



Family Assistance and Other Legislation Amendment Act 2011

No. 52, 2011

**An Act to amend the law relating to family
assistance, social security, paid parental leave and
Aboriginal land rights, and for related purposes**

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

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**An Act to amend the law relating to family
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[Assented to 28 June 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family Assistance and Other
Legislation Amendment Act 2011*.

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 this Act receives the Royal Assent.	28 June 2011
2. Schedule 1	Immediately after the commencement of item 6 of Schedule 2 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Election Commitments and Other Measures) Act 2011</i> .	
3. Schedule 2	30 June 2011.	30 June 2011
4. Schedule 3	3 September 2011.	3 September 2011
5. Schedules 4 and 5	The day this Act receives the Royal Assent.	28 June 2011

Note: This table relates only to the provisions of this Act as originally enacted.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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

A New Tax System (Family Assistance) Act 1999

1 Paragraph 22(6)(a)

Omit “has turned 21 but is aged under 25”, substitute “is aged 21”.

Note: The heading to subsection 22(6) is altered by omitting “21-24” and substituting “21”.

2 Paragraph 31(3)(a)

Repeal the paragraph, substitute:

- (a) if the child was aged 21 and undertaking full-time study when the child died—any day on which the child would have been aged 22 if the child had not died; or

3 Subparagraph 34(1)(a)(iii)

Omit “has turned 21 but is aged under 25”, substitute “is aged 21”.

4 Paragraph 65(2)(a)

Repeal the paragraph, substitute:

- (a) where the child was aged 21 and undertaking full-time study when the child died—the child would have been aged 22 on that day if the child had not died; or

5 Clause 7 of Schedule 1 (table item 5, column 1)

Omit “25”, substitute “22”.

6 Application and saving provisions

- (1) The amendments made by this Schedule apply for the purposes of working out whether family tax benefit, and how much family tax benefit, is payable for a day that is on or after 1 January 2012.
- (2) However, those amendments do not affect the payability to an individual (the *adult*) or approved care organisation of family tax benefit for another individual (the *child*) who is described in subitem (3) for a day in the period described in subitem (4).

Schedule 1 Age of FTB child for family tax benefit

- (3) Subitem (2) applies if immediately before 1 January 2012, the child:
- (a) had turned 22 but was aged under 25; and
 - (b) was enrolled in, and undertaking, a course of full-time study; and
 - (c) was either an FTB child of the adult or a client of the approved care organisation for the purposes of paragraph 34(1)(b) of the *A New Tax System (Family Assistance) Act 1999*.

Note: Subsection 34(3) of the *A New Tax System (Family Assistance) Act 1999* affects who is a client of an approved care organisation for the purposes of paragraph 34(1)(b) of that Act.

- (4) The period starts on 1 January 2012 and ends when the child either stops being enrolled in that course or stops undertaking that course.

Schedule 2—Indexation

A New Tax System (Family Assistance) Act 1999

1 Subclause 3(7) of Schedule 4

Omit “and 1 July 2011”, substitute “, 1 July 2011, 1 July 2012 and 1 July 2013”.

Note: The heading to subclause 3(7) of Schedule 4 is altered by omitting “*and 1 July 2011*” and substituting “, *1 July 2011, 1 July 2012 and 1 July 2013*”.

2 At the end of clause 3 of Schedule 4

Add:

No indexation of FTB gross supplement amount (A) and (B) on 1 July 2011, 1 July 2012 and 1 July 2013

- (8) The FTB gross supplement amount (A) and the FTB gross supplement amount (B) are not to be indexed on 1 July 2011, 1 July 2012 and 1 July 2013.

Paid Parental Leave Act 2010

3 Section 30

Omit “30 June 2012”, substitute “30 June 2014”.

4 Paragraph 41(a)

Omit “1 July 2012”, substitute “1 July 2014”.

5 Subsection 42(1)

Omit “1 July 2012”, substitute “1 July 2014”.

Schedule 3—Assessing qualification for disability support pension

Social Security Act 1991

1 Subparagraph 94(1)(ea)(ii)

Omit “person; and”, substitute “person.”.

2 Paragraph 94(1)(f)

Repeal the paragraph.

3 Before paragraph 94(2)(a)

Insert:

- (aa) in a case where the person’s impairment is not a severe impairment within the meaning of subsection (3B)—the person has actively participated in a program of support within the meaning of subsection (3C); and

Note: The following heading to subsection 94(2) is inserted “*Continuing inability to work*”.

4 Paragraph 94(2)(a)

Before “the impairment”, insert “in all cases—”.

5 Paragraph 94(2)(b)

Before “either”, insert “in all cases—”.

6 After subsection 94(3)

Insert:

(3A) If:

- (a) a person is receiving disability support pension; and
- (b) the Secretary gives the person a notice under subsection 63(2) or (4) of the Administration Act in relation to assessing the person’s qualification for that pension;

then paragraph (2)(aa) of this section does not apply in relation to that assessment.

Severe impairment

- (3B) A person's impairment is a *severe impairment* if the person's impairment is of 20 points or more under the Impairment Tables, of which 20 points or more are under a single Impairment Table.

Example 1: A person's impairment is of 30 points under the Impairment Tables, made up of 20 points under one Impairment Table and 10 points under another Impairment Table. The person has a severe impairment.

Example 2: A person's impairment is of 40 points under the Impairment Tables, made up of 20 points under one Impairment Table and 20 points under another Impairment Table. The person has a severe impairment.

Example 3: A person's impairment is of 20 points under the Impairment Tables, made up of 10 points each under 2 separate Impairment Tables. The person does not have a severe impairment.

Active participation in a program of support

- (3C) A person has *actively participated* in a program of support if the person has satisfied the requirements specified in a legislative instrument made by the Minister for the purposes of this subsection.

- (3D) The Secretary must comply with any guidelines in force under subsection (3E) in deciding whether the Secretary is satisfied as mentioned in paragraph (2)(aa).

- (3E) The Minister may, by legislative instrument, make guidelines for the purposes of subsection (3D).

7 Paragraph 94(4)(a)

Repeal the paragraph, substitute:

- (a) is unlikely to need a program of support; or

Note: The following heading to subsection 94(4) is inserted "*Doing work independently of a program of support*".

8 Paragraphs 94(4)(b) and (c)

Omit "such".

9 Subsection 94(5)

Insert:

program of support means a program that:

- (a) is designed to assist persons to prepare for, find or maintain work; and
- (b) either:
 - (i) is funded (wholly or partly) by the Commonwealth; or
 - (ii) is of a type that the Secretary considers is similar to a program that is designed to assist persons to prepare for, find or maintain work and that is funded (wholly or partly) by the Commonwealth.

Note: The following heading to subsection 94(5) is inserted “*Other definitions*”.

10 Section 94A

Repeal the section.

11 Paragraph 729(2A)(a)

Omit “, 94A”.

12 Application and saving

- (1) The amendments made by items 1 to 9 apply in relation to a person who makes a claim, or who is taken to have made a claim, for disability support pension on or after the commencement of those items.

Note: Sections 12, 13 and 15 of the Administration Act and clause 4 of Schedule 2 to that Act deal with claims for disability support pension that are taken to have been made.

- (2) Despite the amendment made by item 10, if:
 - (a) a person made a claim for disability support pension under section 94A of the *Social Security Act 1991* before the commencement of that item and, immediately before that commencement, the claim had not been finally determined; or
 - (b) a person was receiving disability support pension under that section immediately before the commencement of that item;then that section, as in force immediately before that commencement, continues to apply on and after that commencement for the purposes of working out the person’s qualification for disability support pension under that section.

Schedule 4—Extending Cape York welfare reform trial

Social Security (Administration) Act 1999

1 Paragraphs 123UF(1)(g) and (2)(h)

Omit “1 January 2012”, substitute “1 January 2013”.

Schedule 5—Aboriginal Land Trusts

Aboriginal Land Rights (Northern Territory) Act 1976

1 After section 5

Insert:

5A Public Works Committee Act

The *Public Works Committee Act 1969* does not apply to a Land Trust.

*[Minister's second reading speech made in—
House of Representatives on 2 June 2011
Senate on 22 June 2011]*