



Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022

No. 32, 2022

**An Act to amend the law relating to social security,
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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No. 32, 2022

**An Act to amend the law relating to social security,
and for related purposes**

[Assented to 1 April 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Social Security Legislation Amendment
(Streamlined Participation Requirements and Other Measures) Act
2022*.

No. 32, 2022

*Social Security Legislation Amendment (Streamlined Participation
Requirements and Other Measures) Act 2022*

1

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
Provisions	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.	1 April 2022
2. Schedule 1	The later of: (a) 1 July 2021; and (b) the seventh day after this Act receives the Royal Assent.	8 April 2022 (paragraph (b) applies)
3. Schedule 2	The day after this Act receives the Royal Assent.	2 April 2022
4. Schedule 3	The later of: (a) 1 July 2021; and (b) the seventh day after this Act receives the Royal Assent.	8 April 2022 (paragraph (b) applies)
5. Schedules 4 and 5	The day after this Act receives the Royal Assent.	2 April 2022
6. Schedule 6	The later of: (a) 1 July 2021; and (b) the seventh day after this Act receives the Royal Assent.	8 April 2022 (paragraph (b) applies)
7. Schedule 7	The day after this Act receives the Royal Assent.	2 April 2022
9. Schedule 9	The day after this Act receives the Royal Assent.	2 April 2022
Note:	This table relates only to the provisions of this Act as originally enacted.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.	

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- (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—Streamlined participation requirements

Farm Household Support Act 2014

1 Section 59

Before “Module D”, insert “(1)”.

2 At the end of section 59

Add:

- (2) Module D of Benefit Rate Calculator B applies in relation to the rate of farm household allowance for a person who has turned 22 as if point 1068-D2 were substituted with the following:

Incapacity for work—farm household allowance, to the extent that it relates to a person who has turned 22

1068-D2 This point applies to a person if the person is receiving farm household allowance, the person has turned 22 and the person is, under Subdivision C of Division 5 of Part 2 of the *Farm Household Support Act 2014*, exempt from the activity test.

3 Subsection 93(1) (table items 18, 19 and 20)

Repeal the items.

4 Section 95 (after table item 13)

Insert:

- 13A subparagraph 1161(1)(a)(i) that subparagraph were replaced with:
- (i) farm household allowance, where the person has turned 22 and the person is, under Subdivision C of Division 5 of Part 2 of the *Farm Household Support Act 2014*, exempt from the activity test; or

5 After paragraph 98(b)

Insert:

- (ba) Divisions 2A and 2B of Part 3 (employment pathway plans and circumstances in which paid work is unsuitable);

Social Security Act 1991

6 After section 3A

Insert:

3AB References to Employment Secretary

A reference in a provision of this Act or the Administration Act to the Employment Secretary does not, by implication, affect the meaning of a reference to the Secretary in any other provision of this Act or the Administration Act.

Note: Under subsection 23(1), **Secretary** generally means the Secretary of the Department. Applying section 19A of the *Acts Interpretation Act 1901* (which deals with references in provisions of Acts to the Department), the Secretary referred to in many provisions of this Act or the Administration Act will be the Employment Secretary.

7 Subsection 7(7)

Omit “540(d)(ii)”, substitute “540(1)(d)(ii)”.

8 Subsection 19A(2) (definition of *activity test*)

Repeal the definition.

9 Subsection 23(1) (definition of *Employment Department*)

Omit “the *Fair Entitlements Guarantee Act 2012*”, substitute “Division 3AA of Part 3 of the Administration Act”.

10 Subsection 23(1) (definition of *employment pathway plan*)

Repeal the definition, substitute:

employment pathway plan means an employment pathway plan under Division 2A of Part 3 of the Administration Act.

11 Subsection 23(1) (definition of *nominated visa holder*)

Repeal the definition, substitute:

nominated visa holder means a person who is:

- (a) the holder of a visa that is included in a class of visas that is issued for temporary protection, humanitarian, or safe haven purposes and that is determined by the Minister to be a class of visas to which subparagraph 729(2)(g)(i) applies; and
- (b) a person to whom subsection 729(2A) applies.

12 Subsection 23(1)

Insert:

satisfies the employment pathway plan requirements: a person *satisfies the employment pathway plan requirements* if the following apply:

- (a) the person enters into an employment pathway plan if required to do so by the Employment Secretary under subsection 40A(1) or (2) of the Administration Act;
- (b) while an employment pathway plan is in force in relation to the person, the person satisfies the Employment Secretary that the person is complying with the requirements in the plan.

13 Subsection 23(1) (definition of *subject to participation requirements*)

Repeal the definition.

14 Subsection 23(1)

Insert:

unsuitable: particular paid work is *unsuitable* to be done by a person in the circumstances set out in section 40X of the Administration Act.

15 Subsection 94(6)

Repeal the subsection, substitute:

Person not qualified in certain circumstances

- (6) A person is not qualified for a disability support pension on the basis of a continuing inability to work if the person brought about the inability with a view to obtaining a disability support pension

or with a view to obtaining an exemption, because of the person's incapacity, from:

- (a) the requirement to satisfy the activity test for the purposes of austudy payment; or
- (b) undertaking full-time study (see section 541B); or
- (c) the requirement to satisfy the employment pathway plan requirements for the purposes of jobseeker payment or youth allowance.

16 Subsection 95(2)

Repeal the subsection, substitute:

Person not qualified in certain circumstances

- (2) A person is not qualified for a disability support pension on the basis of blindness if the person brought about the blindness with a view to obtaining a disability support pension or with a view to obtaining an exemption, because of the person's blindness, from:
 - (a) the requirement to satisfy the activity test for the purposes of austudy payment; or
 - (b) undertaking full-time study (see section 541B); or
 - (c) the requirement to satisfy the employment pathway plan requirements for the purposes of jobseeker payment or youth allowance.

17 Subsection 237(1) (note 3)

Repeal the note.

18 Paragraphs 500(1)(c) and (ca)

Repeal the paragraphs, substitute:

- (c) in a case where the person is not a member of a couple and does not have at least one PP child who has not turned 6—the person satisfies subsection (2A); and
- (ca) in a case where the person is in a class of persons specified by legislative instrument under subsection (2)—the person satisfies subsection (2B); and

19 After subsection 500(2)

Insert:

(2A) A person satisfies this subsection if:

- (a) the following apply:
 - (i) the person satisfies the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or
- (b) the following apply:
 - (i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For *satisfies the employment pathway plan requirements*, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

(2B) A person satisfies this subsection if:

- (a) the following apply:
 - (i) the person satisfies the employment pathway plan requirements;
 - (ii) if required by the Employment Secretary, the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or
- (b) the following apply:
 - (i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;

- (ii) if required by the Employment Secretary, the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For *satisfies the employment pathway plan requirements*, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

20 Section 500A

Repeal the section.

21 Divisions 2, 3 and 3A of Part 2.10

Repeal the Divisions.

22 Section 540

Before “Subject to”, insert “(1)”.

23 Paragraph 540(a)

Omit “either of the following applies”, substitute “throughout the period”.

24 Subparagraph 540(a)(i)

Repeal the subparagraph, substitute:

- (i) the person is undertaking full-time study (see section 541B); or
- (ia) the person is exempt from undertaking full-time study (see Subdivision C) but the person satisfies the Secretary that the person would otherwise be undertaking full-time study (see section 541B); or
- (ib) the person satisfies subsection (2); or

25 Subparagraph 540(a)(ii)

Omit “in respect of the period”.

26 At the end of subparagraph 540(a)(ii)

Add “and”.

27 Paragraph 540(c)

Repeal the paragraph.

28 At the end of section 540

Add:

- (2) A person satisfies this subsection if:
- (a) the following apply:
 - (i) the person satisfies the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person;
 - (iii) the person is not undertaking full-time paid work for at least 35 hours per week; or
 - (b) the following apply:
 - (i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person;
 - (iii) the person is not undertaking full-time paid work for at least 35 hours per week.

Note 1: For *satisfies the employment pathway plan requirements*, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

29 Paragraph 540AB(1)(e)

Omit “satisfy the activity test”, substitute “enter into an employment pathway plan”.

30 Subdivision B of Division 1 of Part 2.11 (heading)

Repeal the heading, substitute:

Subdivision B—Undertaking full-time study

31 Sections 541, 541A and 541D

Repeal the sections.

32 Subdivision C of Division 1 of Part 2.11 (heading)

Repeal the heading, substitute:

Subdivision C—Exemptions from undertaking full-time study

33 Section 542 (heading)

Repeal the heading, substitute:

542 Situations in which a person is exempt from undertaking full-time study

34 Section 542

Omit “not required to satisfy the activity test”, substitute “exempt from undertaking full-time study”.

35 Paragraphs 542(c) and (db)

Repeal the paragraphs.

36 Paragraph 542A(1)(a)

Repeal the paragraph, substitute:

- (a) throughout the period the person does not have the capacity to undertake the course of education in respect of which the person is undertaking full-time study because of sickness or an accident; and

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

Omit “, the required activities or work (as the case requires)”.

38 Paragraph 542A(1)(e)

Omit “the activity test”, substitute “undertaking full-time study”.

39 Subsection 542A(1A)

Repeal the subsection, substitute:

(1A) The Secretary must comply with the guidelines (if any) determined and in force under subsection (1B) in deciding whether paragraph (1)(b) or (c) applies to a person in respect of a period.

40 Subsection 542A(3)

Repeal the subsection.

41 Section 542BA

Repeal the section.

42 Paragraph 542C(2)(a)

Omit “required to satisfy the activity test”, substitute “exempt from undertaking full-time study”.

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

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

44 Paragraph 542C(2)(b)

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

45 Paragraphs 542C(3)(c) and (d)

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

46 Paragraphs 542C(4)(c) and (d)

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

47 Paragraph 542C(5)(b)

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

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

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

49 Paragraph 542C(6)(b)

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

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

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

51 Paragraph 542C(7)(c)

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

52 Subsections 542C(8) and (9)

Repeal the subsections.

53 Section 542E

Repeal the section.

54 Section 542EA (heading)

Repeal the heading, substitute:

542EA Exemption from undertaking full-time study—death of person’s partner

55 Paragraphs 542FA(2)(b) and (4)(b)

Omit “not be required to satisfy the activity test”, substitute “be exempt from undertaking full-time study”.

56 Section 542FB

Repeal the section.

57 Paragraph 542H(1)(b)

Omit “satisfy the activity test”, substitute “undertake full-time study”.

58 Paragraph 543A(2)(c)

Repeal the paragraph, substitute:

(c) has entered into or agreed to enter into an employment pathway plan; or

59 Paragraph 543A(2B)(a)

Omit “540(b)”, substitute “540(1)(b)”.

60 Subdivision E of Division 1 of Part 2.11

Repeal the Subdivision.

61 Subparagraph 547AA(1)(b)(ii)

Omit “a Youth Allowance Employment Pathway Plan”, substitute “an employment pathway plan”.

62 Subsection 549CA(1)

Omit “neither section 540AA (about new apprentices) nor paragraph 541(1)(a) (about full-time study) applies”, substitute “neither subparagraph 540(1)(a)(i) (about full-time study) nor section 540AA (about new apprentices) applies”.

63 Paragraph 549CA(2)(c)

Omit “section 540AA or paragraph 541(1)(a) applied”, substitute “subparagraph 540(1)(a)(i) or section 540AA applied”.

64 Subparagraph 549CB(4)(c)(ii)

Omit “neither section 540AA (about new apprentices) nor paragraph 541(1)(a) (about full-time study) applies”, substitute “neither subparagraph 540(1)(a)(i) (about full-time study) nor section 540AA (about new apprentices) applies”.

65 Paragraph 550(1)(b)

Repeal the paragraph, substitute:

(b) ceases to undertake full-time study and is not exempt from undertaking full-time study (see Subdivision C of Division 1); or

67 Section 556A

Repeal the section, substitute:

556A Approved program of work supplement

If a person:

- (a) is receiving youth allowance; and
- (b) is participating in an approved program of work for income support payment;

the rate of the person's youth allowance is increased by an amount of \$20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

68 Paragraphs 593(1)(b) to (f)

Repeal the paragraphs, substitute:

- (b) throughout the period the person satisfies subsection (1AC); and

69 Subsection 593(1) (note 13)

Omit "C,".

70 After subsection 593(1A)

Insert:

(1AC) A person satisfies this subsection if:

- (a) the following apply:
 - (i) the person satisfies the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or
- (b) the following apply:
 - (i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For *satisfies the employment pathway plan requirements*, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

71 Paragraph 593(1D)(f)

Omit “satisfy the activity test”, substitute “enter into an employment pathway plan”.

72 Subsection 595(1) (note)

Repeal the note.

73 Subsection 595(2)

Omit “a Jobseeker Employment Pathway Plan, or with a requirement under subsection 601(1A),”, substitute “an employment pathway plan”.

74 Paragraph 595(3)(a)

Omit “a requirement under subsection 601(1A) (activity test) or a requirement in a Jobseeker Employment Pathway Plan”, substitute “a requirement in an employment pathway plan”.

75 Paragraph 598(3AA)(b)

Repeal the paragraph, substitute:

(b) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

76 Paragraph 598(3B)(b)

Repeal the paragraph, substitute:

(b) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

77 Subdivisions B, BA and C of Division 1 of Part 2.12

Repeal the Subdivisions.

78 Paragraph 613(2)(b)

Omit “a Jobseeker Employment Pathway Plan”, substitute “an employment pathway plan”.

79 Subsection 613(2) (note)

Repeal the note.

80 Subparagraph 615(1)(b)(ii)

Omit “a Jobseeker Employment Pathway Plan”, substitute “an employment pathway plan”.

81 Section 644AAA

Repeal the section, substitute:

644AAA Approved program of work supplement

If a person:

- (a) is receiving jobseeker payment; and
- (b) is participating in an approved program of work for income support payment;

the rate of the person’s jobseeker payment is increased by an amount of \$20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

82 Subparagraph 665U(1)(c)(ii)

Omit “to satisfy the activity test under section 601 or to comply with a requirement in a Jobseeker Employment Pathway Plan”, substitute “to comply with a requirement in an employment pathway plan”.

83 Paragraph 729(2)(da)

Repeal the paragraph, substitute:

- (da) the person is not disqualified for a youth allowance for the period because the person fails to satisfy the employment pathway plan requirements; and

84 Paragraph 729(2)(g)

Omit “paragraph (2B)”, substitute “subsection (2B)”.

85 Subsection 729(2B)

Repeal the subsection, substitute:

- (2B) A person referred to in paragraph (2)(g) is qualified for special benefit in respect of a period only if, in addition to meeting any relevant requirement in paragraphs (2)(a) to (f), throughout the period:
- (a) the following apply:
 - (i) the person satisfies the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or
 - (b) the following apply:
 - (i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;
 - (ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For *satisfies the employment pathway plan requirements*, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

86 Subdivisions AA and AB of Division 1 of Part 2.15

Repeal the Subdivisions.

87 Paragraph 737(3)(b)

Omit “a Special Benefit Employment Pathway Plan”, substitute “an employment pathway plan”.

88 Section 747

Repeal the section, substitute:

747 Approved program of work supplement for persons who are nominated visa holders

If a person who is a nominated visa holder:

- (a) is receiving special benefit; and
- (b) is participating in an approved program of work for income support payment;

the rate of the person's special benefit is increased by an amount of \$20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

89 Subparagraph 1035(1)(c)(iv)

Repeal the subparagraph, substitute:

- (iv) if the person is receiving jobseeker payment—the person is required to satisfy the employment pathway plan requirements;
- (iva) if the person is receiving youth allowance—the person is undertaking full-time study (see section 541B) or is required to satisfy the employment pathway plan requirements;
- (ivb) if the person is receiving austudy payment—the person is required to satisfy the activity test;

90 Subparagraph 1046(2)(b)(i)

Omit “the application of section 601 or 605 of this Act, or”, substitute “because the person ceases to satisfy the employment pathway plan requirements and other than the application of”.

91 Subparagraph 1046(2)(b)(ii)

Omit “the application of section 541A, 544A, 544C, 550”, substitute “because the person ceases to satisfy the employment pathway plan requirements and other than the application of section 550B, 551”.

92 Subparagraphs 1046(2)(b)(iv) and (v)

Repeal the subparagraphs.

93 Subparagraph 1046(2B)(b)(i)

Omit “the application of section 601 or 605 of this Act, or”, substitute “because the person ceases to satisfy the employment pathway plan requirements and other than the application of”.

94 Subparagraph 1046(2B)(b)(ii)

Omit “the application of section 541A, 544A,”, substitute “because the person ceases to satisfy the employment pathway plan requirements and other than the application of section”.

95 Subparagraph 1061ZAAA(1)(b)(i)

Omit “satisfies the activity test by”, substitute “is”.

96 Subparagraph 1061ZAAA(1)(b)(ii)

Omit “Youth Allowance Employment Pathway Plan”, substitute “employment pathway plan”.

97 Subparagraph 1061ZEA(2)(ga)(ia)

Omit “one or both of paragraphs 540(1)(a) and (c) no longer apply”, substitute “paragraph 540(1)(a) no longer applies”.

98 Subparagraph 1061ZEA(2)(ga)(iib)

Omit “one or more of paragraphs 593(1)(a) to (f)”, substitute “either or both of paragraphs 593(1)(a) and (b)”.

99 Subparagraph 1061ZVBB(1)(a)(iii)

Omit “paragraph 541(1)(a)”, substitute “subparagraph 540(1)(a)(i)”.

100 Paragraph 1067A(14)(a)

Omit “paragraph 541(1)(a)”, substitute “subparagraph 540(1)(a)(i)”.

101 Paragraph 1067G-B3A(c)

Repeal the paragraph, substitute:
(c) either:

- (i) has an exemption under section 542FA because of a determination in relation to the person under subsection 542FA(3) or (3A); or
- (ii) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under subsection 40P(2) of the Administration Act because of paragraph 40P(2)(a) or (b) of that Act;

102 Paragraph 1067G-C1(c)

Repeal the paragraph, substitute:

- (c) either:
 - (i) has a temporary incapacity exemption under section 542A; or
 - (ii) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act.

103 After point 1067G-H3

Insert:

1067G-H3A The ordinary income of a person:

- (a) who is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act; or
 - (b) who is a partner of a person who is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;
- is not to include any amount received from an approved friendly society in respect of the incapacity that resulted in the determination.

104 Point 1067G-H5

Repeal the point, substitute:

Ordinary income to include certain sick leave entitlements

1067G-H5 If a person is qualified for youth allowance and the person:

- (a) has a temporary incapacity exemption under section 542A; or
- (b) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

the person's ordinary income is taken to include an amount equal to the amount in respect of sick leave worked out under points 1067G-H6, 1067G-H7 and 1067G-H8.

105 Point 1067G-H9

Repeal the point.

106 Point 1067G-H15

Omit "1067G-H9", substitute "1067G-H8".

107 Paragraph 1068-B5(c)

Omit "satisfy the activity test because of a determination in relation to the person under subsection 602C(3) or (3A)", substitute "satisfy the employment pathway plan requirements because of a determination that is in effect under subsection 40P(2) of the Administration Act because of paragraph 40P(2)(a) or (b) of that Act".

108 Point 1068-D2

Omit "is, under Subdivision BA of Division 1 of Part 2.12, exempt from the activity test", substitute "is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act".

109 Point 1068-G4

Omit “under Subdivision BA of Division 1 of Part 2.12, is not required to satisfy the activity test”, substitute “is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act.”.

110 Point 1068-G4

Omit “the activity test” (last occurring), substitute “those employment pathway plan requirements”.

111 Subparagraph 1068B-E1(d)(ii)

Repeal the subparagraph, substitute:

- (ii) the person is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

112 Subsection 1118AA(2)

Omit “subparagraph 501E(1)(d)(iv) and”.

113 Subsection 1118AB(2)

Omit “subparagraph 501E(1)(d)(iv) and”.

114 Subsection 1118AC(2)

Omit “subparagraph 501E(1)(d)(iv) and”.

115 Paragraph 1132(6)(b)

Omit “601.”.

116 Subparagraph 1161(1)(a)(i)

Repeal the subparagraph, substitute:

- (i) a jobseeker payment in relation to which the recipient of the payment is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration

Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act; or

117 Paragraph 1223(2)(c)

Omit “meet one or more participation requirements that applied to the person under section 500A”, substitute “satisfy the employment pathway plan requirements that applied to the person”.

118 Paragraph 1223(7A)(d)

Omit “meet one or more participation requirements that applied to the person under section 500A”, substitute “satisfy the employment pathway plan requirements that applied to the person”.

Social Security (Administration) Act 1999

123 After Division 2 of Part 3

Insert:

Division 2A—Employment pathway plans

Note: The powers of the Employment Secretary under this Division may be delegated under section 234 (including to a person engaged by an organisation that performs services for the Commonwealth).

Subdivision A—Entry into employment pathway plans

40A Requirement to enter into employment pathway plans

No existing employment pathway plan in force

- (1) The Employment Secretary may require a person to enter into an employment pathway plan if an employment pathway plan is not in force in relation to the person and one of the following applies:
 - (a) either:
 - (i) the person is receiving, or has made a claim for, a jobseeker payment or a youth allowance; or
 - (ii) the Department is contacted by or on behalf of the person in relation to a claim for a jobseeker payment or a youth allowance;

- (b) the person is someone to whom paragraph 500(1)(c) or (ca) of the 1991 Act applies and either:
 - (i) the person is receiving, or has made a claim for, parenting payment; or
 - (ii) the Department is contacted by or on behalf of the person in relation to a claim for parenting payment;
- (c) the person is a nominated visa holder and either:
 - (i) the person is receiving, or has made a claim for, a special benefit; or
 - (ii) the Department is contacted by or on behalf of the person in relation to a claim for special benefit.

Existing employment pathway plan already in force

- (2) If an employment pathway plan is in force in relation to a person, the Employment Secretary may require the person to enter into another plan instead of the existing one.

Notification of requirement

- (3) The Employment Secretary must notify a person who is required to enter into an employment pathway plan of the requirement. The notification:
 - (a) must give the person the option of entering into the plan under section 40D; and
 - (b) may also give the person the option of entering into the plan under section 40E, taking into account the person's circumstances.

40B Use of technological processes

- (1) The Employment Secretary may arrange for the use of technological processes in relation to the following:
 - (a) persons entering into employment pathway plans under section 40D or 40E;
 - (b) the variation of such plans.

Note: A person does not enter into an employment pathway plan unless the person accepts such a plan: see paragraphs 40D(1)(a) and 40E(1)(c).

Arrangement not a legislative instrument

- (2) If an arrangement under this section is made in writing, the arrangement is not a legislative instrument.

40C Use of questionnaire

- (1) The Employment Secretary may arrange for the completion of a questionnaire in relation to the following:
 - (a) persons entering into employment pathway plans under section 40D or 40E;
 - (b) the variation of such plans.
- (2) A questionnaire may relate to, but is not limited to, one or more of the employment pathway plan matters in relation to a person.

Note: For *employment pathway plan matters*, see section 40F.

- (3) A purpose of the questionnaire is to obtain information for the purposes of working out under which section the person is able to enter into an employment pathway plan.

Arrangement not a legislative instrument

- (4) If an arrangement under this section is made in writing, the arrangement is not a legislative instrument.

40D Employment pathway plans—plans developed by the Employment Secretary

- (1) A person enters into an employment pathway plan under this section if:
 - (a) the person notifies the Employment Secretary that the person accepts the employment pathway plan developed by the Employment Secretary; and
 - (b) that acceptance occurs after one or more communications between the person and the Employment Secretary in relation to that plan.

Note: For variation of employment pathway plans, see section 40V.

Plan requirements

- (2) The employment pathway plan developed by the Employment Secretary must contain one or more requirements that the person is required to comply with.

Note: See Subdivision B for limitations on the kind of requirements that can be contained in employment pathway plans.

Optional terms

- (3) The employment pathway plan may also contain one or more terms that the person may, but is not required to, comply with.

Approval of requirements

- (4) The requirements in the employment pathway plan are to be approved by the Employment Secretary. Those requirements must not be approved by the processes referred to in subsection 40B(1).
- (5) The Employment Secretary must not approve requirements that are not suitable for the person. For this purpose, the Employment Secretary must take into account the following matters:
- (a) the employment pathway plan matters in relation to the person;
 - (b) the person's capacity to comply with the requirements;
 - (c) the person's needs;
 - (d) any other matters that the Employment Secretary or the person considers relevant in the circumstances.

Note: For *employment pathway plan matters*, see section 40F.

40E Employment pathway plans—streamlined processes

- (1) A person enters into an employment pathway plan under this section if:
- (a) the person is given information as part of the processes referred to in subsection 40B(1) informing the person of the matters the person should consider in deciding whether to accept an employment pathway plan under this section; and
 - (b) a proposed employment pathway plan is produced as part of those processes that:

- (i) contains one or more requirements that the person is required to comply with; and
- (ii) may contain one or more terms that the person may, but is not required to, comply with; and
- (c) after deciding the person is satisfied with that proposed employment pathway plan, the person accepts that plan as part of those processes.

Note 1: If the person does not want to accept the proposed employment pathway plan that is produced as part of those processes, the person can still enter into an employment pathway plan under section 40D.

Note 2: See Subdivision B for limitations on the kind of requirements that can be contained in employment pathway plans.

Note 3: For variation of employment pathway plans, see section 40V.

- (2) This section does not prevent the person from entering into an employment pathway plan under section 40D after the person has entered into an employment pathway plan under this section.

40F Employment pathway plan matters

The *employment pathway plan matters* in relation to a person are the following:

- (a) the person's education, experience, skills and age;
- (b) the impact of any disability, illness, mental condition or physical condition of the person on the person's ability to work, to look for work or to participate in training activities;
- (c) the state of the labour market and the transport or other options available to the person in accessing that market;
- (d) the participation opportunities available to the person;
- (e) the family and caring responsibilities of the person;
- (f) the length of travel time required to comply with requirements in an employment pathway plan;
- (g) the financial costs (such as travel costs) of complying with requirements in an employment pathway plan, and the person's capacity to pay for such costs.

40G Employment pathway plans—examples of requirements*Seeking, accepting and undertaking paid work*

- (1) An employment pathway plan under this Subdivision in relation to a person may contain requirements relating to one or more of the following:
- (a) the person actively seeking paid work in Australia;
 - (b) the person accepting, and being willing to accept, offers of paid work in Australia;
 - (c) the person undertaking, and being willing to undertake, paid work in Australia;

except particular paid work that is unsuitable to be done by the person.

Note: See Division 2B for the circumstances in which paid work is unsuitable to be done by a person.

Undertaking of other activities

- (2) An employment pathway plan under this Subdivision in relation to a person may contain requirements relating to one or more of the following:
- (a) the person undertaking training or study;
 - (b) the person undertaking voluntary work;
 - (c) the person participating in an approved program of work for income support payment (subject to section 40J) or in an employment program;
 - (d) the person attending an interview with a person engaged by an organisation that performs services for the Commonwealth;
 - (e) the person completing, updating or improving the person's résumé.

Reporting on compliance

- (3) An employment pathway plan under this Subdivision in relation to a person may contain requirements relating to the person's reporting of compliance with the plan.

Parenting payment—health and education

- (4) In relation to parenting payment and a person to whom paragraph 500(1)(ca) of the 1991 Act applies, an employment pathway plan under this Subdivision may contain requirements relating to one or more of the following:
- (a) the person's education;
 - (b) the health of a PP child of the person;
 - (c) the education of a PP child of the person.

No limit on requirements in plans

- (5) Subsections (1) to (4) do not limit the requirements that an employment pathway plan may contain.

Note: See Subdivision B for limitations on the kind of requirements that can be contained in employment pathway plans.

Subdivision B—What employment pathway plans must not contain

40H Employment pathway plans not to contain requirements about undertaking unsuitable paid work

An employment pathway plan under Subdivision A in relation to a person must not contain a requirement relating to one or more of the following:

- (a) the person seeking paid work in Australia;
 - (b) the person accepting offers of paid work in Australia;
 - (c) the person undertaking paid work in Australia;
- that is particular paid work that is unsuitable to be done by the person.

Note: See Division 2B for the circumstances in which paid work is unsuitable to be done by a person.

40J Employment pathway plans not to contain requirements to participate in an approved program of work*Parenting payment*

- (1) An employment pathway plan under Subdivision A, that is in force in relation to a person who is receiving parenting payment, must not require the person to participate in an approved program of work for income support payment if:
 - (a) either:
 - (i) if the person's rate of parenting payment is worked out under the Pension PP (Single) Rate Calculator in section 1068A of the 1991 Act—because of the application of Module E of that rate calculator, the person is receiving parenting payment at a rate that has been reduced; or
 - (ii) if the person's rate of parenting payment is worked out under the Benefit PP (Partnered) Rate Calculator in section 1068B of the 1991 Act—because of the application of Module D of that rate calculator, the person is receiving parenting payment at a rate that has been reduced; or
 - (b) the person is at least 50 years of age and is not a person to whom subsection 28(4) of the 1991 Act applies.

Youth allowance

- (2) An employment pathway plan under Subdivision A, that is in force in relation to a person who is receiving a youth allowance, must not require the person to participate in an approved program of work for income support payment if:
 - (a) the person is under 18 years of age; or
 - (b) the person is undertaking full-time study (see section 541B of the 1991 Act); or
 - (c) because of the application of one or more Modules of the Youth Allowance Rate Calculator in section 1067G of the 1991 Act, the person is receiving the youth allowance at a rate that has been reduced; or

- (d) the program of work requires the person to move from a home in one place to a home in another place.

Jobseeker payment

- (3) An employment pathway plan under Subdivision A, that is in force in relation to a person who is receiving a jobseeker payment, must not require the person to participate in an approved program of work for income support payment if:
 - (a) because of the application of Module G of Benefit Rate Calculator B in section 1068 of the 1991 Act, the person is receiving the jobseeker payment at a rate that has been reduced; or
 - (b) the person is at least 50 years of age and is not a person to whom subsection 28(4) of the 1991 Act applies.

Special benefit

- (4) An employment pathway plan under Subdivision A, that is in force in relation to a person who is receiving a special benefit, must not require the person to participate in an approved program of work for income support payment if:
 - (a) the person is under 18 years of age; or
 - (b) the person or the person's partner has income; or
 - (c) the person is at least 50 years of age and is not a person to whom subsection 28(4) of the 1991 Act applies.

40K Employment pathway plans not to contain certain other requirements

- (1) An employment pathway plan under Subdivision A must not contain a requirement of a kind that the Employment Secretary determines under subsection (2).
- (2) The Employment Secretary must, by legislative instrument, determine the kinds of requirements that employment pathway plans must not contain.

Subdivision C—Exemptions from employment pathway plan requirements

40L Circumstances making it unreasonable etc. to comply with requirements

- (1) A person is not required to satisfy the employment pathway plan requirements if a determination under this section is in effect in relation to the person.

Circumstances beyond a person's control

- (2) The Employment Secretary may make a determination under this section in relation to the person if:
 - (a) the Employment Secretary is satisfied that circumstances exist that are beyond the person's control; and
 - (b) the Employment Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to comply with the employment pathway plan requirements.

Note: See also section 40U (general rules about determinations under this Subdivision).

Other circumstances

- (3) The Employment Secretary may make a determination under this section in relation to the person if the Employment Secretary is satisfied in all the circumstances that the person should not be required to satisfy the employment pathway plan requirements.

Note: See also section 40U (general rules about determinations under this Subdivision).

Exception—misuse of alcohol or another drug

- (4) Subsection (2) or (3) does not apply to circumstances wholly or predominantly attributable to the person's misuse of alcohol or another drug, unless the person is a declared program participant.

Examples of relevant circumstances

- (5) The Employment Secretary may make a determination under subsection (2) or (3) in relation to a person in circumstances that relate to, but are not limited to, the following:
- (a) the person having a temporary incapacity resulting in the person being unable to undertake work for at least 8 hours per week, where the person has given the Employment Secretary a certificate of a medical practitioner, in the form (if any) approved by the Employment Secretary, that supports the incapacity being caused by a medical condition arising from sickness or an accident;
 - (b) the person experiencing a marriage or relationship breakdown;
 - (c) the death of an immediate family member of the person;
 - (d) the person having suffered a significant personal crisis;
 - (e) the person having been affected by an emergency, disaster or public health crisis.

Revocation of determination

- (6) The Employment Secretary may revoke a determination under this section in relation to a person if the Employment Secretary is satisfied in all the circumstances that it is no longer appropriate for the determination to remain in effect.

Later exemptions do not limit this section

- (7) Sections 40M to 40T do not limit this section.

40M Death of person's partner

Claimants

- (1) A person is not required to satisfy the employment pathway plan requirements in respect of a period (the *applicable period*) if:
- (a) the person makes a claim for a jobseeker payment, parenting payment, a youth allowance or a special benefit; and
 - (b) the person makes the claim after the death of the person's partner; and

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- (c) if the person was not pregnant when the person's partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and
 - (d) if the person was pregnant when the person's partner died—the person makes the claim:
 - (i) in the period of 14 weeks starting on the day of the death of the partner; or
 - (ii) in the period starting on the day of the death of the partner and ending when the child is born or the person otherwise stops being pregnant;whichever ends later.

The applicable period is the period applicable under paragraph (c) or (d).

Recipients

- (2) A person is not required to satisfy the employment pathway plan requirements in respect of a period (the ***applicable period***) if:
 - (a) the person is receiving a jobseeker payment, parenting payment, a youth allowance or a special benefit; and
 - (b) while the person is receiving the payment, allowance or benefit the person's partner dies; and
 - (c) if the person was not pregnant when the person's partner died—the person notifies the Employment Secretary of the person's partner's death in the period of 14 weeks starting on the day of the death of the partner; and
 - (d) if the person was pregnant when the person's partner died—the person notifies the Employment Secretary of the person's partner's death:
 - (i) in the period of 14 weeks starting on the day of the death of the partner; or
 - (ii) in the period starting on the day of the death of the partner and ending when the child is born or the person otherwise stops being pregnant;whichever ends later; and
 - (e) the person is receiving the payment, allowance or benefit on the day of the notification.

The applicable period is the period applicable under paragraph (c) or (d).

40N Domestic violence

- (1) A person is not required to satisfy the employment pathway plan requirements if a determination under this section is in effect in relation to the person.
- (2) The Employment Secretary must make a determination under this section in relation to the person if the Employment Secretary is satisfied that the person was subjected to domestic violence in the last 26 weeks.

Note: See also section 40U (general rules about determinations under this Subdivision).

- (3) The Employment Secretary may revoke a determination under this section in relation to a person if the Employment Secretary is satisfied in all the circumstances that it is no longer appropriate for the determination to remain in effect.

40P Caring responsibilities

- (1) A person is not required to satisfy the employment pathway plan requirements if a determination under this section is in effect in relation to the person.

Mandatory determination

- (2) The Employment Secretary must make a determination under this section in relation to the person if the Employment Secretary is satisfied that:
 - (a) the person is the principal carer of one or more children and that one or more of the following apply:
 - (i) the person is a registered and active foster carer;
 - (ii) the person is a home educator of one or more of those children;
 - (iii) the person is a distance educator of one or more of those children;
 - (iv) under a family law order that the person is complying with, a child, of whom the person is a relative (other than a parent), is to live with the person; or
 - (b) the following apply:

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- (i) the person is the principal carer of a child;
 - (ii) the person is the principal carer of one or more other children or the main supporter of one or more secondary pupil children or both;
 - (iii) there are 4 or more of the children of whom the person is the principal carer or main supporter; or
- (c) the following apply:
- (i) the person is not the principal carer of one or more children;
 - (ii) the person is a registered and active foster carer;
 - (iii) the person is providing foster care to a child temporarily in an emergency or to give respite to another person from caring for the child; or
- (d) the following apply:
- (i) the person is the main supporter of one or more secondary pupil children;
 - (ii) the person is a home educator or distance educator of one or more of those children; or
- (e) the following apply:
- (i) the person is the principal carer of one or more children;
 - (ii) the person is a relative (other than a parent) of a child (the *kin child*);
 - (iii) there is a document that provides for the kin child to live with the person for the care and wellbeing of the kin child and that is prepared or accepted by an authority of a State or Territory that has responsibility for the wellbeing of children;
 - (iv) the person is acting in accordance with the document.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *registered and active foster carer* see section 5B of the 1991 Act.

Note 3: For *home educator* see section 5C of the 1991 Act.

Note 4: For *distance educator* see section 5D of the 1991 Act.

Note 5: For *family law order* see subsection 23(1) of the 1991 Act.

Note 6: For *relative (other than a parent)* see section 5E of the 1991 Act.

Note 7: For *main supporter* see section 5G of the 1991 Act.

Note 8: For *secondary pupil child* see section 5F of the 1991 Act.

Schedule 1 Streamlined participation requirements

Note 9: See also section 40U (general rules about determinations under this Subdivision).

Discretionary determination

- (3) The Employment Secretary may make a determination under this section in relation to the person if the Employment Secretary is satisfied that the person is the principal carer of one or more children:
- (a) who suffer from a physical, intellectual or psychiatric disability or illness; and
 - (b) whose care needs are such that the person should, for the period specified in the determination, not be required to satisfy the employment pathway plan requirements.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: See also section 40U (general rules about determinations under this Subdivision).

Revocation

- (4) The Employment Secretary may revoke a determination under this section in relation to a person if the Employment Secretary is satisfied in all the circumstances that it is no longer appropriate for the determination to remain in effect.

40Q Pre-natal and post-natal relief

- (1) A pregnant woman is not required to satisfy the employment pathway plan requirements for the period that starts 6 weeks before the woman's expected date of confinement and ends on the day on which the woman gives birth to the child (whether or not the child is born alive).
- (2) If a woman gives birth to a child (whether or not the child is born alive), the woman is not required to satisfy the employment pathway plan requirements for the period that starts on the day on which she gives birth to the child and ends 6 weeks after that day.

40R Persons engaged in work*Persons 55 and over*

- (1) A person who has reached 55 years of age is not required to satisfy the employment pathway plan requirements in respect of a period of 2 weeks if:
- (a) unless paragraph (b) applies—the person:
 - (i) is engaged in approved unpaid voluntary work for an approved organisation for at least 30 hours in that 2-week period; or
 - (ii) is engaged, for at least 30 hours in that 2-week period, in a combination of approved unpaid voluntary work for an approved organisation and of paid work that the Secretary regards as suitable; or
 - (iii) is engaged for at least 30 hours in that 2-week period in paid work that the Secretary regards as suitable; or
 - (b) if the person is under 60 years of age and that 2-week period begins before the end of 12 months starting on the day the person starts to receive jobseeker payment or special benefit—the person:
 - (i) is engaged, for at least 30 hours in that 2-week period, in work consisting of a combination of approved unpaid voluntary work for an approved organisation and of at least 15 hours of paid work that the Secretary regards as suitable; or
 - (ii) is engaged for at least 30 hours in that 2-week period in paid work that the Secretary regards as suitable.
- (2) For the purposes of this section:
- (a) approved unpaid voluntary work is work, either full-time or otherwise, that has been approved by the Employment Secretary for the purposes of this section; and
 - (b) an approved organisation is an organisation that has been approved by the Employment Secretary for the purposes of this section.

Principal carers and people with partial capacity to work

- (3) A person is not required to satisfy the employment pathway plan requirements in respect of a period of 2 weeks if the person:
- (a) is the principal carer of at least one child or has a partial capacity to work; and
 - (b) is engaged for at least 30 hours in that 2-week period in paid work that the Secretary regards as suitable.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

40S Jobseeker payment rules only

Rehabilitation program

- (1) A person is not required to satisfy the employment pathway plan requirements in respect of a period (the *applicable period*) if:
- (a) subparagraph 593(1)(a)(iii) of the 1991 Act applies in relation to the person; and
 - (b) the person is undertaking a rehabilitation program; and
 - (c) the program is intended to enhance the person's ability to work; and
 - (d) the length of the person's participation in the program is, or is likely to be, at least 6 weeks; and
 - (e) the person's participation in the program will, or is likely to, end within the period of 208 weeks after the jobseeker payment commenced to be payable to the person.

The applicable period is the period the person is undertaking the rehabilitation program or such shorter or longer period determined by the Employment Secretary.

Interaction with the ABSTUDY Scheme

- (2) A person is not required to satisfy the employment pathway plan requirements in respect of a period (the *applicable period*) if:

- (a) jobseeker payment is payable to the person because of subsection 614(6) of the 1991 Act; and
- (b) the person has commenced the full-time course of education referred to in paragraph 614(6)(a) of the 1991 Act.

The applicable period is the period during which the payment is payable to the person because of that subsection.

40T Exceptional circumstances

- (1) A person is not required to satisfy the employment pathway plan requirements if the person is included in a class of persons specified in a determination under this section that is in effect.
- (2) The Employment Secretary may make a determination under this section specifying a class of persons for the purposes of subsection (1).

Note: See also section 40U (general rules about determinations under this Subdivision).
- (3) The Employment Secretary may make the determination only if the Employment Secretary is satisfied that exceptional circumstances exist to justify making the determination.
- (4) Without limiting subsection (3), the exceptional circumstances may be that there is an emergency, disaster or public health crisis affecting Australia or one or more parts of Australia.

Publication

- (5) The Employment Secretary must cause details of the class of persons and of the exceptional circumstances to be published on the Employment Department's website.

Revocation of determination

- (6) The Employment Secretary may revoke a determination under this section if the Employment Secretary is satisfied in all the circumstances that it is no longer appropriate for the determination to remain in effect.
- (7) The Employment Secretary must cause details of the revocation to be published on the Employment Department's website.

40U General rules

- (1) A determination under this Subdivision may specify the period during which the determination has effect.
- (2) A determination under this Subdivision may be expressed to take effect on a day that is earlier than the day on which the determination is made.
- (3) A revocation of a determination under this Subdivision takes effect on the day specified in the revocation, which must not be earlier than the day the revocation is made.
- (4) A determination under this Subdivision, or a revocation of such a determination, is not a legislative instrument.

Subdivision D—Variation, cancellation and review of employment pathway plans

40V Variation, cancellation and review of employment pathway plans

Variation

- (1) The Employment Secretary may vary an employment pathway plan that is in force under Subdivision A in relation to a person after discussion with the person and after taking into account the matters mentioned in paragraphs 40D(5)(a), (b), (c) and (d).
- (2) The Employment Secretary may vary the plan on the Employment Secretary's own initiative or on request of the person.
- (3) If the person requests a variation of the plan, the Employment Secretary must:
 - (a) make a decision under subsection (1) to vary the plan; or
 - (b) make a decision to refuse to vary the plan.
- (4) The Employment Secretary must notify the person of the variation or of the decision to refuse to vary the plan.

- (5) If an employment pathway plan is in force under Subdivision A in relation to a person, the person may vary the plan in accordance with the processes referred to in subsection 40B(1).

Cancellation

- (6) The Employment Secretary must cancel an employment pathway plan that is in force under Subdivision A in relation to a person if the person enters into another employment pathway plan.

Review

- (7) The Employment Secretary may review an employment pathway plan that is in force under Subdivision A in relation to a person.
- (8) The Employment Secretary may review the plan on the Employment Secretary's own initiative or on request of the person.

Subdivision E—Notification of circumstances preventing or affecting compliance with employment pathway plans

40W Notification of circumstances preventing or affecting compliance with employment pathway plans

If an employment pathway plan is in force under Subdivision A in relation to a person, the person must notify the Employment Secretary of any circumstances preventing the person from complying, or reducing the person's capacity to comply, with the requirements in the plan.

Division 2B—Circumstances in which paid work is unsuitable

40X Circumstances in which paid work is unsuitable

- (1) For the purposes of the social security law, particular paid work is ***unsuitable*** to be done by a person if and only if:

- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work and no relevant training will be provided to the person; or
- (b) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
- (c) the person is the principal carer of one or more children, and does not have access to appropriate care and supervision for the children during:
 - (i) the times when the person would be required to undertake the work; or
 - (ii) reasonable amounts of time that would be needed for the person to travel from the person's home to the place of work and from the place of work to the person's home; or
- (d) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
- (e) the terms and conditions for the work would be less generous than the applicable statutory conditions; or
- (f) commuting between the person's home and the place of work would be unreasonably difficult; or
- (g) the work would require enlistment in the Defence Force or the Reserves; or
- (h) the work requires the person to move from a home in a place to a home in another place; or
- (i) for any other reason, the work is unsuitable to be done by the person.

Note: For the purposes of paragraph (i), see also subsections (4) and (5).

Work outside the area in which the person's home is situated

- (2) If:
 - (a) a person seeks work in an area (the ***new area***) that is outside the area (the ***old area***) in which the person's home is situated; and

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- (b) the person is offered permanent full-time work (whether or not work of the kind sought) in the new area;
the work offered is not unsuitable for the person because of paragraph (1)(f) or (h) unless:
- (c) the person is under the age of 18; or
 - (d) the person or the person's partner is pregnant; or
 - (e) the person or the person's partner has a severe medical condition and the condition makes it unreasonable for the person to accept the offer; or
 - (f) the acceptance of the offer would jeopardise the current paid work, or the paid work prospects, of the person's partner; or
 - (g) the person or the person's partner has a child under the age of 16 who is living with them or is living somewhere else in the old area; or
 - (h) the person or the person's partner has significant caring responsibilities in the old area; or
 - (i) the educational, cultural or religious background of the person makes it unreasonable for the person to accept the offer; or
 - (j) it is more appropriate for the person to participate in education or training than to accept the offer; or
 - (k) the person would suffer severe financial hardship if the person were to accept the offer.
- (3) Without limiting subsection (2), if a person, when seeking paid work through an employment service provider, represents to the provider that the person is willing to undertake work outside the area in which the person's home is situated, the person is taken to have sought work outside that area.

Legislative instrument

- (4) The Employment Secretary must, by legislative instrument, determine matters to be taken into account in working out whether particular paid work is unsuitable to be done by a person for the purposes of paragraph (1)(i).
- (5) Subsection (4) does not limit the matters that may be taken into account in working out whether particular paid work is unsuitable to be done by a person for the purposes of paragraph (1)(i).

Interpretation

- (6) To avoid doubt, for the purposes of this section, paid work is not unsuitable to be done by a person merely because:
- (a) the work is not the person's preferred type of work; or
 - (b) the work is not commensurate with the person's highest level of educational attainment or qualification; or
 - (c) the level of remuneration for the work is not the person's preferred level of remuneration.

Division 2C—Guidelines

40Y Guidelines

The Employment Secretary must, by legislative instrument, determine guidelines about:

- (a) how a person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; and
- (b) the following:
 - (i) the kind of information to be provided by the Employment Secretary to a person who has made a claim for a participation payment about the person entering into an employment pathway plan under section 40D or 40E;
 - (ii) the processes (including any technological requirements) for entering into such a plan;
 - (iii) the processes for reporting compliance with the requirements in such a plan; and
- (c) the circumstances in which performing paid work in Australia may constitute a risk to health or safety and how a person satisfies the Employment Secretary that particular paid work constitutes such a risk.

124 Section 42AA

Omit "gain employment", substitute "gain paid work".

125 Section 42AA

Omit “suitable employment”, substitute “paid work (except paid work that is unsuitable to be done by the person)”.

126 Paragraph 42AC(1)(b)

Omit “section 501, 544A, 605 or 731L of the 1991 Act”, substitute “section 40A”.

127 Paragraph 42AC(1)(h)

Omit “offer of employment not being made to the person”, substitute “offer of paid work in Australia (except particular paid work that is unsuitable to be done by the person) not being made to the person”.

127A After subsection 42AC(1)

Insert:

(1A) However, a person does not commit a *mutual obligation failure* in relation to the person’s failure to:

- (a) accept an offer of paid work in Australia of more than 15 hours per week; or
- (b) undertake paid work in Australia of more than 15 hours per week;

if the person is the principal carer of at least one child or has a partial capacity to work.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

127B Section 42AD

Before “A”, insert “(1)”.

128 Paragraph 42AD(b)

Omit “suitable employment”, substitute “paid work in Australia, except particular paid work that is unsuitable to be done by the person”.

129 Section 42AD (note)

Omit “Note”, substitute “Note 1”.

130 At the end of section 42AD (after the note)

Add:

Note 2: See Division 2B for the circumstances in which paid work is unsuitable to be done by a person.

130A At the end of section 42AD

Add:

- (2) However, a person does not commit a *work refusal failure* if:
- (a) the person is the principal carer of at least one child or has a partial capacity to work; and
 - (b) the person refuses or fails to accept an offer of paid work in Australia that is more than 15 hours per week.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

130B At the end of section 42AE

Add:

- (4) A person also does not commit an *unemployment failure* if:
- (a) the person is the principal carer of at least one child or has a partial capacity to work; and
 - (b) the work in relation to which the person became unemployed was work of more than 15 hours per week.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

131 Subparagraph 42C(1)(a)(iv)

Omit “offer of employment not being made to the person”, substitute “offer of paid work in Australia (except particular paid work that is unsuitable to be done by the person) not being made to the person”.

132 Paragraph 42E(2)(b)

Omit “section 501, 544A, 605 or 731L of the 1991 Act”, substitute “section 40A”.

133 Subparagraph 42E(4)(b)(i)

Omit “section 544A of the 1991 Act”, substitute “section 40A”.

133A Subparagraph 42E(4)(b)(ii)

Omit “of that Act”, substitute “of the 1991 Act”.

133B Subparagraph 42E(4)(c)(i)

Omit “section 605 of the 1991 Act”, substitute “section 40A”.

133C Subparagraph 42E(4)(c)(ii)

Omit “of that Act”, substitute “of the 1991 Act”.

134 Paragraph 42F(1)(a)

Omit “satisfy the activity test”, substitute “satisfy the employment pathway plan requirements”.

135 Subsection 42F(2)

Repeal the subsection, substitute:

- (2) For each such job vacancy the person (the *job applicant*) applies for during that period, the job applicant must give the Secretary a written statement from the person or body offering the job vacancy that confirms that the job applicant applied for the job vacancy.

136 Subsection 42F(3)

Omit “the employer”, substitute “the person or body offering the job vacancy”.

137 Section 42N (heading)

Repeal the heading, substitute:

42N Serious failure for refusing or failing to accept an offer of paid work

138 Paragraph 42N(1)(b)

Omit “suitable employment”, substitute “paid work in Australia, except particular paid work that is unsuitable to be done by the person”.

139 Subsection 42N(1) (note)

Omit “Note”, substitute “Note 1”.

140 At the end of subsection 42N(1) (after the note)

Add:

Note 2: See Division 2B for the circumstances in which paid work is unsuitable to be done by a person.

140A At the end of section 42N

Add:

- (3) Despite subsection (1), the Secretary must not determine that a person commits a serious failure under that subsection if:
- (a) the person is the principal carer of at least one child or has a partial capacity to work; and
 - (b) the person refuses or fails to accept an offer of paid work in Australia that is more than 15 hours per week.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

140B After subsection 42S(2)

Insert:

- (2A) Despite subsection (1), the Secretary must not make a determination under that subsection in relation to a person if:
- (a) the person is the principal carer of at least one child or has a partial capacity to work; and
 - (b) the work in relation to which the person became unemployed was work of more than 15 hours per week.

Note 1: For *principal carer* see subsections 5(15) to (24) of the 1991 Act.

Note 2: For *partial capacity to work* see section 16B of the 1991 Act.

141 Paragraph 42SB(2)(b)

Omit “section 501 of the 1991 Act”, substitute “section 40A”.

143 Paragraph 124PGC(1)(b)

Omit “neither section 540AA of the 1991 Act (about new apprentices) nor paragraph 541(1)(a) of the 1991 Act (about full-time study) applies”, substitute “neither subparagraph 540(1)(a)(i) of the 1991 Act (about full-time study) nor section 540AA of the 1991 Act (about new apprentices) applies”.

144 Subsection 140(1)

Omit “and a section 525B decision”.

145 Section 140A

Repeal the section, substitute:

140A Definition of *employment pathway plan decision*

For the purposes of this Act, an *employment pathway plan decision* is:

- (a) a decision of the Employment Secretary under subsection 40A(3) to notify a person of the requirement to enter into an employment pathway plan, where the notification does not give the person the option of entering into the plan under section 40E; or
- (b) a decision of the Employment Secretary under subsection 40D(4) to approve requirements in an employment pathway plan; or
- (c) a decision of the Employment Secretary under subsection 40V(1) to vary an employment pathway plan; or
- (d) a decision of the Employment Secretary under paragraph 40V(3)(b) to refuse to vary an employment pathway plan.

146 Section 147 (table items 5 and 6)

Omit “or a section 525B decision”.

147 Subclause 1(1) of Schedule 1

Insert:

employment pathway plan matters has the meaning given by section 40F.

148 Subclause 1(1) of Schedule 1 (paragraph (c) of the definition of *participation payment*)

Omit “subject to participation requirements”, substitute “someone to whom paragraph 500(1)(c) or (ca) of the 1991 Act applies”.

149 Subclause 1(1) of Schedule 1 (definition of *section 525B decision*)

Repeal the definition.

152 Application and transitional provisions—payments and cards

- (1) The amendments of sections 94 and 95 of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for disability support pension in respect of days occurring on or after the commencement of this item.
- (2) If, before the commencement of this item, a person was not qualified for a disability support pension on the basis of a continuing inability to work because of the operation of subsection 94(6) of the *Social Security Act 1991*, then the person is not qualified for a disability support pension under section 94 of that Act on that basis on and after that commencement.
- (3) If, before the commencement of this item, a person was not qualified for a disability support pension on the basis of blindness because of the operation of subsection 95(2) of the *Social Security Act 1991*, then the person is not qualified for a disability support pension under section 95 of that Act on that basis on and after that commencement.
- (4) The amendments of Part 2.10 of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for parenting payment in respect of days occurring on or after the commencement of this item.
- (5) The amendments of Part 2.11 of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for youth allowance or if youth allowance is payable to a person, or working out the rate of a person’s youth allowance, in respect of days occurring on or after the commencement of this item.

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- (6) The amendments of Part 2.12 of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for jobseeker payment or if jobseeker payment is payable to a person, or working out the rate of a person's jobseeker payment, in respect of days occurring on or after the commencement of this item.
 - (7) The amendment of section 665U of the *Social Security Act 1991* made by this Schedule applies in relation to working out if a person is qualified for an education entry payment on or after the commencement of this item.
 - (8) The amendments of Part 2.15 of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for special benefit or if special benefit is payable to a person, or working out the rate of a person's special benefit, in respect of days occurring on or after the commencement of this item.
 - (9) The amendment of section 1035 of the *Social Security Act 1991* made by this Schedule applies in relation to working out if a person is qualified for a mobility allowance in respect of days occurring on or after the commencement of this item.
 - (10) The amendments of section 1046 of the *Social Security Act 1991* made by this Schedule apply in relation to a person who would, apart from that section, cease to be qualified for mobility allowance on or after the commencement of this item.
 - (11) The amendments of section 1061ZAAA of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for fares allowance on or after the commencement of this item.
 - (12) The amendments of section 1061ZEA of the *Social Security Act 1991* made by this Schedule apply in relation to working out if a person is qualified for a pensioner concession card on or after the commencement of this item.
 - (13) The amendments of Modules B, C and H of the Youth Allowance Rate Calculator in section 1067G of the *Social Security Act 1991* made by this Schedule apply in relation to working out the rate of a person's youth allowance in respect of days occurring on or after the commencement of this item.
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- (14) The amendments of points 1068-B5 and 1068-D2 of the *Social Security Act 1991* made by this Schedule apply in relation to working out the rate of a person's jobseeker payment in respect of days occurring on or after the commencement of this item.
- (15) The amendments of point 1068-G4 of the *Social Security Act 1991* made by this Schedule apply in relation to working out the rate of a person's social security payment in respect of days occurring on or after the commencement of this item.
- (16) The amendment of point 1068B-E1 of the *Social Security Act 1991* made by this Schedule applies in relation to working out the rate of a person's benefit PP (partnered) in respect of days occurring on or after the commencement of this item.
- (17) The amendment of section 1161 of the *Social Security Act 1991* made by this Schedule applies in relation to the receipt of compensation on or after the commencement of this item.
- (18) The amendments of section 1223 of the *Social Security Act 1991* made by this Schedule apply in relation to amounts of parenting payment paid on or after the commencement of this item.

**154 Application, saving and transitional provisions—
approved program of work supplement**

Youth allowance

- (1) Section 556A of the *Social Security Act 1991*, as substituted by this Schedule, applies in relation to the following:
 - (a) the fortnight that includes the day on which this item commences;
 - (b) each later fortnight.
- (2) Section 556A of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to each fortnight ending before that commencement.

Jobseeker payment

- (3) Section 644AAA of the *Social Security Act 1991*, as substituted by this Schedule, applies in relation to the following:
- (a) the fortnight that includes the day on which this item commences;
 - (b) each later fortnight.
- (4) Section 644AAA of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to each fortnight ending before that commencement.

Special benefit

- (5) Section 747 of the *Social Security Act 1991*, as substituted by this Schedule, applies in relation to the following:
- (a) the fortnight that includes the day on which this item commences;
 - (b) each later fortnight.
- (6) Section 747 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to each fortnight ending before that commencement.

155 Transitional provision—employment pathway plans

If a Parenting Payment Employment Pathway Plan, a Youth Allowance Employment Pathway Plan, a Jobseeker Employment Pathway Plan or a Special Benefit Employment Pathway Plan in relation to a person was being administered immediately before the commencement of this item, the plan has effect on and after that commencement as if it were an employment pathway plan in force in relation to the person.

156 Application and transitional provisions—exemptions from employment pathway plan requirements*Temporary incapacity*

- (1) If, immediately before the commencement of this item:
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- (a) section 502H, Subdivision BA of Division 1 of Part 2.12 or section 731K of the *Social Security Act 1991* applied in relation to a person; or
- (b) section 542A of the *Social Security Act 1991* applied in relation to a person, where subparagraph 542A(1)(a)(ia) or (ii) of that Act applied in relation to the person;

then:

- (c) on the day this item commences, the Employment Secretary is taken to have made a determination under section 40L of the *Social Security (Administration) Act 1999* in relation to the person because of the circumstance referred to in paragraph 40L(5)(a) of that Act; and
- (d) if the person is receiving parenting payment, youth allowance or jobseeker payment—subject to subsection 40L(6) of the *Social Security (Administration) Act 1999*, that determination remains in effect for the balance of the person’s maximum exemption period (or of that period as extended under the *Social Security Act 1991* before the commencement of this item) referred to in section 502K, 542C or 603F of the *Social Security Act 1991*, as in force immediately before that commencement; and
- (e) if the person is receiving special benefit—subject to subsection 40L(6) of the *Social Security (Administration) Act 1999*, that determination remains in effect on and after that commencement.

Death of person’s partner

(2) If:

- (a) before the commencement of this item:
 - (i) a person was covered by a participation exemption in respect of a period because of subsection 502BA(1) or (2) of the *Social Security Act 1991*; or
 - (ii) a person had a death of partner exemption in respect of a period because of subsection 542EA(1) or (2) of the *Social Security Act 1991*; or
 - (iii) a person was not required to satisfy the activity test in respect of a period because of subsection 602AA(1) or

(2) or 731DAA(1) or (2) of the *Social Security Act 1991*; and

- (b) that period had not ended immediately before that commencement;

then, on and after that commencement, the person is not required under section 40M of the *Social Security (Administration) Act 1999* to satisfy the employment pathway plan requirements in respect of the balance of that period.

Domestic violence

- (3) If:

- (a) before the commencement of this item:

- (i) a person was covered by a participation exemption in respect of a period because of a determination made under section 502C of the *Social Security Act 1991*; or
- (ii) a person had a domestic violence or other special family circumstances exemption in respect of a period because of a determination made under section 542F of the *Social Security Act 1991*; or
- (iii) a person was not required to satisfy the activity test in respect of a period because of a determination made under section 602B or 731DA of the *Social Security Act 1991*; and

- (b) that period had not ended immediately before that commencement; and

- (c) the determination was in effect immediately before that commencement;

then:

- (d) the Employment Secretary is taken, on the day this item commences, to have made a determination under section 40N of the *Social Security (Administration) Act 1999* that the person is not required to satisfy the employment pathway plan requirements; and
- (e) the Employment Secretary may revoke that determination in accordance with subsection 40N(3) of the *Social Security (Administration) Act 1999*.

Caring responsibilities

- (4) If:
- (a) before the commencement of this item:
 - (i) a person was covered by a participation exemption in respect of a period because of a determination made under section 502D of the *Social Security Act 1991*; or
 - (ii) a person had a disabled children or other family circumstances exemption in respect of a period because of a determination made under section 542FA of the *Social Security Act 1991*; or
 - (iii) a person was not required to satisfy the activity test in respect of a period because of a determination made under section 602C or 731DB of the *Social Security Act 1991*; and
 - (b) that period had not ended immediately before that commencement; and
 - (c) the determination was in effect immediately before that commencement;
- then:
- (d) the Employment Secretary is taken, on the day this item commences, to have made a determination under section 40P of the *Social Security (Administration) Act 1999* that the person is not required to satisfy the employment pathway plan requirements for the balance of that period; and
 - (e) the Employment Secretary may revoke that determination in accordance with subsection 40P(4) of the *Social Security (Administration) Act 1999*.

Pre-natal and post-natal relief

- (5) Subsection 40Q(2) of the *Social Security (Administration) Act 1999*, as inserted by this Schedule, applies in relation to births occurring before, on or after the commencement of this item.

Persons engaged in work

- (6) Section 40R of the *Social Security (Administration) Act 1999*, as inserted by this Schedule, applies in relation to the following:
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-
- (a) a period of 2 weeks beginning on or after the commencement of this item;
- (b) the period of 2 weeks that includes the day on which this item commences.
- (7) If, under section 40R of the of the *Social Security (Administration) Act 1999*, as inserted by this Schedule, a person is not required to satisfy the employment pathway plan requirements in respect of the period of 2 weeks that includes the day on which this item commences, then the person is also taken to satisfy the activity test in respect of that period for the purposes of section 603AA, 603AB, 731G or 731GA, as the case requires, of the *Social Security Act 1991*, as in force immediately before the commencement of this item.
- (8) An approval under paragraph 603AA(4)(a) or (b) of the *Social Security Act 1991* that was in effect immediately before the commencement of this item continues in effect on and after that commencement as if it were an approval under paragraph 40R(2)(a) or (b) (as the case requires) of the *Social Security (Administration) Act 1999*.
- Women born on or before 1 July 1955*
- (9) If, in relation to a period beginning on or after the day on which this item commences, a woman meets the requirements referred to in paragraphs 603AC(1)(a) to (e) of the *Social Security Act 1991*, as in force immediately before that commencement, then the woman is taken to meet paragraph 593(1)(b) of that Act, as substituted by this Schedule, in relation to that period.

157 Transitional provision—exemptions from undertaking full-time study

If, immediately before the commencement of this item, an exemption was in effect in relation to a person under a provision of Subdivision C of Division 1 of Part 2.11 of the *Social Security Act 1991*, then the exemption continues in effect under, but subject to, that provision on and after that commencement, to the extent that the person would apart from the exemption be seeking to be qualified for a youth allowance on the basis of undertaking full-time study.

158 Application, saving and transitional provisions— compliance with participation payment obligations

Mutual obligation failures

- (1) A failure covered by paragraph 42AC(1)(b), subparagraph 42AC(1)(c)(ii) or paragraph 42AC(1)(d), (e), (f) or (g) of the *Social Security (Administration) Act 1999* that occurred before the commencement of this item is taken to continue to be a mutual obligation failure on and after that commencement.
- (2) The amendment of paragraph 42AC(1)(h) of the *Social Security (Administration) Act 1999* made by this Schedule applies in relation to acts that occur on or after the commencement of this item.
- (2A) Subsection 42AC(1A) of the *Social Security (Administration) Act 1999*, as inserted by this Schedule, applies in relation to a failure covered by paragraph 42AC(1A)(a) or (b) of that Act that occurs on or after the commencement of this item.
- (3) Section 42AJ of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a failure referred to in paragraph 42AJ(2)(c) or (d) of that Act that occurred before that commencement.

Work refusal failures

- (4) The amendments of section 42AD of the *Social Security (Administration) Act 1999* made by this Schedule apply in relation to an offer of paid work made on or after the commencement of this item.
- (5) Division 3AA of Part 3 of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an offer of suitable employment made before that commencement.

Unemployment failures

- (5A) The amendment of section 42AE of the *Social Security (Administration) Act 1999* made by this Schedule applies in relation to a voluntary act, or misconduct, that occurs on or after the commencement of this item.

No show no pay failures

- (6) A failure covered by subparagraph 42C(1)(a)(i) of the *Social Security (Administration) Act 1999* that occurred before the commencement of this item is taken to continue to be a failure covered by that subparagraph on and after that commencement.
- (7) The amendment of subparagraph 42C(1)(a)(iv) of the *Social Security (Administration) Act 1999* made by this Schedule applies in relation to acts that occur on or after the commencement of this item.

Connection failures

- (8) A failure covered by paragraph 42E(2)(b), (c), (f) or (g) of the *Social Security (Administration) Act 1999* that occurred before the commencement of this item is taken to continue to be a failure covered by that paragraph on and after that commencement.
- (9) Subsection 42E(4) of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a failure that occurred before that commencement.
- (10) If a person is issued with a notice under subsection 42F(1) of the *Social Security (Administration) Act 1999* before the commencement of this item and the period specified in the notice covers days occurring on or after that commencement, then the notice continues in effect on and after that commencement.

Reconnection requirements

- (11) Section 42G of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a failure referred to in paragraph 42G(b) or (c) of that Act that occurred before that commencement.

Serious failures

- (12) The amendments of section 42N of the *Social Security (Administration) Act 1999* made by this Schedule apply in relation to an offer of paid work made on or after the commencement of this item.

- (13) Division 3A of Part 3 of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an offer of suitable employment made before that commencement.

Unemployment resulting from a voluntary act or misconduct

- (13A) The amendment of section 42S of the *Social Security (Administration) Act 1999* made by this Schedule applies in relation to a voluntary act, or misconduct, that occurs on or after the commencement of this item.

Immediate non-payment of participation payments for certain failures

- (14) A failure covered by paragraph 42SA(1)(a) or (b) of the *Social Security (Administration) Act 1999* that occurred before the commencement of this item is taken to continue to be a failure covered by that paragraph on and after that commencement.

Failures by certain recipients of parenting payments

- (15) A failure covered by paragraph 42SB(2)(b), (c) or (d) of the *Social Security (Administration) Act 1999* that occurred before the commencement of this item is taken to continue to be a failure covered by that paragraph on and after that commencement.

Prior notification of excuse

- (16) Section 42UA of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a failure referred to in paragraph 42UA(1)(a) or (d) of that Act that occurred before that commencement.

159 Saving provision—employment pathway plan decisions

Division 2 of Part 4A of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an employment pathway plan decision, within the meaning of section 140A of that Act as so in force, that was made before that commencement.

159A Review of Workforce Australia, digital protections framework for employment services programs and safeguards for transition to Workforce Australia*Review of Workforce Australia*

- (1) The Employment Secretary must cause a comprehensive review to be conducted of the effectiveness of the program established by the Commonwealth and known as Workforce Australia in achieving its objectives. In particular, the review must cover the following:
 - (a) the effects of activity requirements, compliance and penalties on recipients of participation payments and on employment outcomes;
 - (b) the effects of digital services and enhanced services on recipients of participation payments, employers and employment outcomes.
- (2) The Employment Secretary must cause the review to be completed before the second anniversary of the establishment of that program.
- (3) The persons who conduct the review must give jobseekers, employers, employment services providers and relevant experts the opportunity to provide input in relation to the review.
- (4) The persons who conduct the review must give the Employment Secretary and the Employment Minister a written report of the review.
- (5) The Employment Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Employment Minister.
- (6) The persons who conduct the review must publish the report on the internet as soon as practicable after that tabling.

Digital protections framework for employment services programs

- (7) The Employment Secretary must, by legislative instrument, determine a digital protections framework for employment services programs established by the Commonwealth.
- (8) Without limiting subitem (7), the framework must deal with the following:

- (a) natural justice;
 - (b) human rights protections;
 - (c) transparency and freedom from bias;
 - (d) privacy;
 - (e) accessibility of technological processes.
- (9) The Employment Secretary's use of technological processes in relation to the following must comply with the framework:
- (a) persons entering into employment pathway plans under Division 2A of Part 3 of the *Social Security (Administration) Act 1999*;
 - (b) the variation of those employment pathway plans;
 - (c) the cancellation of those employment pathway plans;
 - (d) the monitoring and reporting of compliance with those employment pathway plans;
 - (e) the consequences that arise as a result of non-compliance with those employment pathway plans.

Safeguards—transition to Workforce Australia

- (10) The Employment Secretary must make arrangements to ensure that a person is not subject to financial penalties or otherwise disadvantaged because of mutual obligation failures covered by paragraph 42AC(1)(e) or (f) of the *Social Security (Administration) Act 1999* that are committed in the period of 1 month beginning on the day the person transitions to the program established by the Commonwealth and known as Workforce Australia, where the transition occurs before the end of 30 September 2022 under arrangements made by the Employment Secretary.

Definitions

- (11) In this item:
- Employment Minister*** means the Minister who administers Division 3AA of Part 3 of the *Social Security (Administration) Act 1999*.
- Employment Secretary*** means the Secretary of the Department administered by the Employment Minister.

160 Transitional provisions—other matters

- (1) The Employment Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Schedule.
- (3) This Schedule (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).
- (4) In this item:

Employment Minister means the Minister who administers Division 3AA of Part 3 of the *Social Security (Administration) Act 1999*.

Schedule 2—Arrangements and grants relating to assisting persons to obtain and maintain paid work

Social Security Act 1991

1 Subsection 23(1)

Insert:

Employment Minister means the Minister who administers Division 3AA of Part 3 of the Administration Act.

2 After Chapter 2C

Insert:

Chapter 2D—Arrangements and grants relating to assisting persons to obtain and maintain paid work

1062 Simplified outline of this Chapter

The Employment Secretary may, on behalf of the Commonwealth, make, vary or administer an arrangement for the making of payments by the Commonwealth, or make, vary or administer a grant of financial assistance, in relation to various activities aimed at assisting unemployed or other persons to obtain and maintain paid work.

1062A Arrangements and grants relating to assisting persons to obtain and maintain paid work

- (1) The Employment Secretary may, on behalf of the Commonwealth, make, vary or administer an arrangement for the making of

payments by the Commonwealth, or make, vary or administer a grant of financial assistance, in relation to:

- (a) assisting unemployed persons to obtain and maintain paid work; or
 - (b) assisting other persons to obtain and maintain paid work; or
 - (c) assisting persons at risk of losing paid work to maintain that paid work or to obtain and maintain other paid work; or
 - (d) assisting unemployed persons to become self-employed; or
 - (e) assisting other persons to become self-employed; or
 - (f) assisting recipients of participation payments (within the meaning of the Administration Act) to meet their mutual obligation requirements; or
 - (g) the funding of measures designed to reduce discrimination in employment practices and to encourage workforce participation, including in relation to mature aged, young and Indigenous persons, persons with a disability and parents seeking to re-join the workforce; or
 - (h) the provision of online employment services; or
 - (i) the funding of projects to create pathways to paid work and to address labour shortages; or
 - (j) the funding of the activities of employment services providers; or
 - (k) the provision of wage subsidies or other incentives to employers to employ unemployed persons; or
 - (l) an activity determined in an instrument under subsection (2); or
 - (m) a matter that is incidental or ancillary to a matter mentioned in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l).
- (2) The Employment Minister may, by legislative instrument, determine an activity for the purposes of paragraph (1)(l).

Reimbursement of costs or expenses

- (3) An arrangement under subsection (1) may provide for the Commonwealth to reimburse, or partly reimburse, costs or expenses.

- (4) A grant under subsection (1) may be made by way of the reimbursement, or partial reimbursement, of costs or expenses.
- (5) Subsections (3) and (4) do not limit subsection (1).

Definitions

- (6) In this section:

arrangement includes a contract, agreement, deed or understanding.

Indigenous person has the same meaning as in the *Indigenous Education (Targeted Assistance) Act 2000*.

make, in relation to an arrangement, includes enter into.

1062B Constitutional limits

An arrangement or grant referred to in section 1062A must be with respect to one or more of the following:

- (a) the provision of unemployment benefits, or other benefits, allowances, services or endowment, referred to in paragraph 51(xxiiiA) of the Constitution;
- (b) implementing any of Australia's international obligations under the ILO Convention (No. 88) concerning the Organisation of the Employment Service done at San Francisco on 9 July 1948 ([1950] ATS 9), as amended and in force for Australia from time to time;
- (c) implementing any of Australia's international obligations under the ILO Convention (No. 122) concerning Employment Policy done at Geneva on 9 July 1964 ([1970] ATS 17), as amended and in force for Australia from time to time;
- (d) implementing any of Australia's international obligations under the ILO Convention (No. 142) concerning Vocational Guidance and Vocational Training in the Development of Human Resources done at Geneva on 23 June 1975 ([1986] ATS 2), as amended and in force for Australia from time to time;

- (e) implementing any of Australia's international obligations under the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5), as amended and in force for Australia from time to time;
- (f) implementing any of Australia's international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9), as amended and in force for Australia from time to time;
- (g) implementing any of Australia's international obligations under the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4), as amended and in force for Australia from time to time;
- (h) implementing any of Australia's international obligations under the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12), as amended and in force for Australia from time to time;
- (i) the granting of financial assistance to a State or Territory;
- (j) a Territory;
- (k) people to whom paragraph 51(xxvi) of the Constitution applies;
- (l) postal, telegraphic, telephonic or other like services within the meaning of paragraph 51(v) of the Constitution;
- (m) aliens within the meaning of paragraph 51(xix) of the Constitution;
- (n) the implied power of the Parliament to make laws with respect to nationhood;
- (o) matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

Note: The text of a Convention or Covenant could in 2022 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

1062C Executive power of the Commonwealth

This Chapter does not, by implication, limit the executive power of the Commonwealth.

1062D Inclusion of information in annual report

The Employment Secretary, when preparing the Employment Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include the following information in that report:

- (a) the total of the amounts paid in that period under arrangements or grants referred to in section 1062A;
- (b) the total number of arrangements and grants referred to in section 1062A that were made in that period.

3 Section 1062

Renumber as section 1062E.

Social Security (Administration) Act 1999

4 Section 242

Before "Payments", insert "(1)".

5 At the end of section 242

Add:

- (2) However, subsection (1) does not apply to a payment of an amount under an arrangement or grant referred to in section 1062A of the 1991 Act.

Note: Such a payment is to be made out of money appropriated by the Parliament by another Act, which will usually be an Annual Appropriation Act.

Schedule 3—Compliance with participation payment obligations

Social Security (Administration) Act 1999

1 Section 42AA

Omit “will usually” (wherever occurring), substitute “may”.

2 Section 42AA

Omit “In addition, a participation payment must be cancelled”, substitute “In addition, a participation payment may be cancelled”.

3 Section 42AA

Omit “no participation payments are payable to the person”, substitute “participation payments may not be payable to the person”.

4 Section 42AA

Omit “Also, the person’s participation payment must be”, substitute “Also, the person’s participation payment may be”.

5 Subsection 42AF(1)

Omit “must”, substitute “may”.

6 Subsection 42AF(2)

Omit “must, in accordance with that instrument,”, substitute “may”.

7 Subsections 42AF(3A) and (3B)

Repeal the subsections.

8 Subsections 42AG(1) to (3)

Repeal the subsections, substitute:

- (1) If a person commits a work refusal failure, the Secretary may:
 - (a) determine that the person’s participation payment is not payable to the person for a period (see section 42AL); or

- (b) determine that the person's participation payment is cancelled (see section 42AP) if the person does not satisfy the Secretary that the person has a reasonable excuse for the work refusal failure (see section 42AI).

9 Subsection 42AG(4)

Omit "subsections (1) and (2)", substitute "subsection (1)".

10 Subsections 42AH(1) and (2)

Omit "must", substitute "may".

11 Paragraphs 42AI(1)(b) and (3)(b)

Omit "subsection 42AG(2)", substitute "paragraph 42AG(1)(b)".

12 Paragraph 42AR(1)(b)

Repeal the paragraph.

13 Subsection 42AR(1A)

Repeal the subsection.

14 Application, saving and transitional provisions

- (1) The amendment of subsection 42AF(1) of the *Social Security (Administration) Act 1999* made by this Schedule applies in relation to a mutual obligation failure committed on or after the commencement of this item.
- (2) The amendment of subsection 42AF(2) of the *Social Security (Administration) Act 1999* made by this Schedule applies where the matters referred to in paragraphs 42AF(2)(a) and (b) of that Act exist on or after the commencement of this item.
- (3) Subsections 42AF(3A) and (3B) and 42AR(1A) of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a failure committed before that commencement.
- (4) The amendments of section 42AG of the *Social Security (Administration) Act 1999* made by this Schedule apply in relation to a

work refusal failure committed on or after the commencement of this item.

- (5) The amendments of section 42AH of the *Social Security (Administration) Act 1999* made by this Schedule apply in relation to an unemployment failure committed on or after the commencement of this item.
- (6) An instrument in force immediately before the commencement of this item under section 42AI of the *Social Security (Administration) Act 1999*, to the extent it determines matters for the purposes of subsection 42AG(2) of that Act, continues in force on and after that commencement as if those matters were determined for the purposes of paragraph 42AG(1)(b) of that Act, as substituted by this Schedule.

Schedule 4—Amounts not counted as income

Social Security Act 1991

1 At the end of subsection 8(8)

Add:

- ; (zv) a payment made by the Commonwealth to an individual under a program that is established by the Commonwealth and is determined in an instrument under subsection (8AC) to be an employment program;
- (zw) a payment made by a State or Territory to an individual under a program that is established by the State or Territory and is determined in an instrument under subsection (8AC) to be an employment program.

2 After subsection 8(8AB)

Insert:

- (8AC) The Employment Secretary may, by notifiable instrument, determine programs to be employment programs for the purposes of paragraph (8)(zv) or (zw).

3 Application provision

The amendment of subsection 8(8) of the *Social Security Act 1991* made by this Schedule applies in relation to payments made on or after the commencement of this item.

Schedule 5—Approved programs of work for income support payment

Social Security Act 1991

1 Subsection 28(1)

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

2 Application provision

The amendment made by this Schedule applies in relation to declarations made on or after the commencement of this item.

Schedule 6—Activities that do not give rise to employment under certain industrial relations legislation

Social Security Act 1991

1 At the end of Part 1.4

Add:

40 Activities that do not give rise to employment under certain industrial relations legislation

- (1) If a person:
 - (a) participates in an approved program of work for income support payment or in an employment program; or
 - (b) undertakes an activity (other than paid work) in accordance with a requirement, or an optional term, of an employment pathway plan;the person is not to be taken to be one of the following merely because of that participation or of the undertaking of that activity:
 - (c) a worker carrying out work in any capacity for the Commonwealth, or an employee of the Commonwealth, for the purposes of the *Work Health and Safety Act 2011*;
 - (d) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*;
 - (e) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*;
 - (f) an employee for the purposes of the *Fair Work Act 2009*.
- (2) For the purposes of this section, an **employment program** is a program that is established by the Commonwealth and is determined in an instrument under subsection (3) to be an employment program.
- (3) The Employment Secretary may, by notifiable instrument, determine programs to be employment programs for the purposes of subsection (2).

2 Subdivision GA of Division 1 of Part 2.12

Repeal the Subdivision.

3 Subdivision E of Division 1 of Part 2.15

Repeal the Subdivision.

4 Application and saving provisions

- (1) Section 40 of the *Social Security Act 1991*, as added by this Schedule, applies in relation to the participation in a program, or the undertaking of an activity, that occurs on or after the commencement of this item.
- (2) Subsection 501D(4) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the participation in a program, or the undertaking of an activity, that occurs before that commencement.
- (3) Subsection 544B(8) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the participation in a program, or the undertaking of an activity, that occurs before that commencement.
- (4) Subdivision GA of Division 1 of Part 2.12 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the participation in a program, or the undertaking of an activity, that occurs before that commencement.
- (5) Subdivision E of Division 1 of Part 2.15 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the participation in a program, or the undertaking of an activity, that occurs before that commencement.

Schedule 7—Youth allowance ordinary income free area

Social Security Act 1991

1 Paragraph 1067G-H29(a)

After “payable”, insert “, other than in compliance with a requirement contained in an employment pathway plan that is in force in relation to the person”.

2 Paragraph 1067G-H32(a)

After “payable”, insert “, other than in compliance with a requirement contained in an employment pathway plan that is in force in relation to the person”.

3 Paragraph 1067G-H33(a)

After “payable”, insert “, other than in compliance with a requirement contained in an employment pathway plan that is in force in relation to the person”.

4 Application provision

The amendments made by this Schedule apply in relation to working out the rate of youth allowance for days occurring on or after the commencement of this item.

Schedule 9—Repeals of spent provisions

Social Security Act 1991

1 Subsection 23(1)

Repeal the following definitions:

- (a) definition of *approved training course for training supplement*;
- (b) definition of *green army allowance*;
- (c) definition of *Green Army Programme*;
- (d) definition of *National Green Jobs Corps program*;
- (e) definition of *National Green Jobs Corps supplement*;
- (f) definition of *training supplement*.

2 Paragraphs 23(4AA)(aa) and (ab)

Repeal the paragraphs.

3 Section 28B

Repeal the section.

4 Part 1.3A

Repeal the Part.

5 Subsection 503AA(1)

Omit “(1)”.

6 Subsection 503AA(2)

Repeal the subsection.

7 Sections 503B and 503C

Repeal the sections.

8 Section 556B

Repeal the section.

9 Sections 644AAB to 645

Repeal the sections.

10 Subsection 1049(2A)

Repeal the subsection.

11 Subparagraph 1223(7)(b)(iii)

Repeal the subparagraph.

12 Subparagraph 1223(7)(b)(iv)

Omit “or” (last occurring).

13 Subparagraph 1223(7)(b)(v)

Repeal the subparagraph.

14 Paragraph 1223(7)(e)

Repeal the paragraph.

15 Paragraph 1223(7)(f)

Omit “supplement;”, substitute “supplement.”.

16 Paragraph 1223(7)(g)

Repeal the paragraph.

17 Paragraph 1223(7A)(c)

Repeal the paragraph, substitute:

- (c) when the amount was calculated, the rate of the person’s parenting payment was increased by an amount (a *supplement amount*) of approved program of work supplement; and

Social Security (Administration) Act 1999

18 Subsection 118(2)

Omit “(2C).”.

19 Subsection 118(2C)

Repeal the subsection.

*[Minister's second reading speech made in—
House of Representatives on 27 May 2021
Senate on 30 March 2022]*

(57/21)
