



Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009

No. 35, 2009

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 35, 2009

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

[Assented to 27 May 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Family Assistance
Legislation Amendment (2009 Budget Measures) Act 2009*.

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
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	27 May 2009
2. Schedule 1	The day on which this Act receives the Royal Assent.	27 May 2009
3. Schedule 2	30 June 2009.	30 June 2009

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Main amendments

Social Security Act 1991

1 Subsection 23(1)

Insert:

carer supplement means carer supplement under Part 2.19B.

2 After Part 2.19A

Insert:

Part 2.19B—Carer supplement

992X Carer supplement for 2009 and later years

Qualifying for carer supplement

- (1) A person (the *qualified person*) is qualified for carer supplement for a year if the person was or is paid an instalment (the *qualifying instalment*) of carer allowance, carer payment or carer service pension in respect of a period that includes:
 - (a) 12 May in the year if the year is 2009; or
 - (b) 1 July in the year if the year is a later year.

Note: There may be more than one qualifying instalment for carer supplement for a year. For example, if a person is paid both an instalment of carer allowance and an instalment of carer payment in respect of a period including 1 July 2010, both instalments are qualifying instalments for carer supplement for 2010 for the person.

Amount of carer supplement

- (2) The amount of carer supplement for the qualified person for the year is the total worked out in accordance with the table (taking account of every relevant item of the table):

Schedule 1 Carer supplement
Part 1 Main amendments

Amount of carer supplement		
Item	If:	Include this amount in the total:
1	The qualifying instalment is of carer allowance	The amount worked out under subsection (3) for each eligible care receiver (see subsections (4) and (5))
2	The qualifying instalment is of carer payment	\$600
3	The qualifying instalment is of carer service pension	\$600
4	Both of the following apply: (a) the qualifying instalment is of carer allowance; (b) the qualified person was or is also paid an instalment of wife pension in respect of a period that includes the day described in subsection (1) for the year	\$600
5	Both of the following apply: (a) the qualifying instalment is of carer allowance; (b) the qualified person was or is also paid an instalment of partner service pension under the Veterans' Entitlements Act in respect of a period that includes the day described in subsection (1) for the year	\$600

Amount for eligible care receiver

- (3) The amount for an eligible care receiver is:
- (a) \$600; or
 - (b) if the rate at which the qualifying instalment was paid takes account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to the eligible care receiver—that share of \$600.

Example 1: Assume that:

- (a) the qualified person qualifies for carer supplement for 2010 because he or she is paid a qualifying instalment of carer allowance relating to 3 eligible care receivers; and

- (b) the rate of the qualifying instalment takes account of a determination under subsection 981(1) of a half share in relation to one of those eligible care receivers; and
- (c) the qualified person is also paid an instalment of partner service pension for a period including 1 July 2010.

The amount of carer supplement for the qualified person for 2010 is \$2,100, made up of \$600 each for 2 of the eligible care receivers, \$300 (which is half of \$600) for the eligible care receiver to whom the half-share determination relates and \$600 relating to the partner service pension.

Example 2: Assume that the qualified person qualifies for carer supplement for 2011 because he or she is paid a qualifying instalment of carer allowance relating to one eligible care receiver and also because the qualifying person is paid a qualifying instalment of carer payment.

The amount of carer supplement for the qualified person for 2011 is \$1,200, made up of \$600 relating to carer allowance relating to the eligible care receiver and \$600 relating to carer payment.

Definition of eligible care receiver

- (4) Each person to whose care a qualifying instalment of carer allowance relates is an *eligible care receiver* in relation to the qualified person.
- (5) However, if subsection 953(2) applies in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single *eligible care receiver* in relation to the qualified person.

Definition of carer service pension

- (6) In this section:

carer service pension means carer service pension that is payable because of subclause 8(2) or (4) of Schedule 5 to the Veterans' Entitlements Act.

3 Subsection 1222(2) (after table item 4A)

Insert:

4B	1223ABC	deductions	1231, 1234A
	(debts in respect of carer supplement for 2009)	legal proceedings	1232
		garnishee notice	1233
		repayment by instalments	1234
4C	1223ABD	deductions	1231, 1234A
	(debts in respect of carer	legal proceedings	1232

Schedule 1 Carer supplement
Part 1 Main amendments

supplement for 2010 and later years)	garnishee notice repayment by instalments	1233 1234
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4 After section 1223ABB

Insert:

1223ABC Debts in respect of carer supplement for 2009

- (1) This section applies if:
- (a) carer supplement for 2009 is paid to a person; and
 - (b) after it is paid, a determination under Part 3 of the Administration Act or under the Veterans' Entitlements Act because of which any of the following instalments was paid is or was (however described) changed, revoked, set aside, or superseded by another determination:
 - (i) a qualifying instalment (see section 992X);
 - (ii) an instalment of wife pension affecting the amount of the carer supplement paid;
 - (iii) an instalment of partner service pension under the Veterans' Entitlements Act affecting the amount of the carer supplement paid; and
 - (c) the decision to change, revoke, set aside or supersede the earlier determination is or was made for the reason, or for reasons including the reason, that the person knowingly made a false or misleading statement, or knowingly provided false information.

When the whole payment is a debt

- (2) The amount of the carer supplement paid to the person is a debt due to the Commonwealth by the person if carer supplement for 2009 would not have been paid to the person had the change, revocation, setting aside or superseding occurred on or before 12 May 2009.

When part of the payment is a debt

- (3) If the amount of carer supplement for 2009 paid to the person would have been reduced had the change, revocation, setting aside or superseding occurred on or before 12 May 2009, the amount by

which the carer supplement paid to the person would have been reduced is a debt due to the Commonwealth by the person.

Limit on debts under this section

- (4) The total of debts arising under this section in relation to the carer supplement paid to the person cannot exceed the amount of the carer supplement.

Most other provisions under which debts arise do not apply

- (5) Apart from section 1224AA, the other provisions of this Part under which debts arise do not apply in relation to payments of carer supplement for 2009.

1223ABD Debts in respect of carer supplement for 2010 and later years

- (1) This section applies if:
- (a) carer supplement for 2010 or a later year is paid to a person; and
 - (b) a debt (the *primary debt*) due to the Commonwealth by the person arises (under this Act or the Veterans' Entitlements Act) in connection with any of the following instalments that is equal to all of the instalment or, if the instalment is of carer allowance, all or part of the instalment:
 - (i) a qualifying instalment (see section 992X);
 - (ii) an instalment of wife pension affecting the amount of the carer supplement paid;
 - (iii) an instalment of partner service pension under the Veterans' Entitlements Act affecting the amount of the carer supplement paid; and
 - (c) the carer supplement would not have been paid, or less carer supplement would have been paid, had the circumstances that gave rise to the primary debt not occurred.
- (2) If the primary debt is equal to all of the instalment, an amount, equal to so much of the carer supplement as would not have been paid if the instalment had not been paid, is a debt due to the Commonwealth by the person.

Schedule 1 Carer supplement
Part 1 Main amendments

Note: If the instalment is the only qualifying instalment, the debt will equal the amount of the carer supplement, because none of it would have been paid if the qualifying instalment had not been paid.

- (3) If:
- (a) the primary debt arises in connection with an instalment of carer allowance because of a failure to take account, or an error in taking account, of a determination under subsection 981(1); and
 - (b) the primary debt is equal to part of the instalment; an amount, equal to so much of the carer supplement as would not have been paid if the failure or error had not occurred, is a debt due to the Commonwealth by the person.

Consolidation of debts under this section

- (4) If, apart from this subsection, 2 or more debts would arise under either or both of subsections (2) and (3) in relation to the carer supplement, then, instead of those debts arising, there is a single debt that:
- (a) is due to the Commonwealth by the person; and
 - (b) is equal to the lesser of:
 - (i) the sum of the debts that would arise apart from this subsection; and
 - (ii) the amount of the carer supplement.

When debt is taken to arise under this section

- (5) A debt is taken to have arisen under this section when the carer supplement was paid to the person.

Social Security (Administration) Act 1999

5 Before section 13

Insert:

12G Carer supplement

A claim is not required for carer supplement.

6 Subsection 47(1) (after paragraph (gc) of the definition of lump sum benefit)

Insert:

(gd) carer supplement; or

7 After section 47AA

Insert:

47AB Payment of carer supplement

If an individual is qualified for carer supplement for a year, the Secretary must pay the supplement to the individual:

- (a) on the date or dates that the Secretary considers to be the earliest date or dates on which it is reasonably practicable for the payment to be made; and
- (b) in such manner as the Secretary considers appropriate.

8 Section 123TC (after paragraph (aa) of the definition of category C welfare payment)

Insert:

(ab) carer supplement; or

9 Section 123TC (after paragraph (aa) of the definition of category G welfare payment)

Insert:

(ab) carer supplement; or

10 Section 123TC (after paragraph (ga) of the definition of category I welfare payment)

Insert:

(gb) carer supplement; or

11 Section 123TC (after paragraph (ba) of the definition of category Q welfare payment)

Insert:

(bb) carer supplement; or

12 Section 123TC (after paragraph (fa) of the definition of category S welfare payment)

Insert:

(fb) carer supplement; or

Part 2—Related amendments

Income Tax Assessment Act 1997

13 Section 11-15 (table item headed “social security or like payments”)

After:

carer adjustment payment..... 53-10

insert:

carer supplement..... 52-10

14 After paragraph 52-10(1)(aa)

Insert:

(ab) carer supplement; or

15 After subsection 52-10(1AA)

Insert:

(1AB) Carer supplement under Part 2.19B of the *Social Security Act 1991* is exempt from income tax.

Schedule 2—Indexation

A New Tax System (Family Assistance) Act 1999

1 At the end of clause 3 of Schedule 4

Add:

No indexation of certain amounts on 1 July 2009, 1 July 2010 and 1 July 2011

- (7) The FTB basic HIFA (A), the FTB additional HIFA (A), the FTB income limit (B) and the baby bonus income limit are not to be indexed on 1 July 2009, 1 July 2010 and 1 July 2011.

*[Minister's second reading speech made in—
House of Representatives on 12 May 2009
Senate on 13 May 2009]*

(82/09) _____