

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Families and Social Services

Coronavirus Economic Response Package Omnibus Act 2020

*Social Security (Coronavirus Economic Response – 2020 Measures No. 1)
Determination 2020*

Background

The *Coronavirus Economic Response Package Omnibus Act 2020* (the Act) amended the *Social Security Act 1991* (Social Security Act) to provide additional financial assistance to Australians financially impacted by the Coronavirus. Australians can claim jobseeker payment or Youth Allowance if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument made under the Social Security Act. If qualified, a person receives the current rate of jobseeker payment or Youth Allowance and, from 27 April 2020, a fortnightly supplement of \$550 or such other amount determined by a legislative instrument under the Social Security Act.

The supplement is also available to existing recipients of jobseeker payment, Youth Allowance, Parenting Payment, Special Benefit, and the Farm Household Allowance. The Minister for Families and Social Services may extend the supplement to other social security payments by legislative instrument.

The supplement is payable from 27 April 2020. The Minister for Families and Social Services may extend the period the supplement is payable and extend the supplement to other social security payments.

Recipients of jobseeker payment or Youth Allowance and Parenting Payment are also exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion periods. The exemption from the newly arrived resident's waiting period also applies to special benefit.

Item 40A of Schedule 11 to the Act allows the Minister to make a determination modifying the operation of the social security law relating to the qualification for, or the rate of, a social security payment. The Minister must be satisfied that the determination is in response to circumstances relating to the Coronavirus known as COVID-19. Such a determination is a legislative instrument subject to disallowance.

This determination is made in response to circumstances relating to the Coronavirus known as COVID-19.

This determination has no operation after 31 December 2020.

Purpose

The Social Security (Coronavirus Economic Response—2020 Measures No. 1) Determination 2020 (this Determination) modifies the Social Security Act in relation to Youth Allowance to place persons receiving Youth Allowance who are undertaking full-time study, or new apprentices, in the same position as other Youth Allowance recipients.

This means that those persons will also be eligible for the additional Coronavirus financial assistance that the Act makes available to other Youth Allowance recipients.

This determination modifies the Social Security Act in relation to the qualification requirements for parenting payment. This ensures that claimants for parenting payment are able to qualify for the payment where they do not meet the qualifying residence period requirements.

This determination modifies the Social Security Act to in relation to Austudy. This ensures that claimants for Austudy are able to qualify for payment where they do not meet the assets test or where the liquid assets waiting period, the newly arrived resident's waiting period or the seasonal workers preclusion period would otherwise apply.

This determination also modifies the *Social Security (Administration) Act 1999* (Administration Act) to enable people who tried to make contact with Services Australia during the period 23 March 2020 to 29 March 2020, or who made contact during this period but did not complete their claim, to be taken to have lodged a claim on 23 March 2020 or the date of eligibility, if later, provided they complete a claim by 19 April 2020.

Commencement

This Determination commences at the same time as Schedule 11 to the Act commences, which is 25 March 2020.

Consultation

Due to the need to take urgent action to provide additional social security support to Australians affected by the unforeseen Coronavirus pandemic, no specific consultation was undertaken on this instrument.

Regulation Impact Statement (RIS)

An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Explanation of the provisions

Item 1 – Name

Item 1 names the instrument the Social Security (Coronavirus Economic Response – 2020 Measures No. 1) Determination 2020.

Item 2 – Commencement

Item 2 sets the commencement of this Determination as the same time as Schedule 11 to the Act commences. That will be 25 March 2020.

Item 3 – Authority

Item 3 provides that this Determination is made under item 40A of Schedule 11 to the Act.

Item 4 – Modifications

Item 4 provides that the modifications of the Social Security Act in Schedule 1 are made under item 40A of Schedule 11 to the Act.

Schedule 1 – Modifications to the Social Security Act

Item 1 – Variation of section 500 of the Social Security Act

Section 500 of the Social Security Act provides for qualification requirements for parenting payment.

Item 1 modifies section 500 so that a claimant for parenting payment does not need to meet any of the conditions in paragraph 500(1)(d) (generally, residence requirements) during the six month period referred to in section 504(2) of the Social Security Act (which may be extended under section 504(3) of the Social Security Act).

Item 2 – Section 540BA of the Social Security Act

Section 540BA of the Social Security Act contains a new Youth Allowance qualification provision. One element of the qualification is that the person is not undertaking full-time study and is not a new apprentice (see new paragraph 540BA(1)(b)).

Item 2 removes that part of the qualification so that a person can be qualified for Youth Allowance under Section 540BA of the Social Security Act in respect of a period, even if the person is studying full-time or is a new apprentice.

Item 3 – Variation of section 547B of the Social Security Act

Subsection 547B(2) of the Social Security Act provides that a person who is not a full-time student or a new apprentice and qualifies for Youth Allowance under section 540BA is excluded from the Youth Allowance assets test during the period covered by subsection 557(2) of the Social Security Act.

Item 3 modifies subsection 547B(2) so that *all persons* are excluded from the application of the Youth Allowance assets test during the period covered by subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 4 – Variation of section 549A of the Social Security Act

Subsection 549A(8) to the Social Security Act is an additional exception to the application of the liquid assets test waiting period. Under new subsection 549A(8), the general liquid assets test waiting period does not apply to a person who is not a full-time student or a new apprentice during the period covered by subsection 557(2).

Item 4 modifies subsection 549A(8) so that the general liquid assets test waiting period does not apply to *any person* during the period covered by subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 5 – Variation of section 549D of the Social Security Act

Item 5 modifies subsection 549D(6A) of the Social Security Act so that the newly arrived resident's waiting period under subsection 549D(1) does not apply to a person during the period covered by subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 6 – Variation of section 553C of the Social Security Act

Item 6 modifies subsection 553C(7) of the Social Security Act so that the seasonal worker preclusion period under subsection 553C(2) does not apply to a person during the period covered by new subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 7 – Variation of section 557 of the Social Security Act

Item 7 modifies subsection 557(1) of the Social Security Act so that the rate of Youth Allowance *for any recipient* is increased by the amount of the COVID-19 supplement.

Item 8 – Variation of section 573 of the Social Security Act

Item 8 modifies subsection 573 of the Social Security Act so that the assets test for Austudy claimants in subsection 573(1) does not apply to a person during the period covered by new subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 9 – Variation of section 575A of the Social Security Act

Item 9 modifies subsection 575A of the Social Security Act so that the liquid assets waiting period for Austudy claimants in subsection 575A(1) does not apply to a person during the period covered by new subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 10 – Variation of section 575D of the Social Security Act

Item 10 modifies subsection 575D of the Social Security Act so that the newly arrived resident's waiting period for Austudy claimants in subsection 575D(1) does not apply to a person during the period covered by new subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Item 11 – Variation of section 575EA of the Social Security Act

Item 11 modifies subsection 575EA of the Social Security Act so that the seasonal workers preclusion period for Austudy claimants in subsection 575EA(1) does not apply to a person during the period covered by new subsection 557(2).

Subsection 557(2) covers a period of six months beginning on the day on which section 557 commences (which is 25 March 2020) but this period may be extended under subsection 557(3).

Schedule 2 – Modifications to the Administration Act

Item 1 – Variation of section 13 of the Administration Act

Item 1 includes new subsection 13(3B) to address the situation in the week commencing 23 March 2020 where, because of very high demand, many people tried to contact Services Australia to lodge a claim for a social security payment but were unable to do so. In these circumstances, if the person makes contact with Services Australia by 29 March 2020 and if the claim is completed by 19 April 2020, the person will be taken to have made the claim on 23 March 2020, or, if they only become eligible for the payment on a later date, that later date.

Item 1 also includes a new subsection 13(3C) to address the situation where a person did contact Services Australia in the period from 23 March 2020 to 29 March 2020 but did not lodge a claim. In these circumstances if the claim is completed by 19 April 2020, the person will be taken to have made the claim on 23 March 2020, or, if they only become eligible for the payment on a later date, that later date.

These new subsections 13(3B) and 13(3C) ensure that a person is not disadvantaged because of the very high demands on Services Australia.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Coronavirus Economic Response Package Omnibus Act 2020 Social Security (Coronavirus Economic Response – 2020 Measures No. 1) Determination 2020

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Coronavirus Economic Response Package Omnibus Act 2020* (the Act) amended the *Social Security Act 1991* to provide additional financial assistance to Australians financially impacted by the Coronavirus. Australians can claim jobseeker payment or Youth Allowance if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument. If qualified, a person receives the current rate of jobseeker payment or Youth Allowance along with a fortnightly supplement of \$550 (from 27 April 2020) or such other amount determined by legislative instrument.

The supplement is also available to existing recipients of jobseeker payment, Youth Allowance (other), Parenting Payment, Special Benefit, and the Farm Household Allowance. The Minister for Families and Social Services may extend the supplement to other social security payments by legislative instrument.

Recipients of jobseeker payment or Youth Allowance (which includes new and existing recipients) and Parenting Payment are also exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion periods. The exemption from the newly arrived resident's waiting period also applies to special benefit.

Item 40A of Schedule 11 to the Act allows the Minister to make a determination modifying the operation of the social security law relating to qualification for, or the rate of, a social security payment. The Minister must be satisfied that the determination is in response to circumstances relating to the Coronavirus known as COVID-19. Such a determination is a legislative instrument and cannot operate after 31 December 2020.

This Determination modifies the Social Security Act in relation to Youth Allowance to place:

- persons receiving Youth Allowance who are undertaking full-time study; and
- persons who are new apprentices:

in the same position as other Youth Allowance recipients.

This Determination modifies the Social Security Act in relation to the qualification requirements for parenting payment. This ensures that existing or new claimants for parenting payment are able to qualify for the payment where they may not meet the qualifying residence period requirements.

This determination modifies the Social Security Act to in relation to Austudy. This ensures that claimants for Austudy are able to qualify for payment where they do not meet the assets test or where the liquid assets waiting period, the newly arrived resident's waiting period or the seasonal workers preclusion period would otherwise apply.

This determination also modifies the *Social Security (Administration) Act 1999* (Administration Act) to enable people who tried to make contact with Services Australia during the period 23 March 2020 to 29 March 2020, or who made contact during this period but did not complete their claim, to be taken to have lodged a claim on 23 March 2020 or the date of eligibility, if later, provided they complete a claim by 19 April 2020.

Human rights implications

This Determination engages the following human rights:

- the right of everyone to social security in article 9, and the right of everyone to an adequate standard of living for an individual and their family, including adequate food, clothing and housing, and the continuous improvement of living conditions in Article 11 of the International Covenant on Economic, Social and Cultural Rights; and
- the rights of the child in article 26 of the Convention on the Rights of the Child.

Articles 9 and 11 are promoted by expanding eligibility for social security payments to assist in achieving an adequate standard of living, in circumstances of a national health emergency. The pursuit of this objective also promotes human rights by supporting the Convention on the Rights of Persons with Disabilities.

This Determination promotes article 26 by enhancing the rights of the child to social security, as the payment is made to recipients with children. The payments are targeted at vulnerable groups who receive Government assistance and have a flow on effect for the children of recipients by increasing the support for families.

Conclusion

This Determination is compatible with human rights because it promotes the protection of human rights for vulnerable groups in society.

Minister for Families and Social Services, Senator the Hon Anne Ruston