “208”.

**8 Subsection 623B(3)**  
Omit “104”, substitute “208”.

**9 Paragraph 696B(1)(b)**  
Omit “104”, substitute “208”.

**10 Subsection 696C(3)**  
Omit “104”, substitute “208”.

**11 Paragraphs 739A(3)(d) and (4)(d)**  
Omit “104”, substitute “208”.

**12 Subsection 739A(5)**  
Omit “104”, substitute “208”.

**13 Paragraph 1039AA(1)(b)**

Omit "104", substitute "208".

**14 Paragraph 1039AB(b)**

Omit "104", substitute "208".

**15 Paragraph 1061PU(1)(b)**

Omit "104", substitute "208".

**16 Paragraph 1061PV(b)**

Omit "104", substitute "208".

**17 Paragraph 1061ZH(1)(b)**

Omit "104", substitute "208".

**18 Paragraph 1061ZI(b)**

Omit "104", substitute "208".

**19 Paragraph 1061ZQ(2)(c)**

Omit "104", substitute "208".

**20 Paragraphs 1061ZR(1)(b) and (2)(d)**

Omit "104", substitute "208".

**21 Application provisions**

- (1) The amendments of sections 549D, 549E, 575D, 575E, 623A, 623B, 696B, 696C, 1039AA, 1039AB, 1061PU and 1061PV of the *Social Security Act 1991* made by this Part apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
  - (2) The amendment of paragraph 739A(3)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who applies for a visa covered by paragraph 739A(3)(b) of that Act on or after the commencement of this item.
  - (3) The amendment of paragraph 739A(4)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the
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- holder of a visa covered by paragraph 739A(4)(b) of that Act on or after the commencement of this item.
- (4) The amendment of subsection 739A(5) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (5) The amendments of sections 1061ZH, 1061ZI, 1061ZQ and 1061ZR of the *Social Security Act 1991* made by this Part apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (6) The amendments made by this Part do not apply in relation to a special category visa holder who is a protected SCV holder.
- (7) The amendments made by this Part do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
- (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
  - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
  - (c) a visa of a kind determined in an instrument under subitem (8).
- (8) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (7)(c).

## Part 2—New newly arrived resident's waiting periods

### *Social Security Act 1991*

#### **22 Subsection 7(6AA)**

After “carer payment,” (wherever occurring), insert “carer allowance,”.

#### **23 Subsection 23(1) (after paragraph (a) of the definition of newly arrived resident's waiting period)**

Insert:

- (b) a bereavement allowance newly arrived resident's waiting period under sections 322 and 323; or
- (bb) a parenting payment newly arrived resident's waiting period under sections 500X and 500Y; or

#### **24 Subsection 23(1) (after paragraph (h) of the definition of newly arrived resident's waiting period)**

Insert:

- (i) a carer allowance newly arrived resident's waiting period under sections 966 and 967; or

#### **25 Subsection 23(1) (after paragraph (aa) of the definition of waiting period)**

Insert:

- (ab) a bereavement allowance newly arrived resident's waiting period under sections 322 and 323; or

#### **26 Subsection 23(1) (after paragraph (ac) of the definition of waiting period)**

Insert:

- (aca) a parenting payment newly arrived resident's waiting period under sections 500X and 500Y; or

#### **27 Subsection 23(1) (after paragraph (kb) of the definition of waiting period)**

Insert:

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- (l) a carer allowance newly arrived resident's waiting period under sections 966 and 967; or

## **28 At the end of Subdivision B of Division 1 of Part 2.7**

Add:

### **322 Newly arrived resident's waiting period**

- (1) Subject to this section, a person who:
- (a) has entered Australia; and
  - (b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;
- is subject to a newly arrived resident's waiting period.

Note: For *Australian resident* see subsection 7(2).

- (2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a bereavement allowance.

Note: For *qualifying residence exemption* in relation to a bereavement allowance see subsection 7(6).

- (3) Subsection (1) does not apply to a person if:
- (a) the person is a refugee, or a former refugee, at the time the person made the claim for a bereavement allowance; or
  - (b) the following apply:
    - (i) before the person made the claim for a bereavement allowance, the person was a family member of another person at the time the other person became a refugee;
    - (ii) the person is a family member of that other person at the time the person made the claim for a bereavement allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
  - (c) the person is an Australian citizen at the time the person made the claim for a bereavement allowance.
- (4) For the purposes of subsection (3):
- (a) *family member* has the meaning given by subsection 7(6D); and

- (b) *former refugee* has the meaning given by subsection 7(1);  
and
- (c) *refugee* has the meaning given by subsection 7(6B).

### 323 Duration of newly arrived resident's waiting period

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

### 30 After section 500WB

Insert:

#### 500X Newly arrived resident's waiting period

- (1) Subject to this section, a person who:
  - (a) has entered Australia; and
  - (b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;is subject to a newly arrived resident's waiting period.

Note: For *Australian resident* see subsection 7(2).

- (2) Subsection (1) does not apply to a person who has a qualifying residence exemption for parenting payment.

Note: For *qualifying residence exemption* in relation to parenting payment see subsection 7(6) and paragraph 7(6AA)(f).

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

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

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

- (4) Subsection (1) does not apply to a person if:
- (a) the person is a refugee, or a former refugee, at the time the person made the claim for parenting payment; or
  - (b) the following apply:
    - (i) before the person made the claim for parenting payment, the person was a family member of another person at the time the other person became a refugee;
    - (ii) the person is a family member of that other person at the time the person made the claim for parenting payment or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
  - (c) the person is an Australian citizen at the time the person made the claim for parenting payment.
- (5) For the purposes of subsection (4):
- (a) *family member* has the meaning given by subsection 7(6D); and
  - (b) *former refugee* has the meaning given by subsection 7(1); and
  - (c) *refugee* has the meaning given by subsection 7(6B).

#### **500Y Duration of newly arrived resident's waiting period**

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

#### **31 At the end of Subdivision B of Division 2 of Part 2.19**

Add:

#### **966 Newly arrived resident's waiting period**

- (1) A person is subject to a newly arrived resident's waiting period if the person:
  - (a) has entered Australia; and

**Schedule 1** Social security amendments

**Part 2** New newly arrived resident's waiting periods

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(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

Note: For *Australian resident* see subsection 7(2).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for carer allowance.

Note: For *qualifying residence exemption* in relation to carer allowance see paragraph 7(6AA)(f).

(3) Subsection (1) does not apply to a person if, at the time the person made the claim for carer allowance, the person holds a visa that is in a class of visas determined by the Minister for the purposes of subsection 201AA(5).

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

- (a) the person is receiving a social security pension or a social security benefit; or
- (b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*; or
- (c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the person.

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

- (a) the person is a refugee, or a former refugee, at the time the person made the claim for carer allowance; or
- (b) the following apply:
  - (i) before the person made the claim for carer allowance, the person was a family member of another person at the time the other person became a refugee;
  - (ii) the person is a family member of that other person at the time the person made the claim for carer allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
- (c) the person is an Australian citizen at the time the person made the claim for carer allowance.

(6) For the purposes of subsection (5):

- (a) *family member* has the meaning given by subsection 7(6D); and
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- (b) *former refugee* has the meaning given by subsection 7(1);  
and
- (c) *refugee* has the meaning given by subsection 7(6B).

### **967 Duration of newly arrived resident's waiting period**

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

### **32 Application provision**

- (1) Sections 322, 323, 500X, 500Y, 966 and 967 of the *Social Security Act 1991*, as added or inserted by this Part, apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (2) Those sections do not apply in relation to a special category visa holder who is a protected SCV holder.
- (3) Those sections do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
  - (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
  - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
  - (c) a visa of a kind determined in an instrument under subitem (4).
- (4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (3)(c).

## Schedule 2—Farm household support amendments

### *Farm Household Support Act 2014*

#### **1 Subsection 42(1)**

Omit “104”, substitute “208”.

#### **2 Paragraph 43(b)**

Omit “104”, substitute “208”.

#### **3 Application provision**

- (1) The amendments made by this Schedule apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (2) Those amendments do not apply in relation to a special category visa holder who is a protected SCV holder.
- (3) Those amendments do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
  - (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
  - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
  - (c) a visa of a kind determined in an instrument under subitem (4).
- (4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (3)(c).



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## Schedule 3—Family assistance amendments

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

#### **1 Subsection 3(1)**

Insert:

*permanent visa* has the same meaning as in the *Migration Act 1958*.

#### **2 After section 61**

Insert:

##### **61AA Part A rate of family tax benefit is nil for a day in newly arrived resident's waiting period**

- (1) Despite Parts 2 to 3A of Schedule 1, an individual's Part A rate of family tax benefit in respect of a day is nil if the day occurs in a newly arrived resident's waiting period for the individual.

*When individual subject to newly arrived resident's waiting period*

- (2) Subject to this section, an individual is subject to a newly arrived resident's waiting period if, on or after the commencement of this subsection, the individual:
- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
  - (b) becomes the holder of a permanent visa, except:
    - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
    - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
    - (iii) a visa of a kind determined in an instrument under subsection (2A).

- (2A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (2)(b)(iii).
- (2B) Paragraph (2)(b) does not apply in relation to an individual if, at any time before the commencement of this subsection, the individual held a visa covered by paragraph (2)(a).

*Length of waiting period*

- (3) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
  - (b) the visa covered by paragraph (2)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
  - (c) subsection (4) does not apply;
- the waiting period:
- (d) starts on the day on which the individual applied for that visa; and
  - (e) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (4) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
  - (b) the individual has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;
- the waiting period:
- (c) starts on the day on which the individual applied for the last of those visas; and
  - (d) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (5) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
  - (b) neither subsection (3) nor (4) applies to the individual;
- the waiting period starts on the day on which the individual:
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- (c) first entered Australia; or
  - (d) becomes the holder of a permanent visa;
- whichever occurs last, and ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.

*Exemptions*

- (6) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day the individual holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day:
  - (a) the individual is receiving a social security pension or a social security benefit; or
  - (b) the individual is receiving farm household allowance under the *Farm Household Support Act 2014*; or
  - (c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the individual.
- (8) Subsection (1) does not apply to an individual in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the individual if:
  - (a) on the assessment day the individual is a refugee or a former refugee; or
  - (b) the following apply:
    - (i) the individual was a family member of another individual at the time the other individual became a refugee before the assessment day;
    - (ii) the individual is a family member of that other individual on the assessment day or, if that other individual has died, the individual was a family member of that other individual immediately before that other individual died; or
  - (c) the individual is an Australian citizen on the assessment day; or

- (d) the individual is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (9) For the purposes of subsection (8):
  - (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
  - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
  - (c) **refugee** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

### ***Social Security Act 1991***

#### **6 After paragraph 1061ZQ(2)(a)**

Insert:

- (b) has an FTB child; or

#### **7 Application provision**

The amendment of section 1061ZQ of the *Social Security Act 1991* made by this Schedule applies in relation to working out whether a person is qualified for a health care card on a day on or after the commencement of this item.

## **Schedule 4—Paid parental leave amendments**

### ***Paid Parental Leave Act 2010***

#### **1 Section 6**

Insert:

*permanent visa* has the same meaning as in the *Migration Act 1958*.

#### **1A At the end of paragraph 15(3)(a)**

Add:

- (iii) is, if the day the child was born is in a newly arrived resident's waiting period the primary claimant is subject to under section 31A, a person to whom subsection 31A(7) or (7A) applies on the day the child was born; and

#### **2 At the end of section 31**

Add:

*Not eligible—newly arrived resident's waiting period*

- (6) Despite subsections (2), (3) and (4), a person is not **eligible** for parental leave pay for a child on a day in a newly arrived resident's waiting period for the person (see section 31A).

#### **3 At the end of Division 2 of Part 2-3**

Add:

#### **31A Newly arrived resident's waiting period**

*When person subject to newly arrived resident's waiting period*

- (1) Subject to this section, a person is subject to a newly arrived resident's waiting period if, on or after the commencement of this subsection, the person:

- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
  - (b) becomes the holder of a permanent visa, except:
    - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
    - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
    - (iii) a visa of a kind determined in an instrument under subsection (1A).
- (1A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (1)(b)(iii).
- (1B) Paragraph (1)(b) does not apply in relation to a person if, at any time before the commencement of this subsection, the person held a visa covered by paragraph (1)(a).

*Length of waiting period*

- (2) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
  - (b) the visa covered by paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
  - (c) subsection (3) does not apply;
- the waiting period:
- (d) starts on the day on which the person applied for that visa; and
  - (e) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (3) If:
- (a) a person is subject to a newly arrived resident's waiting period; and

(b) the person has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;

the waiting period:

(c) starts on the day on which the person applied for the last of those visas; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(4) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) neither subsection (2) nor (3) applies to the person;

the waiting period starts on the day on which the person:

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

#### *Exemptions*

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

(a) on the day before the day (the **relevant day**) that would be the start of the person's PPL period if a payability determination were made; and

(b) if the person is the primary claimant and the relevant day is at least 2 days after the day the child was born—on the day the child was born and on each later day (if any) before the day applicable under paragraph (a);

the person was receiving either of the following:

(c) a social security pension (within the meaning of the *Social Security Act 1991*) or a social security benefit (within the meaning of that Act);

(d) farm household allowance under the *Farm Household Support Act 2014*.

(6) However, subsection (5) does not apply if paragraphs 15(1)(a), (b) and (c) apply in relation to the child. Instead, in this case,

subsection (1) of this section does not apply to a person in the circumstances prescribed by the PPL rules.

- (7) Subsection 31(6) does not apply to a person in respect of a day in the newly arrived resident's waiting period for the person if on that day the person holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7A) Subsection 31(6) does not apply to a person in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the person if:
- (a) on the assessment day the person is a refugee or a former refugee; or
  - (b) the following apply:
    - (i) the person was a family member of another person at the time the other person became a refugee before the assessment day;
    - (ii) the person is a family member of that other person on the assessment day or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
  - (c) the person is an Australian citizen on the assessment day; or
  - (d) the person is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (8) For the purposes of subsection (7A):
- (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
  - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
  - (c) **refugee** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

#### 4 At the end of section 115CB

Add:

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*Not eligible—newly arrived resident’s waiting period*

- (9) Despite subsections (2), (3) and (4), a DAPP claimant is not **eligible** for dad and partner pay for a child on a day in a newly arrived resident’s waiting period for the person (see section 115CBA).

**5 At the end of Division 2 of Part 3A-3**

Add:

**115CBA Newly arrived resident’s waiting period**

*When person subject to newly arrived resident’s waiting period*

- (1) Subject to this section, a person is subject to a newly arrived resident’s waiting period if, on or after the commencement of this subsection, the person:
- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
  - (b) becomes the holder of a permanent visa, except:
    - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
    - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
    - (iii) a visa of a kind determined in an instrument under subsection (1A).
- (1A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (1)(b)(iii).
- (1B) Paragraph (1)(b) does not apply in relation to a person if, at any time before the commencement of this subsection, the person held a visa covered by paragraph (1)(a).

*Length of waiting period*

- (2) If:

- (a) a person is subject to a newly arrived resident's waiting period; and
  - (b) the visa covered by paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
  - (c) subsection (3) does not apply;
- the waiting period:
- (d) starts on the day on which the person applied for that visa; and
  - (e) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (3) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
  - (b) the person has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;
- the waiting period:
- (c) starts on the day on which the person applied for the last of those visas; and
  - (d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (4) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
  - (b) neither subsection (2) nor (3) applies to the person;
- the waiting period starts on the day on which the person:
- (c) first entered Australia; or
  - (d) becomes the holder of a permanent visa;
- whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

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*Exemptions*

- (5) Subsection (1) does not apply to a person if, on the day before the day that would be the start of the person's DAPP period if a payability determination were made:
- (a) the person is receiving a social security pension (within the meaning of the *Social Security Act 1991*) or a social security benefit (within the meaning of that Act); or
  - (b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*.
- (6) Subsection 115CB(9) does not apply to a person in respect of a day in the newly arrived resident's waiting period for the person if on that day the person holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7) Subsection 115CB(9) does not apply to a person in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the person if:
- (a) on the assessment day the person is a refugee or a former refugee; or
  - (b) the following apply:
    - (i) the person was a family member of another person at the time the other person became a refugee before the assessment day;
    - (ii) the person is a family member of that other person on the assessment day or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
  - (c) the person is an Australian citizen on the assessment day; or
  - (d) the person is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (8) For the purposes of subsection (7):
- (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
  - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
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- (c) *refugee* has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

## 6 Application provision

The amendments made by this Schedule do not apply in respect of a child:

- (a) who is born either before the commencement of this item or in the 6 months beginning on the day this item commences;  
or
- (b) who becomes entrusted to the care of a person (as mentioned in subsection 275(2) of the *Paid Parental Leave Act 2010*) either before the commencement of this item or in the 6 months beginning on the day this item commences.

## **Schedule 5—Other amendments**

### **Part 1—Higher income free area and indexation**

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

##### **1 Clause 2 of Schedule 1 (cell at table item 1, column 1)**

Repeal the cell, substitute:

\$98,988

##### **2 Subclause 3(7) of Schedule 4**

Repeal the subclause, substitute:

*Indexation rules for certain income limits for certain years*

(7) The FTB basic HIFA (A) is not to be indexed on 1 July 2019 and 1 July 2020.

(7A) For the purposes of working out the indexed amount for the FTB basic HIFA (A) on 1 July 2021, the current figure for the FTB basic HIFA (A) immediately before that day is taken to be \$98,988.

(7B) The FTB income limit (B) is not to be indexed on 1 July 2019 and 1 July 2020.

##### **3 Application provision**

The amendment made by item 1 applies in relation to working out the Part A rate of family tax benefit for days on or after the commencement of this item.

#### *Paid Parental Leave Act 2010*

##### **4 Section 30**

Omit “30 June 2020”, substitute “30 June 2021”.

##### **5 Paragraph 41(a)**

Omit “1 July 2020”, substitute “1 July 2021”.

**Schedule 5** Other amendments

**Part 1** Higher income free area and indexation

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**6 Subsection 42(1)**

Omit “1 July 2020”, substitute “1 July 2021”.

**7 Section 115CA**

Omit “30 June 2020”, substitute “30 June 2021”.

## **Part 2—Taper rate for Part A rate of family tax benefit (Method 2)**

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

#### **8 Clause 25 of Schedule 1**

Omit “and 25C”, substitute “, 25C and 25D”.

#### **9 Clause 25 of Schedule 1 (at the end of step 3 of the method statement)**

Add:

Note: Clause 25D modifies the application of this step.
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#### **10 At the end of Division 1 of Part 3 of Schedule 1**

Add:

#### **25D Working out the Method 2 income and maintenance tested rate**

In applying step 3 of the method statement in clause 25, step 2 of the method statement in clause 3 is taken to be replaced with the following:

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|--|
| <p>Step 2. Subtract the individual’s income free area (worked out under clause 38N) from the individual’s higher income free area (worked out under clause 2).</p> <p>Step 2A. Work out 20% of the amount at step 2.</p> <p>Step 2B. Subtract the individual’s higher income free area (worked out under clause 2) from the individual’s adjusted taxable income.</p> <p>Step 2C. Work out 30% of the amount at step 2B.</p> <p>Step 2D. The individual’s <i>reduction for adjusted taxable income</i> is the sum of the amounts at steps 2A and 2C. Take that</p> |
|--|

**Schedule 5** Other amendments

**Part 2** Taper rate for Part A rate of family tax benefit (Method 2)

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reduction away from the individual's maximum rate: the result is the individual's *income tested rate*.

**11 Application provision**

The amendments made by this Part apply in relation to working out the Part A rate of family tax benefit for days on or after the commencement of this item.

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*[Minister's second reading speech made in—  
House of Representatives on 15 February 2018  
Senate on 28 November 2018]*

(26/18)

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