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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**



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# **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

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column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
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.	

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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”.





- (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.

## Schedule 1 Social security amendments

### Part 2 New newly arrived resident's waiting periods

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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.

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## **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;



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- (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*.



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- (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:

