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The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Social Services Legislation Amendment (Encouraging Self‑sufficiency for Newly Arrived Migrants) Bill 2018

No. , 2018

(Social Services)

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

Contents

1 Short title 1

2 Commencement 1

3 Schedules 2

Schedule 1—Social security amendments 3

Part 1—Extending existing newly arrived resident’s waiting periods 3

Social Security Act 1991 3

Part 2—New newly arrived resident’s waiting periods 6

Social Security Act 1991 6

Part 3—Other amendments 13

Social Security Act 1991 13

Schedule 2—Farm household support amendments 14

Farm Household Support Act 2014 14

Schedule 3—Family assistance amendments 15

A New Tax System (Family Assistance) Act 1999 15

Social Security Act 1991 18

Schedule 4—Paid parental leave amendments 19

Paid Parental Leave Act 2010 19

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

The Parliament of Australia enacts:

1 Short title

This Act is the *Social Services Legislation Amendment (Encouraging Self‑sufficiency for Newly Arrived Migrants) Act 2018*.

2 Commencement

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

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this Act | As follows:  (a) if this Act receives the Royal Assent before 1 July 2018—1 July 2018;  (b) if this Act receives the Royal Assent on or after 1 July 2018—the first 1 January or 1 July to occur after the day this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Social security amendments

Part 1—Extending existing newly arrived resident’s waiting periods

Social Security Act 1991

1 Paragraph 201AA(1)(b)

Omit “104”, substitute “156”.

2 Paragraph 201AB(b)

Omit “104”, substitute “156”.

3 Paragraph 549D(1)(b)

Omit “104”, substitute “156”.

4 Paragraph 549E(b)

Omit “104”, substitute “156”.

5 Paragraph 575D(1)(b)

Omit “104”, substitute “156”.

6 Paragraph 575E(b)

Omit “104”, substitute “156”.

7 Paragraph 623A(1)(b)

Omit “104”, substitute “156”.

8 Subsection 623B(3)

Omit “104”, substitute “156”.

9 Paragraph 696B(1)(b)

Omit “104”, substitute “156”.

10 Subsection 696C(3)

Omit “104”, substitute “156”.

11 Paragraphs 739A(3)(d) and (4)(d)

Omit “104”, substitute “156”.

12 Subsection 739A(5)

Omit “104”, substitute “156”.

13 Paragraph 1039AA(1)(b)

Omit “104”, substitute “156”.

14 Paragraph 1039AB(b)

Omit “104”, substitute “156”.

15 Paragraph 1061PU(1)(b)

Omit “104”, substitute “156”.

16 Paragraph 1061PV(b)

Omit “104”, substitute “156”.

17 Paragraph 1061ZH(1)(b)

Omit “104”, substitute “156”.

18 Paragraph 1061ZI(b)

Omit “104”, substitute “156”.

19 Paragraph 1061ZQ(2)(c)

Omit “104”, substitute “156”.

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

Omit “104”, substitute “156”.

21 Application provisions

(1) The amendments of sections 201AA, 201AB, 549D, 549E, 575D, 575E, 623A, 623B, 696B, 696C, 1039AA, 1039AB, 1061PU and 1061PV of the *Social Security Act 1991* made by this Part apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.

(2) The amendment of paragraph 739A(3)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who applies for a visa covered by paragraph 739A(3)(b) of that Act on or after the commencement of this item.

(3) The amendment of paragraph 739A(4)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the holder of a visa covered by paragraph 739A(4)(b) of that Act on or after the commencement of this item.

(4) The amendment of subsection 739A(5) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.

(5) The amendments of sections 1061ZH, 1061ZI, 1061ZQ and 1061ZR of the *Social Security Act 1991* made by this Part apply in relation to the following:

(a) a person who becomes the holder of a permanent visa on or after the commencement of this item;

(b) a person who becomes the holder of a special category visa on or after the commencement of this item.

(6) The amendments made by this Part do not apply in relation to a special category visa holder who is a protected SCV holder.

Part 2—New newly arrived resident’s waiting periods

Social Security Act 1991

22 Subsection 7(6AA)

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

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

Insert:

(b) a bereavement allowance newly arrived resident’s waiting period under sections 322 and 323; or

(ba) a widow allowance newly arrived resident’s waiting period under sections 408CGA and 408CGB; or

(bb) a parenting payment newly arrived resident’s waiting period under sections 500X and 500Y; or

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

Insert:

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

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

Insert:

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

(aba) a widow allowance newly arrived resident’s waiting period under sections 408CGA and 408CGB; or

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

Insert:

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

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

Insert:

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

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

Add:

322 Newly arrived resident’s waiting period

(1) Subject to this section, a person who:

(a) has entered Australia; and

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks;

is subject to a newly arrived resident’s waiting period.

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

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

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

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for a bereavement allowance; or

(b) the following apply:

(i) before the person made the claim for a bereavement allowance, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for a bereavement allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for a bereavement allowance.

(4) For the purposes of subsection (3):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

323 Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day the person first became an Australian resident.

(2) The newly arrived resident’s waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks.

29 After section 408CG

Insert:

408CGA Newly arrived resident’s waiting period

(1) Subject to this section, a person who:

(a) has entered Australia; and

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks;

is subject to a newly arrived resident’s waiting period.

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

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

Note: For ***qualifying residence exemption*** in relation to widow allowance see subsections 7(6) and (6AA).

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for widow allowance; or

(b) the following apply:

(i) before the person made the claim for widow allowance, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for widow allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for widow allowance.

(4) For the purposes of subsection (3):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

408CGB Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day the person first became an Australian resident.

(2) The newly arrived resident’s waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks.

30 After section 500WB

Insert:

500X Newly arrived resident’s waiting period

(1) Subject to this section, a person who:

(a) has entered Australia; and

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks;

is subject to a newly arrived resident’s waiting period.

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

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

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

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

(a) is the principal carer of one or more children; and

(b) is not a member of a couple; and

(c) was not a lone parent at the start of the person’s current period as an Australian resident.

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

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

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for parenting payment; or

(b) the following apply:

(i) before the person made the claim for parenting payment, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for parenting payment or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for parenting payment.

(5) For the purposes of subsection (4):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

500Y Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day the person first became an Australian resident.

(2) The newly arrived resident’s waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks.

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

Add:

966 Newly arrived resident’s waiting period

(1) A person is subject to a newly arrived resident’s waiting period if the person:

(a) has entered Australia; and

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks.

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

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

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

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

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

(a) the person is receiving a social security pension or a social security benefit; or

(b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*; or

(c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the person.

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for carer allowance; or

(b) the following apply:

(i) before the person made the claim for carer allowance, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for carer allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for carer allowance.

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

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

967 Duration of newly arrived resident’s waiting period

(1) If a person is subject to a newly arrived resident’s waiting period, the period starts on the day the person first became an Australian resident.

(2) The newly arrived resident’s waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 156 weeks.

32 Application provision

(1) Sections 322, 323, 408CGA, 408CGB, 500X, 500Y, 966 and 967 of the *Social Security Act 1991*, as added or inserted by this Part, apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.

(2) Those sections do not apply in relation to a special category visa holder who is a protected SCV holder.

Part 3—Other amendments

Social Security Act 1991

33 Subsection 739A(7)

Repeal the subsection, substitute:

(7) Neither subsection (1) nor (2) applies to a person if the person, in the Secretary’s opinion, is suffering a substantial change in circumstances beyond the person’s control that occurred after:

(a) if the person holds a visa covered by paragraph (3)(b) or (4)(b):

(i) if the person applied for the visa while the person was outside Australia—the start of the day the person first entered Australia after having applied for the visa; or

(ii) if the person applied for the visa while the person was in Australia—the start of the day the person applied for the visa; or

(b) if the person holds a permanent visa—the start of the later of the following days:

(i) the day the person first entered Australia;

(ii) the day the person became the holder of that visa.

34 Application provision

The amendment made by this Part applies in relation to claims for a special benefit made on or after the commencement of this item.

Schedule 2—Farm household support amendments

Farm Household Support Act 2014

1 Subsection 42(1)

Omit “104”, substitute “156”.

2 Paragraph 43(b)

Omit “104”, substitute “156”.

3 Application provision

(1) The amendments made by this Schedule apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.

(2) Those amendments do not apply in relation to a special category visa holder who is a protected SCV holder.

Schedule 3—Family assistance amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

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

2 At the end of Subdivision A of Division 1 of Part 3

Add:

30 No eligibility for family tax benefit—newly arrived resident’s waiting period

(1) An individual is not eligible for family tax benefit in respect of a day in a newly arrived resident’s waiting period for the individual.

When individual subject to newly arrived resident’s waiting period

(2) Subject to this section, an individual is subject to a newly arrived resident’s waiting period if, on or after the commencement of this subsection, the individual:

(a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or

(b) becomes the holder of a permanent visa.

Length of waiting period

(3) If:

(a) an individual is subject to a newly arrived resident’s waiting period; and

(b) the visa referred to in paragraph (2)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and

(c) subsection (4) does not apply;

the waiting period:

(d) starts on the day on which the individual applied for that visa; and

(e) ends when the individual has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(4) If:

(a) an individual is subject to a newly arrived resident’s waiting period; and

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

the waiting period:

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

(d) ends when the individual has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(5) If:

(a) an individual is subject to a newly arrived resident’s waiting period; and

(b) neither subsection (3) nor (4) applies to the individual;

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

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends when the individual has been in Australia for a period of, or periods totalling, 156 weeks after that day.

Exemptions

(6) Subsection (2) does not apply to an individual if the individual holds, or was the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.

(7) Subsection (2) does not apply to an individual if:

(a) the individual is receiving a social security pension or a social security benefit; or

(b) the individual is receiving farm household allowance under the *Farm Household Support Act 2014*; or

(c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the individual.

(8) Subsection (2) does not apply to an individual if:

(a) the individual is a refugee, or a former refugee, at the time the individual made the claim for family tax benefit; or

(b) the following apply:

(i) before the individual made the claim for family tax benefit, the individual was a family member of another individual at the time the other individual became a refugee;

(ii) the individual is a family member of that other individual at the time the individual made the claim for family tax benefit or, if that other individual has died, the individual was a family member of that other individual immediately before that other individual died; or

(c) the individual is an Australian citizen at the time the individual made the claim for family tax benefit; or

(d) the individual is residing in Australia at the time the individual made the claim for family tax benefit and has held a special category visa at any time before that time.

(9) For the purposes of subsection (8):

(a) ***family member*** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and

(b) ***former refugee*** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and

(c) ***refugee*** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

3 After subsection 36(1)

Insert:

(1A) In working out whether an individual is eligible for a stillborn baby payment in respect of a child, disregard section 30.

4 Application provision

The amendment of section 36 of the *A New Tax System (Family Assistance) Act 1999* made by this Schedule applies in relation to working out whether an individual is eligible for a stillborn baby payment in respect of a child in relation to days on or after the commencement of this item.

Social Security Act 1991

5 After subsection 999(1)

Insert:

(1A) In working out whether a person is qualified for a double orphan pension for a young person, disregard section 30 of the Family Assistance Act.

6 After paragraph 1061ZQ(2)(a)

Insert:

(b) has an FTB child; or

7 Application provisions

(1) The amendment of section 999 of the *Social Security Act 1991* made by this Schedule applies in relation to working out whether a person is qualified for a double orphan pension for a young person in relation to days on or after the commencement of this item.

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

Schedule 4—Paid parental leave amendments

Paid Parental Leave Act 2010

1 Section 6

Insert:

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

2 At the end of section 31

Add:

Not eligible—newly arrived resident’s waiting period

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

3 At the end of Division 2 of Part 2‑3

Add:

31A Newly arrived resident’s waiting period

When person subject to newly arrived resident’s waiting period

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

(a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or

(b) becomes the holder of a permanent visa.

Length of waiting period

(2) If:

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

(b) the visa referred to in paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and

(c) subsection (3) does not apply;

the waiting period:

(d) starts on the day on which the person applied for that visa; and

(e) ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(3) If:

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

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

the waiting period:

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

(d) ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(4) If:

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

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

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

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

Exemptions

(5) Subsection (1) does not apply to a person if the person holds, or was the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.

(6) Subsection (1) does not apply to a person if, immediately before the day that would be the start of the person’s PPL period if a payability determination were made:

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

(b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*.

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for parental leave pay; or

(b) the following apply:

(i) before the person made the claim for parental leave pay, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for parental leave pay or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for parental leave pay; or

(d) the person is residing in Australia at the time the person made the claim for parental leave pay and has held a special category visa at any time before that time.

(8) For the purposes of subsection (7):

(a) ***family member*** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and

(b) ***former refugee*** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and

(c) ***refugee*** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

4 At the end of section 115CB

Add:

Not eligible—newly arrived resident’s waiting period

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

5 At the end of Division 2 of Part 3A‑3

Add:

115CBA Newly arrived resident’s waiting period

When person subject to newly arrived resident’s waiting period

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

(a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or

(b) becomes the holder of a permanent visa.

Length of waiting period

(2) If:

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

(b) the visa referred to in paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and

(c) subsection (3) does not apply;

the waiting period:

(d) starts on the day on which the person applied for that visa; and

(e) ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(3) If:

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

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

the waiting period:

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

(d) ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

(4) If:

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

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

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

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 156 weeks after that day.

Exemptions

(5) Subsection (1) does not apply to a person if the person holds, or was the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.

(6) Subsection (1) does not apply to a person if, immediately before the day that would be the start of the person’s DAPP period if a payability determination were made:

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

(b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*.

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for dad and partner pay; or

(b) the following apply:

(i) before the person made the claim for dad and partner pay, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for dad and partner pay or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for dad and partner pay; or

(d) the person is residing in Australia at the time the person made the claim for dad and partner pay and has held a special category visa at any time before that time.

(8) For the purposes of subsection (7):

(a) ***family member*** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and

(b) ***former refugee*** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and

(c) ***refugee*** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

6 Application provision

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

(a) who is born either before the commencement of this item or in the 6 months beginning on the day this item commences; or

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