

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. 3)
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, Austudy 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, Youth Allowance, Austudy 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. 3) Determination 2020 (this Determination) modifies the Social Security Act in respect of the rates of payment paid to some people who claim a social security payment between 23 March 2020 and 29 March 2020. It also applies to modify the Social Security Act in respect of the rates of payment paid to people who are taken to have made a claim for one of these payments under subsection 13(3B) or subsection 13(3C) of the *Social Security (Administration) Act 1999* (the Administration Act).

For people to whom this Determination applies, and who only qualified for a social security payment on 25 March 2020 as a result of the commencement of Schedule 11 of the Act on that day (or the *Social Security (Coronavirus Economic Response – 2020 Measures No.1) Determination 2020*, which commenced on the same day), this Determination will ensure that the first instalment of a person's payment will include an additional amount that represents two days' worth of their daily rate of payment.

New subsection 13(3B) and subsection 13(3C) of the Administration Act were inserted by the *Social Security (Coronavirus Economic Response—2020 Measures No. 1) Determination 2020* (the No.1 Determination) as a temporary modification to the Administration Act. The No.1 Determination modified the Administration Act to enable people who made contact with Services Australia during the period 23 March 2020 to 29 March 2020 but did not complete their claim, or who did lodge a claim in this period, to be taken to have lodged a claim on 23 March 2020 (or the date of qualification, if this is later), provided they complete and lodge a claim by 19 April 2020.

Subsection 13(3B) and subsection 13(3C) of the Administration Act cover all persons who made contact with Services Australia in the period 23 March 2020 to 29 March 2020 in relation to a claim (including people who made a claim in this period). Notwithstanding the operation of subsection 13(3B) and subsection 13(3C), some people to whom those sections apply only qualified for a social security payment on 25 March 2020 because their qualification depended on amendments to the Social Security Act made by Schedule 11 to the Act or by the No.1 Determination.

This Determination increases the first instalment payment for people who only qualified for payment on 25 March 2020, so that they are in the same financial position as if they had claimed and were qualified for the social security payment on 23 March 2020.

Commencement

This Determination commences 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 Determination the Social Security (Coronavirus Economic Response – 2020 Measures No. 3) Determination 2020.

Item 2 – Commencement

Item 2 sets the commencement of this Determination as 25 March 2020. The commencement of this Determination prior to the date of registration is authorised by section 12 of the *Legislation Act 2003* (Legislation Act). This Determination is of a beneficial nature as it increases the rates of payment for certain recipients of social security payments. For the purposes of subsection 12(2) of the Legislation Act, the commencement of the Determination does not affect the rights of a person so as to disadvantage the person and does not impose liabilities on a person in respect of anything done or omitted to be done before this Determination was registered.

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 Part 3.19 of the Social Security Act

Item 1 inserts a new section 1210C into Part 3.19. New section 1210C applies to a person if they only became qualified for a social security payment on 25 March 2020 because of:

- amendments to the Social Security Act that were made by Schedule 11 of the Act; or
- temporary modifications made to the Social Security Act that were made by the No.1 Determination.

A person could become qualified for a payment on 25 March 2020 because of new requirements for some payments that commenced on that day or because of

changes to waiting periods, preclusion periods and assets tests that had effect on that day.

Where new section 1210C applies to a person, the amount of the person's first instalment payment is increased by an amount equal to two times the daily payment rate. This additional payment places the person in the same financial position as if the person qualified for the payment on 23 March 2020.

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. 3) 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* (the 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. 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, Austudy, 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, Youth Allowance, Austudy 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.

The *Social Security (Coronavirus Economic Response—2020 Measures No. 3) Determination 2020* (this Determination) temporarily modifies the Social Security Act in respect of the rates of payment paid to people who only qualify for a social security payment on 25 March 2020 because of the temporary modifications made to the Social Security Act on 25 March 2020 by Schedule 11 of the Act or by temporary

modifications to the Social Security Act made by *Social Security (Coronavirus Economic Response—2020 Measures No. 1) Determination 2020*.

Where this Determination applies, the Determination will ensure that the first instalment of a person's payment will include an additional amount that represents two days' worth of their daily rate of payment.

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 as the amounts paid to those subject to this Determination are increased for their first instalment period. This assists 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. The increased 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