



Social Security (Assurances of Support) Determination 2018

I, Dan Tehan, Minister for Social Services, make the following determination.

Dated 26 March 2018

Dan Tehan
Minister for Social Services

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Part 1 — Preliminary

1 Name

This instrument is the *Social Security (Assurances of Support) Determination 2018*.

2 Commencement

- (1) Each provision of this instrument 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 accordingly.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Parts 1 to 6	1 April 2018	
2. Part 7	1 April 2019	
3. Part 8	1 April 2018	
4. Schedules 1 and 2	1 April 2018	

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under section 1061ZZGH of the *Social Security Act 1991*.

4 Schedules — Revocation of previous Determinations

- (1) Schedule 1 — revokes the *Social Security (Assurances of Support) (FaHCSIA) Determination 2007*.
- (2) Schedule 2 — revokes the *Social Security (Assurances of Support) (DEEWR) Determination 2008*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Australian resident;
- (b) partner.

- (1) In this instrument:

Act means the *Social Security Act 1991*.

adjusted fringe benefits total has the meaning given by clause 4 of Schedule 3 to the Family Assistance Act.

adult means a person who is 18 years of age or more.

approved proposing organisation has the meaning given by clause 202.111 of Schedule 2 to the *Migration Regulations 1994*.

assessable income of an individual for a financial year means the total of:

- (a) the individual's taxable income for the income year; and
- (b) the individual's target foreign income for the financial year; and
- (c) the total amount of any tax free pension or benefit paid or payable to the individual for the financial year; and
- (d) the individual's adjusted fringe benefits total for the financial year; and
- (e) any tax free salary paid for service that occurred during the financial year while the individual was on overseas deployment as a member of the Australian Defence Force or Australian Federal Police for the financial year.

assurance of support has the meaning given by section 1061ZZGA of the Act.

body means:

- (a) a person (other than an individual); or
- (b) a group of individuals or other persons.

Note 1: Expressions used to denote persons generally (such as "person") include a body politic or corporate as well as an individual — see section 2C of the *Acts Interpretation Act 1901*.

Note 2: **Individual** means a natural person — see section 2B of the *Acts Interpretation Act 1901*.

Example: Paragraph (b) — an unincorporated association.

child means a person who is under 18 years of age.

Community Support Programme entrant means an adult applicant for a Global Special Humanitarian Visa (subclass 202) if the visa application includes a proposal by an approved proposing organisation.

current financial year, for a person who gives an assurance of support, means the financial year in which the assurance of support is given by the person.

Family Assistance Act means *A New Tax System (Family Assistance) Act 1999*.

first financial year, for a person who gives an assurance of support, means the financial year ending immediately before the current financial year.

newstart income cut-off amount means the amount of ordinary income of a person beyond which the rate of newstart allowance would be reduced to nil.

notice of assessment means a notice of assessment issued under the *Income Tax Assessment Act 1936*.

primary criteria, for a visa of a particular class or subclass, means the primary criteria set out in the relevant Part of Schedule 1 or 2 to the *Migration Regulations 1994* applicable to that class of visa.

rate of newstart allowance means the amount of newstart allowance payable as calculated by reference to the maximum basic rate in column 3A of item 4A in Table B in section 1068-B1 of the Act as indexed at 1 July in each financial year.

secondary criteria, for a visa of a particular class or subclass, means the secondary criteria (if any) set out in the relevant Part of Schedule 1 or 2 to the *Migration Regulations 1994*.

second financial year, for a person who gives an assurance of support, means the financial year ending immediately before the first financial year.

single assurer means an assurer who gives an assurance of support other than jointly with another person or persons.

Note: If enabling legislation confers on a person the power to make a legislative instrument then expressions used in any instrument so made have the same meaning as in the enabling legislation as in force from time to time – see paragraph 13(1)(b) of the *Legislation Act 2003*. “Assurer” is used in the enabling legislation – for example, see sections 1061ZZGE, 1061ZZGG and 1061ZZGH of the *Social Security Act 1991*.

State includes the Australian Capital Territory and the Northern Territory.

State agency means any of the following:

- (a) the Crown in right of a State;
- (b) a Minister of a State;
- (c) a State Government Department;
- (d) an instrumentality of a State, including a corporation established for a public purpose by or under a law of a State.

target foreign income has the meaning given by subclause 5(1) of Schedule 3 to the Family Assistance Act.

taxable income has the meaning given by section 4-15 of the *Income Tax Assessment Act 1997*.

tax free pension or benefit means a payment mentioned in clause 7 of Schedule 3 to the Family Assistance Act.

visa entrant means an adult applicant for a visa other than a Community Support Programme entrant.

- (2) A reference in this instrument to a visa of a particular class is a reference to the visa of that class mentioned in Schedule 1 to the *Migration Regulations 1994*.
- (3) A reference in this instrument to a visa of a particular subclass is a reference to the visa of that subclass mentioned in Schedule 2 to the *Migration Regulations 1994*.

Part 2—Social security payments

6 Social security payments

- (1) For the purposes of paragraph (b) of the definition of *assurance of support* in section 1061ZZGA and paragraph 1061ZZGG(1)(c) of the Act, the social security payments in the following table are specified.

Item	Social security payment
1	Widow allowance under Part 2.8A of the Act
2	Parenting payment under Part 2.10 of the Act
3	Youth allowance under Part 2.11 of the Act
4	Austudy payment under Part 2.11A of the Act
5	Newstart allowance under Part 2.12 of the Act
6	Mature age allowance under Part 2.12A or 2.12B of the Act
7	Sickness allowance under Part 2.14 of the Act
8	Special benefit under Part 2.15 of the Act
9	Partner allowance under Part 2.15A of the Act

- (2) A social security payment mentioned in the following table is specified if the payment is made because a payment specified under subsection (1) is made.

Item	Supplementary social security payment
1	Approved program of work supplement under Part 2.10, 2.11 or 2.12 of the Act
2	Education entry payment under Part 2.13A of the Act
3	Language, literacy and numeracy supplement under Part 2.21A of the Act
4	Crisis payment under Part 2.23A of the Act
5	Pensioner education supplement under Part 2.24A of the Act
6	Telephone allowance under Part 2.25 of the Act
7	Utilities allowance under Part 2.25A of the Act
8	Fares allowance under Part 2.26 of the Act

Part 3—Requirements for persons to give assurances of support for visa entrants

7 Application of this Part

This Part is made for the purposes of section 1061ZZGB of the Act in relation to persons who give assurances of support for visa entrants.

Note: See Part 4 for requirements that must be met by a person in order to be permitted to give an assurance of support for Community Support Programme entrants.

8 Requirements for individuals

- (1) This section specifies the requirements that must be met by an individual in order to be permitted to give an assurance of support for a visa entrant.
 - (2) The individual must be:
 - (a) an adult; and
 - (b) an Australian resident; and
 - (c) in Australia.
 - (3) The individual may not give an assurance of support for a visa entrant if:
 - (a) the individual has previously given an assurance for 2 visa entrants (whether in a single assurance or 2 separate assurances) and each assurance remains in force; or
 - (b) the individual:
 - (i) has previously given an assurance of support for 1 visa entrant and that assurance remains in force; and
 - (ii) has previously given an assurance of support for 1 visa entrant for whom the Secretary has not yet accepted or rejected the assurance; or
 - (c) the individual has previously given an assurance for 2 visa entrants (whether in a single assurance or 2 separate assurances) and the Secretary has not yet accepted or rejected either or both of those assurances.
- Note: There are no restrictions on the number of children for whom an individual may give an assurance of support.
- (4) The individual may not give an assurance jointly with another individual or other individuals, for a visa entrant (the *assured*), if acceptance of the assurance would result in assurances from more than 3 individuals being in force for the assured.
 - (5) The individual may not give an assurance of support for the visa entrant if the individual has an outstanding debt due to the Commonwealth.

9 Requirements for bodies

- (1) This section specifies the requirements that must be met by a body in order to be permitted to give an assurance of support for a visa entrant.
- (2) A body is not permitted to give an assurance of support for a visa entrant unless it is:

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- (a) a State agency;
 - (b) an unincorporated association; or
 - (c) a body corporate.
- (3) A body other than a State agency must meet the following requirements:
- (a) the body has been operating for at least two years; and
 - (i) if the body is an unincorporated association — have an address in Australia, operate in Australia, and intend to maintain an address and operate in Australia while any assurance of support given by the body remains in force; or
 - (ii) if the body is a body corporate — be incorporated in Australia (within the meaning of the Corporations Act 2001) and intend to remain incorporated in Australia while any assurance of support given by the body remains in force.
- (4) The body may not give an assurance of support for a visa entrant if:
- (a) the body has previously given an assurance for 2 visa entrants (whether in a single assurance or 2 separate assurances) and each assurance remains in force; or
 - (b) the body:
 - (i) has previously given an assurance of support for 1 visa entrant and that assurance remains in force; and
 - (ii) has previously given an assurance of support for 1 visa entrant for whom the Secretary has not yet accepted or rejected the assurance; or
 - (c) the body has previously given an assurance for 2 visa entrants (whether in a single assurance or 2 separate assurances) and the Secretary has not yet accepted or rejected either or both of those assurances.
- Note: There are no restrictions on the number of children for whom a body may give an assurance of support.
- (5) The body must not give an assurance of support jointly with another body or individual.

Part 4—Requirements for persons to give assurances of support for Community Support Programme entrants

10 Application of this Part

This Part is made for the purposes of section 1061ZZGB of the Act in relation to persons who give assurances of support for Community Support Programme entrants.

Note: See Part 3 for requirements that must be met by a person in order to be permitted to give an assurance of support for visa entrants.

11 Requirements for individuals

- (1) This section specifies the requirements that must be met by an individual in order to be permitted to give an assurance of support for a Community Support Programme entrant.
- (2) The individual must be:
 - (a) an adult;
 - (b) an Australian resident; and
 - (c) in Australia.
- (3) The individual may not give an assurance of support for a Community Support Programme entrant if:
 - (a) the individual has previously given an assurance for 2 Community Support Programme entrants (whether in a single assurance or 2 separate assurances) and each assurance remains in force; or
 - (b) the individual:
 - (i) has previously given an assurance of support for 1 Community Support Programme entrant and that assurance remains in force; and
 - (ii) has previously given an assurance of support for 1 Community Support Programme entrant for whom the Secretary has not yet accepted or rejected the assurance; or
 - (c) the individual has previously given an assurance for 2 Community Support Programme entrants (whether in a single assurance or 2 separate assurances) and the Secretary has not yet accepted or rejected either or both of those assurances.

Note: There are no restrictions on the number of children for whom an individual may give an assurance of support.
- (4) The individual may not give an assurance jointly with another individual or other individuals, for a Community Support Programme entrant (the *assured*), if acceptance of the assurance would result in assurances from more than 3 individuals being in force for the assured.
- (5) The individual may not give an assurance of support if the individual has an outstanding debt due to the Commonwealth.

12 Requirements for bodies

- (1) This section specifies the requirements that must be met by a body, other than a State agency, in order to be permitted to give an assurance of support for a Community Support Programme entrant.
- (2) A body is not permitted to give an assurance of support for a Community Support Programme entrant unless it is:
 - (a) an unincorporated association; or
 - (b) a body corporate.
- (3) The body must meet the following requirements:
 - (a) the body has been operating for at least two years; and
 - (i) if the body is an unincorporated association — have an address in Australia, operate in Australia, and intend to maintain an address and operate in Australia while any assurance of support given by the body remains in force; or
 - (ii) if the body is a body corporate — be incorporated in Australia (within the meaning of the Corporations Act 2001) and intend to remain incorporated in Australia while any assurance of support given by the body remains in force.
- (4) The body may not give an assurance of support for a Community Support Programme entrant if:
 - (a) the body has previously given an assurance for 2 Community Support Programme entrants (whether in a single assurance or 2 separate assurances) and each assurance remains in force; or
 - (b) the body:
 - (i) has previously given an assurance of support for 1 Community Support Programme entrant and that assurance remains in force; and
 - (ii) has previously given an assurance of support for 1 Community Support Programme entrant for whom the Secretary has not yet accepted or rejected the assurance; or
 - (c) the body has given an assurance of support for 2 Community Support Programme entrants (whether in a single assurance or 2 separate assurances) and the Secretary has not yet accepted or rejected either or both of those assurances.

Note: There are no restrictions on the number of children for whom a body may give an assurance of support.
- (5) The body must not give an assurance of support jointly with another body or individual.

Part 5—Requirements for Secretary to accept assurance of support

13 Application of this Part

For the purposes of paragraph 1061ZZGD(2)(a) of the Act, this Part specifies the requirements to be met, in relation to a person giving assurances of support, for the Secretary to be permitted to accept such assurances.

14 Income requirement for an individual

- (1) An individual who gives an assurance of support must meet the income requirement specified in section 15 (in respect of a single assurer) or section 16 (in respect of a joint individual assurer).
- (2) Subject to subsection (5), the income requirement is about providing evidence acceptable to the Secretary about the individual's assessable income for:
 - (a) the current financial year; and
 - (b) the first financial year; and
 - (c) the second financial year.
- (3) For the current financial year, the individual must provide evidence about his or her assessable income for the part of the financial year up to the date on which the assurance is given, which may include the following:
 - (a) a document showing the individual's gross income and period of service or employment, such as a payslip, group certificate, letter from the person's employer, or contract for service or employment;
 - (b) a financial statement or other business record showing the individual's gross and net business income for a specified period;
 - (c) documents showing payments of the kind mentioned in paragraphs (b) to (e) of the definition of *assessable income* in subsection 5(1) that have been paid to the individual in the current financial year.
- (4) For each of the first and second financial years, the individual must provide the following evidence:
 - (a) a notice of assessment issued in relation to the individual and the year;
 - (b) if the notice of assessment does not disclose sufficient income to satisfy the income requirement in subsection 15(2) or subsection 16(2) — documents showing payments of the kind mentioned in paragraphs (b) to (e) of the definition of *assessable income* in subsection 5(1) that have been paid to the individual in that financial year.
- (5) If an individual's assessable income for a financial year exceeds the amount required by subsection 15(2) or 16(2) (the *relevant amount*), he or she need only provide evidence of the relevant amount of that income.

15 Income requirement for single individual assurer

- (1) This section applies to an individual who gives an assurance of support as a single assurer.
- (2) The individual meets the income requirement for a financial year if the amount of the individual's assessable income for the year is at least the total of:
 - (a) the newstart income cut-off amount multiplied by the total of:
 - (i) one (representing the individual giving the assurance of support); and
 - (ii) the total number of adults receiving assurance under the assurance of support given by the person; and
 - (iii) if the individual giving assurance under the assurance of support has a partner – one; and
 - (b) 10% of the newstart income cut-off amount multiplied by:
 - (i) the number of children of the individual giving assurance under the assurance of support; and
 - (ii) the number of children of any adults receiving assurance under the assurance of support.

Example The newstart income cut-off amount is indexed, with that indexation taking effect for the purposes of calculating the individual's assessable income on and from 1 July each year. This means that if a partnered individual with one child applies on 30 April 2018 to give an assurance of support for a migrating family of two parents and two children, the minimum required income amount of the individual is the total of:

- (a) \$115 476 (the newstart income cut-off amount of \$28 869 multiplied by the total number of individuals giving assurance, persons receiving an assurance, and the partner of the individual giving assurance (4)); and
- (b) \$8 661 (10% of the newstart income cut-off amount of \$28 869 multiplied by the total number of children of both the individual giving assurance, and the persons receiving assurance (3)).

16 Income requirement for joint individual assurers

- (1) This section applies to an individual who gives an assurance of support jointly with another individual or other individuals.

Note: **Individual** means a natural person – see section 2B of the *Acts Interpretation Act 1901*.
- (2) The individual assurer meets the income requirement for a financial year if the combined amount of assessable income of the assurers for the year is at least the total of the following amounts:
 - (a) the newstart income cut-off amount multiplied by the total of:
 - (i) the total number of individuals giving assurance under the assurance of support; and
 - (ii) the total number of adults receiving assurance under an assurance of support given by the individual; and
 - (iii) the total number of partners of the individuals that are jointly giving assurance under the assurance of support; and
 - (b) 10% of the newstart income cut-off amount multiplied by:

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- (i) the number of children of the individuals giving assurance under the assurance of support; and
 - (ii) the number of children of any adults receiving assurance under the assurance of support.

Example The newstart income cut-off amount is indexed, with that indexation taking effect for the purposes of calculating the combined assessable income of joint assurers on and from 1 July each year. If, on 30 April 2018, two joint assurers (who each have a partner and two children) give an assurance of support for a migrating family of two parents and three children, the combined minimum required income amount of both assurers is the total of:

- (a) \$173 214 (the newstart income cut-off amount of \$28 869 multiplied by the total number individuals giving assurance, persons receiving an assurance, and the partners of the individuals giving assurance (6)); and
- (b) \$20 208 (10% of the newstart income cut-off amount of \$28 869 multiplied by the total number of children of both the individuals giving the assurance, and the persons receiving assurance (7)).

17 Requirements for bodies

- (1) An assurance of support that is given by a body must be given on behalf of the body by a person who is properly authorised to give the assurance.
- (2) A body other than a State agency may only give an assurance of support if the Secretary is satisfied that the body has the capacity to support the adults receiving assurance under the assurance of support.

Part 6—Value of securities before 1 April 2019

18 Values of securities required for Secretary’s acceptance of assurances

For the purposes of paragraph 1061ZZGD(3)(b) of the Act, this Part specifies the values of securities to be given for the Secretary to be permitted to accept assurances of support, being assurances of support given before 1 April 2019.

19 Value of security for an individual

- (1) This section specifies the value of a security to be given by an individual.
- (2) The following values of securities are specified for an assurance of support given before 1 April 2019:
 - (a) for an assurance of support for an application for a Contributory Parent (Migrant) (Class CA) visa or a Contributory Aged Parent (Residence) (Class DG) visa, for a person identified in the assurance seeking to satisfy the primary criteria for the grant of the visa — \$10 000;
 - (b) for an assurance of support for an application for a visa of the kind mentioned in paragraph (a), for a person identified in the assurance seeking to satisfy the secondary criteria for the grant of the visa — \$4 000;
 - (c) for an assurance of support for an application for a visa other than the kind mentioned in paragraphs (a) or (b), for a person identified in the assurance seeking to satisfy the primary criteria for the grant of the visa — \$5 000;
 - (d) for an assurance of support for an application for a visa other than the kind mentioned in paragraphs (a) or (b), for a person identified in the assurance who is seeking to satisfy the secondary criteria for the grant of the visa — \$2 000.

20 Value of security for a body

- (1) The following values of securities are specified for an assurance of support given by a body (other than a State agency) before 1 April 2019:
 - (a) if the assurance is for 2 years — \$10 000;
 - (b) if the assurance is for 10 years — \$20 000.
- (2) The value of securities specified for an assurance of support given by a State agency before 1 April 2019 is in all instances nil.

Part 7—Value of securities on or after 1 April 2019

21 Values of securities required for Secretary’s acceptance of assurances

For the purposes of paragraph 1061ZZGD(3)(b) of the Act, this Part specifies the values of securities to be given for the Secretary to be permitted to accept assurances of support, being assurances of support given on or after 1 April 2019.

22 Value of security for an individual

- (1) This section specifies the value of a security to be given by an individual.
- (2) The following values of securities are specified for an assurance of support given on or after 1 April 2019:
 - (a) for an assurance of support for an application for a Contributory Parent (Migrant) (Class CA) visa or a Contributory Aged Parent (Residence) (Class DG) visa, for a person identified in the assurance seeking to satisfy the primary criteria for the grant of the visa — \$15 000;
 - (b) for an assurance of support for an application for a visa of the kind mentioned in paragraph (a), for a person identified in the assurance seeking to satisfy the secondary criteria for the grant of the visa — \$6 000;
 - (c) for an assurance of support for an application for a visa other than the kind mentioned in paragraphs (a) or (b), for a person identified in the assurance seeking to satisfy the primary criteria for the grant of the visa — \$7 500;
 - (d) for an assurance of support for an application for a visa other than the kind mentioned in paragraphs (a) or (b), for a person identified in the assurance who is seeking to satisfy the secondary criteria for the grant of the visa — \$3 000.

23 Value of security for a body

- (1) The following values of securities are specified for an assurance of support given by a body (other than a State agency) on or after 1 April 2019:
 - (a) if the assurance is for 2 years — \$15 000; or
 - (b) if the assurance is for 10 years — \$30 000.
- (2) The value of securities specified for an assurance of support given by a State agency on or after 1 April 2019 is in all instances nil.

Part 8 — When accepted assurances remain in force

24 Periods for which assurances of support remain in force

For subparagraph 1061ZZGF(1)(b)(i) of the Act, the following periods are specified:

- (a) for an assurance of support for a Contributory Parent (Migrant) (Class CA) visa or a Contributory Aged Parent (Residence) (Class DG) visa — 10 years;
- (b) for an assurance of support for a Community Support Programme entrant — 12 months;
- (c) in any other case — 2 years.

25 Circumstances in which assurances of support cease to be in force

For subparagraph 1061ZZGF(1)(b)(iii) of the Act, the following circumstances are specified:

- (a) after arrival in Australia, a person identified in an assurance of support, other than a Community Support Programme entrant, is granted refugee status by the Australian Government;
- (b) the visa of a person identified in an assurance of support is cancelled;
- (c) a person is the only person identified in an assurance of support and the person dies;
- (d) the following special circumstances that, in the opinion of the Secretary, justify cancellation of an assurance of support:
 - (i) an accident, disability, illness or other circumstance that has critically affected the assurer's ability to provide adequate support;
 - (ii) the incapacity of a person identified in an assurance of support to travel to Australia before the expiration of a visa.

Note: Financial hardship on the part of an assurer is not, of itself, a special circumstance.

Example 1: A person has provided a 10 year assurance for their mother to come to Australia from China. Shortly after the mother's visa was granted she was diagnosed with a terminal illness and advised by her medical practitioner that travel outside China would be impossible for the foreseeable future. The mother has requested that the assurance of support be cancelled and the \$10 000 security refunded.

Cancellation is likely to be granted in this case.

Example 2: A person (the *assurer*) with an income of approximately \$90 000 has provided a 2 year assurance for his mother-in-law. One year after the assuree's arrival in Australia, the assurer bought a more expensive home with a higher mortgage repayment. Also, his wife has had a baby and he has ceased paid employment. He is no longer in a position to provide any financial support for the assuree, who has approached Centrelink for assistance. The assurer has requested that the assurance of support be cancelled in view of his increased financial and family commitments.

Cancellation is unlikely to be granted in this case. It is the assurer's responsibility to manage his financial affairs and meet any social security debts incurred by the assuree.

Schedule 1 — Revocation of the *Social Security (Assurances of Support) (FaHCSIA) Determination 2007*

The *Social Security (Assurances of Support) (FaHCSIA) Determination 2007* is revoked.

Schedule 2 — Revocation of the Social Security (Assurances of Support) (DEEWR) Determination 2008

The *Social Security (Assurances of Support) (DEEWR) Determination 2008* is revoked.