



Social Services Legislation Amendment (Family Measures) Act 2016

No. 17, 2016

**An Act to amend the law relating to family
assistance, and for related purposes**

Note: An electronic version of this Act is available on The Legislation Register
(<http://www.legislation.gov.au/>)

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Social Services Legislation Amendment (Family Measures) Act 2016

No. 17, 2016

An Act to amend the law relating to family assistance, and for related purposes

[Assented to 8 March 2016]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Services Legislation
Amendment (Family Measures) Act 2016*.

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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	8 March 2016
2. Schedule 1	The first 1 January or 1 July to occur on or after the day this Act receives the Royal Assent.	1 July 2016
3. Schedule 2	The first 1 July to occur on or after the day this Act receives the Royal Assent.	1 July 2016

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Repeal the following definitions:

- (a) definition of *absent overseas FTB child*;
- (b) definition of *absent overseas recipient*;
- (c) definition of *absent overseas regular care child*.

2 Subparagraph 21(1)(a)(ii)

Omit “is not an absent overseas recipient and”.

3 Paragraph 24(1)(b)

Omit “56 weeks”, substitute “6 weeks”.

4 Subsection 24(1)

Omit “period of 56 weeks”, substitute “period of 6 weeks”.

5 Subsection 24(2)

Repeal the subsection.

6 Subsection 24(4)

Omit “56 weeks”, substitute “6 weeks”.

7 Subsection 24(5)

Repeal the subsection.

8 Subsection 24(7) (heading)

Repeal the heading, substitute:

Extension of 6-week period in certain circumstances

9 Subsection 24(7)

Omit “56 week”, substitute “6-week”.

10 Subsection 24(7)

Omit “subsection (1), (2), (4) or (5)”, substitute “subsection (1) or (4)”.

11 Subsection 24(7)

Omit “child mentioned in subsection (1) or (2)”, substitute “child mentioned in subsection (1)”.

12 Subsection 24(7)

Omit “individual mentioned in subsection (4) or (5)”, substitute “individual mentioned in subsection (4)”.

13 Subsection 24(9)

Omit “56 week”, substitute “6-week”.

14 Subsection 24(9)

Omit “subsection (1), (2), (4) or (5)”, substitute “subsection (1) or (4)”.

15 Subsection 24(9)

Omit “child mentioned in subsection (1) or (2)”, substitute “child mentioned in subsection (1)”.

16 Subsection 24(9)

Omit “individual mentioned in subsection (4) or (5)”, substitute “individual mentioned in subsection (4)”.

17 Subsection 24(10)

Omit “may extend the 56 week period referred to in subsection (4) or (5)”, substitute “may extend the 6-week period referred to in subsection (4)”.

18 Subsection 24(10)

Omit “in the subsection”, substitute “in subsection (4)”.

19 Subsection 24(10)

Omit “within the 56 week period”, substitute “within the 6-week period”.

20 Paragraph 57G(1)(c)

Omit “(disregarding section 63A)”, substitute “(see subsections (4) and (5))”.

21 Paragraph 57G(3)(a)

Omit “and the individual is not an absent overseas FTB child (disregarding section 63A)”, substitute “(disregarding subsections 24(7) and (9))”.

22 Subparagraphs 57G(3)(b)(ii), (c)(ii), (d)(iii), (e)(iii), (f)(iii) and (g)(iii)

Omit “and would not be an absent overseas FTB child (disregarding section 63A)”, substitute “(disregarding subsections 24(7) and (9))”.

23 At the end of section 57G

Add:

Absent overseas recipient

- (4) For the purposes of this section, if an individual leaves Australia, the individual is an ***absent overseas recipient*** for any period that occurs:
- (a) during that absence from Australia; and
 - (b) after the end of the period of 6 weeks beginning on the first day of that absence.
- (5) For the purposes of this section, if:
- (a) an individual is eligible for single income family supplement while the individual is absent from Australia; and
 - (b) the individual then becomes an absent overseas recipient because of the application of subsection (4) or a previous application of this subsection; and
 - (c) the individual returns to Australia; and
 - (d) the individual leaves Australia again less than 6 weeks after returning to Australia;
- the individual is an ***absent overseas recipient*** for any period that occurs during the absence from Australia referred to in paragraph (d).

24 Subsection 58(1)

Omit “63”, substitute “61B”.

25 Sections 62 to 63A

Repeal the sections.

26 Subclause 38B(3) of Schedule 1

Omit “if the regular care child is not an absent overseas regular care child”.

***A New Tax System (Family Assistance) (Administration) Act
1999***

27 Paragraph 30A(1)(c)

Omit “56 weeks”, substitute “6 weeks”.

28 Paragraph 30B(1)(c)

Omit “56 weeks”, substitute “6 weeks”.

29 After subsection 31(1B)

Insert:

(1C) If:

- (a) the Secretary under paragraph (1)(d) varies a determination in relation to an individual because of subsection 24(1) of the Family Assistance Act; and
 - (b) the child concerned comes to Australia within the period of 13 weeks beginning on the day after the end of:
 - (i) the 6-week period referred to in subsection 24(1) of the Family Assistance Act; or
 - (ii) if that 6-week period has been extended under subsection 24(7) or (9) of the Family Assistance Act—that period as so extended; and
 - (c) the Secretary is satisfied that the individual is eligible for family tax benefit on the day the child comes to Australia;
- then the Secretary must vary the determination so that the individual is entitled to be paid family tax benefit with effect from the date of the child coming to Australia.

Note: The individual does not have to make another claim for family tax benefit.

(1D) If:

- (a) the Secretary under paragraph (1)(d) varies a determination in relation to an individual because of subsection 24(4) of the Family Assistance Act; and
- (b) the individual returns to Australia within the period of 13 weeks beginning on the day after the end of:
 - (i) the 6-week period referred to in subsection 24(4) of the Family Assistance Act; or
 - (ii) if that 6-week period has been extended under subsection 24(7), (9) or (10) of the Family Assistance Act—that period as so extended; and
- (c) the Secretary is satisfied that the individual is eligible for family tax benefit on the day the individual returns to Australia;

then the Secretary must vary the determination so that the individual is entitled to be paid family tax benefit with effect from the date of the individual's return to Australia.

Note: The individual does not have to make another claim for family tax benefit.

(1E) Subsections (1C) and (1D) do not limit any later application of subsection (1) in relation to the determination.

Example: The Secretary under subsection (1D) varies the determination so that the individual is entitled to be paid family tax benefit.

The individual remains in Australia for 8 weeks, but then leaves Australia again for more than 6 weeks.

Because of subsection 24(4) of the Family Assistance Act, the Secretary may, under paragraph (1)(d) of this section, vary the determination again so that the individual is not entitled to be paid family tax benefit.

30 At the end of section 65

Add:

(3) If:

- (a) the Secretary under subsection (1) varies a determination in relation to an individual and a child because of subsection 24(1) of the Family Assistance Act; and

- (b) the child comes to Australia within the period of 13 weeks beginning on the day after the end of:
 - (i) the 6-week period referred to in subsection 24(1) of the Family Assistance Act; or
 - (ii) if that 6-week period has been extended under subsection 24(7) or (9) of the Family Assistance Act—that period as so extended; and
- (c) the Secretary is satisfied that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child on the day the child comes to Australia;

then the Secretary must vary the determination so that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child with effect from the date of the child coming to Australia.

Note: The individual does not have to make another claim for child care benefit.

- (4) If:
 - (a) the Secretary under subsection (1) varies a determination in relation to an individual and a child because of subsection 24(4) of the Family Assistance Act (as affected by subparagraph (b)(ii) of the definition of *FTB child* in subsection 3(1) of that Act); and
 - (b) the individual returns to Australia within the period of 13 weeks beginning on the day after the end of:
 - (i) the 6-week period referred to in subsection 24(4) of the Family Assistance Act; or
 - (ii) if that 6-week period has been extended under subsection 24(7), (9) or (10) of the Family Assistance Act—that period as so extended; and
 - (c) the Secretary is satisfied that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child on the day the individual returns to Australia;

then the Secretary must vary the determination so that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child with effect from the date of the individual's return to Australia.

Note: The individual does not have to make another claim for child care benefit.

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- (5) Subsections (3) and (4) do not limit any later application of subsection (1) in relation to the determination.

Example: The Secretary under subsection (4) varies the determination so that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child.

The individual remains in Australia for 8 weeks, but then leaves Australia again for more than 6 weeks.

Because of subsection 24(4) of the Family Assistance Act, the Secretary may, under subsection (1) of this section, vary the determination again so that the individual is not conditionally eligible.

31 Application and saving provisions

- (1) Subject to this item, the amendments made by this Schedule apply in relation to absences from Australia starting on or after the commencement of this item.

Absence of FTB child or regular care child

- (2) If:
- (a) in relation to a child, the 56-week period mentioned in subsection 24(1) of the *A New Tax System (Family Assistance) Act 1999* (as in force immediately before the commencement of this item) began before that commencement; and
 - (b) the child leaves Australia on or after that commencement; and
 - (c) if section 24 of that Act, as in force immediately before that commencement, were still in force at the time of that leaving—subsection 24(2) or (3) of that Act would have applied in relation to the child;

then the amendments made by this Schedule do not apply in relation to the child's absence from Australia referred to in paragraph (b).

Absence of individual

- (3) If:
- (a) in relation to an individual, the 56-week period mentioned in subsection 24(4) of the *A New Tax System (Family Assistance) Act 1999* (as in force immediately before the commencement of this item) began before that commencement; and

- (b) the individual leaves Australia on or after that commencement; and
- (c) if section 24 of that Act, as in force immediately before that commencement, were still in force at the time of that leaving—subsection 24(5) or (6) of that Act would have applied in relation to the individual;

then the amendments made by this Schedule do not apply in relation to the individual's absence from Australia referred to in paragraph (b).

Schedule 2—Large family supplement

A New Tax System (Family Assistance) Act 1999

1 Clause 3 of Schedule 1 (method statement, step 1, paragraph (b))

Repeal the paragraph.

2 Clause 24N of Schedule 1 (method statement, step 2)

Repeal the step.

3 Clause 24Q of Schedule 1

Repeal the clause.

4 Clause 25 of Schedule 1 (method statement, step 1, paragraph (b))

Repeal the paragraph.

5 Division 1 of Part 5 of Schedule 1

Repeal the Division.

6 Clause 2 of Schedule 4 (table item 7)

Repeal the item.

7 Subclause 3(1) of Schedule 4 (table item 7)

Repeal the item.

8 Application provision

The amendments made by this Schedule apply in relation to working out the rate of family tax benefit for days on or after the commencement of this Schedule.

*[Minister's second reading speech made in—
House of Representatives on 2 December 2015
Senate on 22 February 2016]*

(213/15)
