





# **Family Assistance and Other Legislation Amendment Act 2013**

**No. 70, 2013**

**An Act to amend the law relating to family  
assistance, social security, veterans' entitlements  
and paid parental leave, and for related purposes**

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



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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	4
<b>Schedule 1—Reduction of baby bonus from 1 July 2013</b>		5
	<i>A New Tax System (Family Assistance) Act 1999</i>	5
	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	6
	<i>Family Assistance and Other Legislation Amendment Act 2012</i>	8
<b>Schedule 2—Family tax benefit and double orphan pension</b>		9
	<i>A New Tax System (Family Assistance) Act 1999</i>	9
	<i>Social Security Act 1991</i>	9
<b>Schedule 2A—Replacement of baby bonus from 1 March 2014</b>		11
Part 1—Newborn supplement for Part A rate of family tax benefit		11
	<i>A New Tax System (Family Assistance) Act 1999</i>	11
	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	19
Part 2—Stillborn baby payment		21
	<i>A New Tax System (Family Assistance) Act 1999</i>	21
	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	26
	<i>Income Tax Assessment Act 1997</i>	33
	<i>Paid Parental Leave Act 2010</i>	33
	<i>Social Security (Administration) Act 1999</i>	34
Part 3—Counting previous PPL period etc. for work test		36
	<i>Paid Parental Leave Act 2010</i>	36
Part 4—Application and transitional provisions		38
<b>Schedule 2B—Time periods</b>		41
Part 1—Amendments		41
	<i>A New Tax System (Family Assistance) Act 1999</i>	41
	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	44
Part 2—Application provisions		56

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<b>Schedule 3—Other amendments</b>	57
Part 1—Schoolkids bonus	57
<i>A New Tax System (Family Assistance) Act 1999</i>	57
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	63
Part 2—Entrusted to care	65
<i>A New Tax System (Family Assistance) Act 1999</i>	65
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	65
<i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008</i>	66
<i>Paid Parental Leave Act 2010</i>	66
<i>Paid Parental Leave (Consequential Amendments) Act 2010</i>	68
Part 3—Family assistance clean energy payments	69
<i>A New Tax System (Family Assistance) Act 1999</i>	69
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	70
Part 4—Social security and veterans’ entitlements supplements	71
Division 1—Instalments of quarterly supplements	71
<i>Social Security (Administration) Act 1999</i>	71
<i>Veterans’ Entitlements Act 1986</i>	73
Division 2—Interactions with quarterly clean energy supplement	75
<i>Social Security Act 1991</i>	75
<i>Social Security (Administration) Act 1999</i>	76
<i>Veterans’ Entitlements Act 1986</i>	77
Division 3—Other minimum daily rate amendments	78
<i>Social Security (Administration) Act 1999</i>	78
Part 5—Dad and partner pay	79
<i>Paid Parental Leave Act 2010</i>	79

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# **Family Assistance and Other Legislation Amendment Act 2013**

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**An Act to amend the law relating to family  
assistance, social security, veterans' entitlements  
and paid parental leave, and for related purposes**

*[Assented to 27 June 2013]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Family Assistance and Other  
Legislation Amendment Act 2013*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 June 2013
2. Schedule 1, items 1 to 3B	1 July 2013.	1 July 2013
3. Schedule 1, items 4 to 6	The day after this Act receives the Royal Assent.	28 June 2013
4. Schedule 1, items 7 and 8	1 July 2013.	1 July 2013
5. Schedule 1, item 9	The day after this Act receives the Royal Assent.	28 June 2013
6. Schedule 1, item 11	1 July 2013.	1 July 2013
7. Schedule 2, items 1 to 3	Immediately after the commencement of item 3 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> .	1 January 2012
8. Schedule 2, items 4 and 5	1 January 2012.	1 January 2012
9. Schedule 2, items 6 and 7	1 January 2013.	1 January 2013
9A. Schedule 2A, Parts 1 and 2	1 March 2014.	1 March 2014
9B. Schedule 2A, Part 3	The day after this Act receives the Royal Assent.	28 June 2013

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
9C. Schedule 2A, item 67	1 March 2014.	1 March 2014
9D. Schedule 2A, item 68	The day after this Act receives the Royal Assent.	28 June 2013
9E. Schedule 2B, items 1 and 2	The day after this Act receives the Royal Assent.	28 June 2013
9F. Schedule 2B, items 3 and 4	Immediately after the commencement of Part 1 of Schedule 3.	28 June 2013
9G. Schedule 2B, items 5 to 58	The day after this Act receives the Royal Assent.	28 June 2013
10. Schedule 3, Parts 1 and 2	The day after this Act receives the Royal Assent.	28 June 2013
11. Schedule 3, items 58 and 59	1 July 2013.	1 July 2013
12. Schedule 3, items 60 to 62	The day after this Act receives the Royal Assent.	28 June 2013
13. Schedule 3, items 63 to 67	1 July 2013.	1 July 2013
14. Schedule 3, Part 4, Division 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Part 3 of Schedule 1 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	28 June 2013 (paragraph (a) applies)
15. Schedule 3, Part 4, Division 2	Immediately after the commencement of Part 5 of Schedule 1 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	20 March 2013
16. Schedule 3, Part 4, Division 3	The day after this Act receives the Royal Assent.	28 June 2013
17. Schedule 3, Part 5	The day after this Act receives the Royal Assent.	28 June 2013
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.	

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- (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—Reduction of baby bonus from 1 July 2013**

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

#### **1 Section 66**

Repeal the section, substitute:

#### **66 Amount of baby bonus**

##### *General rule*

- (1) Subject to this section, the amount of baby bonus for an individual in respect of a child is as follows:
  - (a) if the individual is eligible for baby bonus under subsection 36(2) and the child is the first child born alive to the woman who gave birth to the child—\$5,000;
  - (b) if the individual is eligible for baby bonus under subsection 36(3) and the child is the first child that becomes entrusted to the care of the individual, or the individual's partner, in the circumstances mentioned in paragraph 36(3)(b)—\$5,000;
  - (c) if the individual is eligible for baby bonus under subsection 36(4), the child is the first stillborn child of the woman who gave birth to the child and the woman has not given birth to any other children—\$5,000;
  - (d) if the individual is eligible for baby bonus under subsection 36(5) and the child is the first child that becomes entrusted to the care of the individual, or the individual's partner, in the circumstances mentioned in paragraphs 36(5)(a) to (b)—\$5,000;
  - (e) otherwise—\$3,000.

##### *Multiple children cases*

- (2) The amount of baby bonus for an individual in respect of each child born during the same multiple birth (including any stillborn child) is \$5,000.

- (3) If an individual is eligible for baby bonus under subsection 36(3) in respect of 2 or more children who become entrusted to the care of the individual, or the individual's partner, as part of the same entrustment to care process, the amount of baby bonus in respect of each child is \$5,000.
- (4) If an individual is eligible for baby bonus under subsection 36(5) in respect of 2 or more children who become entrusted to the care of the individual as part of the same adoption process, the amount of baby bonus in respect of each child is \$5,000.

*Shared baby bonus*

- (5) If, under paragraph 37(3)(b), the Secretary has determined the percentage that is to be an individual's percentage of baby bonus in respect of a child, the amount of baby bonus for the individual in respect of that child is that percentage of the amount worked out under subsections (1) to (3) of this section.

**2 Clause 2 of Schedule 4 (table item 17AD)**

Omit "subsection 66(1)", substitute "paragraphs 66(1)(a), (b), (c), (d) and (e) and subsections 66(2), (3) and (4)".

**3 Subclause 3(9) of Schedule 4 (heading)**

Omit ", 1 July 2013 and 1 July 2014", substitute "and 1 July 2013".

**3A Subclause 3(9) of Schedule 4**

Omit ", 1 July 2013 and 1 July 2014", substitute "and 1 July 2013".

**3B Subclause 3(9) of Schedule 4 (note)**

Repeal the note.

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

**4 Subsection 39(2)**

Omit "if it is made later than 52 weeks after", substitute "unless it is made before the end of the period of 52 weeks beginning on".

**5 Paragraph 39(2)(a)**

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Omit “the birth”, substitute “the day of the birth”.

## **6 Paragraph 39(2)(b)**

Omit “the time”, substitute “the day”.

## **7 Paragraphs 47(2A)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) if the claimant becomes eligible for baby bonus between 1 September 2012 and 30 June 2013—\$846.20;
- (c) if the claimant becomes eligible for baby bonus between 1 July 2013 and 30 June 2015 and the amount of baby bonus is the amount applicable under paragraph 66(1)(a), (b), (c) or (d) or subsection 66(2), (3) or (4) of the Family Assistance Act—\$846.20;
- (d) if the claimant becomes eligible for baby bonus between 1 July 2013 and 30 June 2015 and the amount of baby bonus is the amount applicable under paragraph 66(1)(e) of the Family Assistance Act—\$692.40;
- (e) if the claimant becomes eligible for baby bonus on or after 1 July 2015 and the amount of baby bonus is the amount applicable under paragraph 66(1)(a), (b), (c) or (d) or subsection 66(2), (3) or (4) of the Family Assistance Act—the amount worked out as follows:  
$$16.92\% \times \frac{\text{The amount of baby bonus the claimant is entitled to}}{\text{the claimant is entitled to}}$$
- (f) if the claimant becomes eligible for baby bonus on or after 1 July 2015 and the amount of baby bonus is the amount applicable under paragraph 66(1)(e) of the Family Assistance Act—the amount worked out as follows:  
$$23.08\% \times \frac{\text{The amount of baby bonus the claimant is entitled to}}{\text{the claimant is entitled to}}$$

## **8 Application provision—amount of baby bonus**

The amendment made by item 1 applies in relation to individuals who become eligible for baby bonus on or after 1 July 2013.

## **9 Application provision—claims for baby bonus**

The amendments made by items 4 to 6 apply in relation to claims for payment of baby bonus that are made on or after the commencement of those items.

***Family Assistance and Other Legislation Amendment Act  
2012***

**11 Item 6 of Schedule 2**

Repeal the item.

## **Schedule 2—Family tax benefit and double orphan pension**

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

#### **1 Paragraph 22B(3)(a)**

After “is in”, insert “November or”.

#### **2 Paragraph 22B(3)(b)**

Omit “December”, substitute “November”.

#### **3 Application provision—items 1 and 2**

The amendments made by items 1 and 2 apply in relation to working out whether an individual is a senior secondary school child for days on or after 1 January 2012.

### ***Social Security Act 1991***

#### **4 Subsection 5(1) (definition of *young person*)**

Repeal the definition, substitute:

***young person:***

- (a) except in Part 2.20—has the meaning given by subsection (1B) of this section; and
- (b) in Part 2.20—means a person who:
  - (i) is under 16 years of age; or
  - (ii) has reached 16, but is under 22, years of age and is receiving full-time education at a school, college or university; or
  - (iii) has reached 16 years of age and is a senior secondary school child (within the meaning of section 22B of the Family Assistance Act (disregarding subparagraph 22B(1)(a)(i) of that Act)).

#### **5 Application provision—item 4**

In respect of the amendment made by item 4, Part 2.20 of the *Social Security Act 1991* applies in relation to working out qualification for a double orphan pension for days on or after 1 January 2012.

**6 Subsection 5(1) (paragraph (b) of the definition of *young person*)**

Repeal the paragraph, substitute:

(b) in Part 2.20—means a person who is under 20 years of age.

**7 Application provision—item 6**

In respect of the amendment made by item 6, Part 2.20 of the *Social Security Act 1991* applies in relation to working out qualification for a double orphan pension for days on or after 1 January 2013.

## **Schedule 2A—Replacement of baby bonus from 1 March 2014**

### **Part 1—Newborn supplement for Part A rate of family tax benefit**

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

#### **1 Subsection 3(1) (at the end of the definition of *family tax benefit*)**

Add “(and includes any amount under section 58AA)”.

#### **2 After section 58**

Insert:

#### **58AA Newborn upfront payment of family tax benefit if newborn supplement added into Part A rate**

- (1) If, under Division 1A of Part 5 of Schedule 1, an amount of newborn supplement is added in relation to an individual and an FTB child of the individual, then the individual is entitled to be paid, as an amount of family tax benefit, \$500 in respect of the FTB child.

Note: The amount is to be paid as a single lump sum: see section 24A of the Family Assistance Administration Act.

#### *Exceptions*

- (2) Subsection (1) does not apply in relation to an individual and an FTB child of the individual if another individual has received an amount under this section in respect of that child while the individual and the other individual were members of the same couple.
- (3) Subsection (1) does not apply in relation to an individual and an FTB child of the individual in the circumstances prescribed in a legislative instrument under subclause 35A(12) of Schedule 1.

*One amount only in respect of FTB child*

- (4) An individual cannot receive more than one amount under this section in respect of an FTB child of the individual.

**3 Clause 3 of Schedule 1 (after paragraph (b) of step 1 of the method statement)**

Insert:

(ba) the individual's newborn supplement (if any) under Division 1A of Part 5 (clauses 35A and 35B);

**4 Clause 24N of Schedule 1 (after step 2 of the method statement)**

Insert:

Step 2A. Work out the individual's *newborn supplement* (if any) under Division 1A of Part 5 (clauses 35A and 35B) for FTB children of the individual in respect of whom the individual, or the individual's partner, is entitled to apply for maintenance income from the maintenance payer.

**5 Clause 25 of Schedule 1 (after paragraph (b) of step 1 of the method statement)**

Insert:

(ba) the individual's newborn supplement (if any) under Division 1A of Part 5 (clauses 35A and 35B);

**6 After Division 1 of Part 5 of Schedule 1**

Insert:

**Division 1A—Newborn supplement**

**35A Eligibility for newborn supplement**

- (1) Subject to this clause, an amount of newborn supplement is to be added, for a day, in working out an individual's maximum rate

under clause 3, or an individual's Method 2 base rate under clause 25, if subclause (2), (5) or (7) of this clause applies for that day in relation to the individual and an FTB child of the individual.

*Parent of child*

- (2) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
- (a) the individual, or the individual's partner, is a parent of the child on that day; and
  - (b) the child is aged less than one on that day; and
  - (c) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
  - (d) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (c) are satisfied; and
  - (e) if the individual is, under a law (the **registration law**) of a State or Territory, responsible (whether alone or jointly) for registering the birth of the child in accordance with the law—the Secretary is notified, or becomes aware, at any time before the end of whichever of the following periods is applicable, that the birth registration requirement is met:
    - (i) the first income year after the income year (the **relevant income year**) in which occurs the last day on which paragraphs (a) to (d) are satisfied;
    - (ii) if a further period in respect of the individual's claim for payment of family tax benefit in respect of the child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act and that claim is for a past period falling within the relevant income year—such further period (if any) as the Secretary allows in special circumstances.
- (3) For the purposes of paragraph (2)(e), the **birth registration requirement** is the requirement that:
- (a) the birth of the child has been registered in accordance with the registration law; or

- (b) the individual, or the individual's partner, has applied to have the birth of the child registered in accordance with the registration law.
- (4) Any further period allowed by the Secretary under subparagraph (2)(e)(ii) must end no later than the end of the second income year after the relevant income year.

*Child entrusted to care of individual or individual's partner*

- (5) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
  - (a) neither the individual, nor the individual's partner, is a parent of the child on that day; and
  - (b) on or before that day, the child became entrusted to the care of the individual or the individual's partner; and
  - (c) the child is aged less than one on that day; and
  - (d) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
  - (e) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (d) are satisfied.
- (6) However, subclause (5) does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if the child is not an FTB child of the individual for a continuous period of at least 13 weeks beginning on the first day that paragraphs (5)(a) to (d) are satisfied.

*Adoption*

- (7) This subclause applies for a day in relation to the individual and an FTB child of the individual if:
  - (a) on or before that day, the child became entrusted to the care of the individual or the individual's partner; and
  - (b) it is an authorised party that entrusts the child to the care of the individual or the individual's partner; and
  - (c) the authorised party does so as part of the process for the adoption of the child by the individual or the individual's partner; and

- (d) if this subclause were to apply for that day, the individual's Part A rate, disregarding reductions (if any) under clause 5 or 25A of this Schedule and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of this Schedule, would be greater than nil on that day; and
- (e) that day occurs in the period of 13 weeks beginning on the first day that paragraphs (a) to (d) are satisfied; and
- (f) that day occurs before the end of the period of 12 months beginning on the day the child became entrusted to the care of the individual or the individual's partner.

*Exceptions*

- (8) This clause does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if parental leave pay is payable to the individual for that child.
- (9) This clause does not apply, and is taken never to have applied, in relation to the individual and the FTB child of the individual if:
  - (a) parental leave pay is payable to a person (other than the individual) for that child; and
  - (b) the person and the individual are members of a couple for:
    - (i) if the person's PPL period is 13 weeks or more—at least 13 weeks of that PPL period; or
    - (ii) if the person's PPL period is less than 13 weeks—the whole of that PPL period.
- (10) If:
  - (a) under this clause, an amount of newborn supplement is added in relation to an individual and an FTB child of the individual for a period of 13 weeks; and
  - (b) the individual is a member of a couple throughout that period;then this clause does not apply in relation to the other member of that couple and that child.
- (11) An amount of newborn supplement is not to be added under this clause for a day or days in relation to an individual and an FTB child of the individual in the circumstances prescribed in a legislative instrument under subclause (12).

- (12) The Minister may, by legislative instrument, prescribe circumstances for the purposes of either or both of subsection 58AA(3) and subclause (11) of this clause.
- (13) The circumstances, in relation to an individual and an FTB child of the individual, must relate to one or more of the following:
- (a) the payability of parental leave pay to another individual for that child;
  - (b) the addition of newborn supplement under this clause in relation to another individual and that child;
  - (c) the individual being a member of a couple or a former member of a couple.

*Definition*

- (14) In this clause:

*parent* includes a relationship parent.

**35B Annualised rate of newborn supplement**

*General rule*

- (1) Subject to this clause, the amount of newborn supplement for an individual in respect of an FTB child is as follows:
- (a) if subclause 35A(2) applies and the child is the first child born alive to the woman who gave birth to the child—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

- (b) if subclause 35A(5) applies and the child is the first child that becomes entrusted to the care of the individual or the individual's partner—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

- (c) if subclause 35A(7) applies and the child is the first child that becomes entrusted to the care of the individual, or the individual's partner, in the circumstances mentioned in

paragraphs 35A(7)(a) to (c)—the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(d) otherwise—the amount worked out using the formula:

$$\$500.50 \times \frac{365}{91}$$

Note: The amount of the newborn supplement added under this Division forms part of the calculation of an individual's annual rate of family tax benefit, which is then converted to a daily rate of family tax benefit: see subsection 58(3). That daily rate, to the extent it relates to the newborn supplement, is paid for a maximum of 13 weeks: see clause 35A.

*Multiple children cases*

(2) If subclause 35A(2) applies in relation to an individual and 2 or more children born during the same multiple birth, the amount of newborn supplement for the individual in respect of each child is the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(3) If subclause 35A(5) applies in relation to an individual and 2 or more children who become entrusted to the care of the individual, or the individual's partner, as part of the same entrustment to care process, the amount of newborn supplement for the individual in respect of each child is the amount worked out using the formula:

$$\$1,501.50 \times \frac{365}{91}$$

(4) If subclause 35A(7) applies in relation to an individual and 2 or more children who become entrusted to the care of the individual, or the individual's partner, as part of the same adoption process, the amount of newborn supplement for the individual in respect of each child is the amount worked out using the formula:

**Schedule 2A** Replacement of baby bonus from 1 March 2014  
**Part 1** Newborn supplement for Part A rate of family tax benefit

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$$\$1,501.50 \times \frac{365}{91}$$

**7 Clause 2 of Schedule 4 (after table item 7)**

Insert:

7A	Newborn supplement for family tax benefit (Part A)	newborn supplement	[Schedule 1— paragraphs 35B(1)(a), (b), (c) and (d) and subclauses 35B(2), (3) and (4)—the dollar amount in the formula]
7B	Upfront payment of family tax benefit	newborn upfront payment	[subsection 58AA(1)]

**8 Subclause 3(1) of Schedule 4 (after table item 7)**

Insert:

7A	newborn supplement	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2012)	\$0.91
7B	newborn upfront payment	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2012)	\$1.00

**9 Subclause 3(7) of Schedule 4**

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Omit “, the FTB income limit (B) and the baby bonus income limit”,  
substitute “and the FTB income limit (B)”.

**10 Subclause 3(9) of Schedule 4**

Repeal the subclause, substitute:

*First indexation of newborn supplement and newborn upfront  
payment*

- (9) The first indexation under subclause (1) of the newborn  
supplement and the newborn upfront payment is to take place on  
1 July 2014.

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

**11 Section 5**

Before “The”, insert “(1)”.

**12 At the end of section 5**

Add:

- (2) A claim is not required for an amount of family tax benefit under  
section 58AA of the Family Assistance Act.

**13 Section 24 (heading)**

Repeal the heading, substitute:

**24 Payments of family tax benefit for a past period or by single  
payment/in substitution because of the death of another  
individual**

**14 After section 24**

Insert:

**24A Other payments of family tax benefit**

- (1) If an individual is entitled to be paid an amount of family tax  
benefit under section 58AA of the Family Assistance Act, the  
Secretary must pay the amount to the individual in a single lump

**Schedule 2A** Replacement of baby bonus from 1 March 2014

**Part 1** Newborn supplement for Part A rate of family tax benefit

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sum, at such time and in such manner as the Secretary considers appropriate.

- (2) This section is subject to Subdivision CA of this Division, Part 4, Division 3 of Part 8B and sections 225 and 226.

**15 Section 219TA (after paragraph (c) of the definition of *relevant benefit*)**

Insert:

- (caa) family tax benefit under section 58AA of the Family Assistance Act; or

## **Part 2—Stillborn baby payment**

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

#### **16 Subsection 3(1) (definition of *baby bonus*)**

Repeal the definition.

#### **17 Subsection 3(1) (paragraph (b) of the definition of *family assistance*)**

Repeal the paragraph, substitute:

(b) stillborn baby payment; or

#### **18 Subsection 3(1) (paragraph (c) of the definition of *FTB child*)**

Repeal the paragraph, substitute:

(c) in relation to stillborn baby payment—has the meaning given in Subdivision A of Division 1 of Part 3; and

#### **19 Subsection 3(1) (definition of *primary carer*)**

Repeal the definition.

#### **20 Subsection 3(1)**

Insert:

*stillborn baby payment* means the payment for which an individual is eligible under Division 2 of Part 3.

#### **21 Division 2 of Part 3**

Repeal the Division, substitute:

## **Division 2—Eligibility for stillborn baby payment**

### **Subdivision A—Eligibility of individuals for stillborn baby payment in normal circumstances**

#### **36 When an individual is eligible for stillborn baby payment in normal circumstances**

- (1) Subject to this section, an individual is eligible for a stillborn baby payment in respect of a child if:
  - (a) the child is a stillborn child; and
  - (b) had the child been born alive:
    - (i) the child would have been an FTB child of the individual at birth; and
    - (ii) the individual, or the individual's partner, would have been the primary carer of the child at birth; and
  - (c) either:
    - (i) the individual would have been eligible for family tax benefit in respect of the child, at any time within the period of 26 weeks starting on the day of the child's delivery, assuming the child had not been a stillborn child; or
    - (ii) the individual would have been so eligible on the assumption described in subparagraph (i) except that the individual's rate of family tax benefit, worked out under Division 1 of Part 4, is nil; and
  - (d) the claim for payment of stillborn baby payment contains an estimate of the sum of:
    - (i) the individual's adjusted taxable income; and
    - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual's partner;for the period of 6 months beginning on the day of the child's delivery; and
  - (e) that estimate is less than or equal to \$60,000 and the Secretary considers that estimate to be reasonable.
- (2) Paragraphs (1)(c) and (e) do not apply if on any day during the period of 52 weeks beginning on the day of the child's delivery:
  - (a) either:

- (i) a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the individual; or
  - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of this Act; and
- (b) the individual's rate of family tax benefit, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 and disregarding section 58A and subclauses 38AA(3) and 38AF(3) of Schedule 1, consisted of or included a Part A rate greater than nil.

*Estimate of adjusted taxable income*

- (3) For the purposes of paragraph (1)(d):
- (a) a reference in Schedule 3 to an income year is taken to be a reference to the 6-month period mentioned in that paragraph; and
  - (b) disregard subclause 2(2) and clauses 3 and 3A of that Schedule.

*Exception*

- (4) This section does not apply, and is taken never to have applied, in relation to the individual and the child if parental leave pay is payable to the individual, or the individual's partner, for the child.

**37 Only one individual eligible for stillborn baby payment in respect of a child**

If the Secretary determines that an individual who is a member of a couple is eligible for a stillborn baby payment under subsection 36(1) in respect of a child, the Secretary must not determine that the partner of the individual is eligible for a stillborn baby payment in respect of that child.

### **Subdivision B—Eligibility of individuals for stillborn baby payment where death occurs**

#### **38 What happens if an individual eligible for stillborn baby payment dies**

If:

- (a) an individual is eligible for a stillborn baby payment (the *subject payment*) in respect of a child; and
- (b) the individual dies; and
- (c) before the individual died, the subject payment had not been paid to the individual (whether or not a claim had been made under Part 3 of the Family Assistance Administration Act); and
- (d) another individual makes a claim under that Part for payment of a stillborn baby payment because of the death of the first-mentioned individual, stating that he or she wishes to become eligible for the subject payment; and
- (e) the claim is made:
  - (i) within 52 weeks after the death; or
  - (ii) within a further period allowed by the Secretary in special circumstances; and
- (f) the Secretary considers that the other individual ought to be eligible for the subject payment;

the other individual is eligible for the subject payment. No-one else is, or can become, eligible for or entitled to be paid that payment.

#### **22 Division 2 of Part 4**

Repeal the Division, substitute:

### **Division 2—Stillborn baby payment**

#### **66 Amount of stillborn baby payment**

##### *General rule*

- (1) Subject to this section, the amount of a stillborn baby payment for an individual in respect of a child is as follows:
  - (a) if the child is the first stillborn child of the woman who gave birth to the child—the amount worked out using the formula:

Higher newborn supplement amount + Newborn upfront amount  
(b) otherwise—the amount worked out using the formula:

Lower newborn supplement amount + Newborn upfront amount

*Multiple children case*

- (2) If 2 or more children are born during the same multiple birth and there is at least one stillborn child, the amount of stillborn baby payment for an individual in respect of each stillborn child born during that birth is the amount worked out using the formula:

Higher newborn supplement amount + Newborn upfront amount

*Definitions*

- (3) In this section:

**higher newborn supplement amount** means the dollar amount mentioned in the formula under paragraph 35B(1)(a) of Schedule 1 (including that amount as indexed).

**lower newborn supplement amount** means the dollar amount mentioned in the formula under paragraph 35B(1)(d) of Schedule 1 (including that amount as indexed).

**newborn upfront amount** means the amount mentioned in subsection 58AA(1) (including that amount as indexed).

**23 Subsection 85(1)**

Omit “(1)”.

**24 Subsection 85(2)**

Repeal the subsection.

**25 Clause 2 of Schedule 4 (table items 17AD and 17AE)**

Repeal the items, substitute:

17AD	Income limit for stillborn baby payment	stillborn baby payment income limit	[paragraph 36(1)(e)]
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**26 Subclause 3(1) of Schedule 4 (table items 17AD and 17AE)**

Repeal the items, substitute:

17AD	stillborn baby payment income limit	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2015)	\$1.00
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**27 Before subclause 3(5) of Schedule 4**

Insert:

*First indexation of stillborn baby payment income limit*

(4A) The first indexation under subclause (1) of the stillborn baby payment income limit is to take place on 1 July 2017.

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

**28 Subsection 3(1) (definition of *early claim day*)**

Repeal the definition, substitute:

*early claim day*, in relation to a claim for payment of family tax benefit by instalment, means the day occurring 97 days before the day that, on the day the claim is made, is the expected day on which the child to whom the claim relates will become an FTB child of the claimant. It does not matter whether the child becomes such an FTB child on the expected day.

**29 Subsection 3(1) (paragraph (c) of the definition of *TFN claim person*)**

Omit “baby bonus”, substitute “a stillborn baby payment”.

**30 Subsection 3(1) (paragraph (c) of the definition of *TFN substitution person*)**

Omit “baby bonus”, substitute “a stillborn baby payment”.

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### **31 Division 3 of Part 3 (heading)**

Repeal the heading, substitute:

## **Division 3—Stillborn baby payment**

### **32 Sections 36 to 38**

Repeal the sections, substitute:

#### **36 Need for a claim**

The only way that a person can become entitled to be paid a stillborn baby payment is to make a claim in accordance with this Division.

#### **37 Who can claim**

The only persons who can make a claim in accordance with this Division are individuals.

#### **38 How to claim**

- (1) An individual (the *claimant*) may make a claim for payment of:
  - (a) a stillborn baby payment in normal circumstances; or
  - (b) a stillborn baby payment because of the death of another individual.
- (2) A claim is not effective unless:
  - (a) the claim:
    - (i) is made in a form and manner; and
    - (ii) contains any information; and
    - (iii) is accompanied by any documents; required by the Secretary; and
  - (b) in the case of a claim for a stillborn baby payment in normal circumstances—the claim contains an estimate of the sum of:
    - (i) the individual's adjusted taxable income; and
    - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual's partner;for the 6-month period mentioned in paragraph 36(1)(d) of the Family Assistance Act; and

- (c) in the case of a claim for a stillborn baby payment in normal circumstances—the tax file number requirement in section 38A has been satisfied in relation to the claim; and
- (d) in the case of a claim for a stillborn baby payment because of the death of another individual—the tax file number requirement in section 38B has been satisfied in relation to the claim.

*Estimate of adjusted taxable income*

- (3) For the purposes of paragraph (2)(b):
  - (a) a reference in Schedule 3 to the Family Assistance Act to an income year is taken to be a reference to the 6-month period referred to in that paragraph; and
  - (b) disregard subclause 2(2) and clauses 3 and 3A of that Schedule.

**33 Section 38A (heading)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**34 Section 38B (heading)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**35 Section 39**

Repeal the section, substitute:

**39 Restrictions on claiming**

*“Normal circumstances” entitlement must not already have been determined, or be awaiting determination, on a previous claim*

- (1) A claim for payment of a stillborn baby payment in normal circumstances is not effective if the claimant has previously made such a claim based on the same circumstances (whether or not the claim has yet been determined).

*Timing of “normal circumstances” stillborn baby payment claim*

- (2) Subject to subsections (3) and (4), a claim for payment of a stillborn baby payment in normal circumstances is not effective

unless it is made before the end of the period of 52 weeks beginning on the day of the birth of the stillborn child.

- (3) If the Secretary is satisfied that the claimant was unable to make a claim for payment of a stillborn baby payment in normal circumstances because of severe illness associated with the birth of the stillborn child, the Secretary may extend the period of 52 weeks mentioned in subsection (2) to such longer period as the Secretary considers appropriate.
- (4) If:
- (a) the claimant, or the claimant's partner, made a claim in accordance with Part 2-4 of the *Paid Parental Leave Act 2010* for parental leave pay for the child to whom the claim for payment of a stillborn baby payment relates; and
  - (b) the Secretary notifies the claimant, or the claimant's partner, under section 24 of that Act that parental leave pay is not payable for the child; and
  - (c) the notice is given:
    - (i) after the end of the period of 52 weeks mentioned in subsection (2) of this section; or
    - (ii) during the last 13 weeks of that period of 52 weeks;
- subsection (2) of this section does not apply if the claim for payment of a stillborn baby payment is made within the period of 13 weeks after the day on which the notice is given.
- “Bereavement” entitlement must not already have been determined, or be awaiting determination, on a previous claim*
- (5) A claim for payment of a stillborn baby payment because of the death of another individual is not effective if the claimant has previously made such a claim because of the death of that individual (whether or not the claim has yet been determined).

### **36 Section 41**

Repeal the section, substitute:

### **41 Secretary must determine claim**

- (1) If a claim is effective, the Secretary must determine the claim in accordance with this section and sections 42 to 44. If the claim is not effective, it is taken not to have been made.

*Information to be taken into account*

- (2) The Secretary is to make the determination:
- (a) having regard only to the information in the claim (and any accompanying documents or information required by the Secretary); or
  - (b) having regard to the things in paragraph (a) and also to any other information or documents (whether or not provided by the claimant).

*Deferral of “normal circumstances” stillborn baby payment determination pending resolution of parental leave pay*

- (3) If:
- (a) the claim is one for payment of a stillborn baby payment in normal circumstances; and
  - (b) the claimant, or the claimant’s partner, has made a claim in accordance with Part 2-4 of the *Paid Parental Leave Act 2010* for parental leave pay for the child to whom the claim for a stillborn baby payment relates;
- the Secretary must not determine the claim for a stillborn baby payment until one of the following occurs:
- (c) if the Secretary determines under that Act that parental leave pay for the child is payable:
    - (i) the PPL period applying to the individual who made the claim for parental leave pay starts; or
    - (ii) the Secretary revokes the determination under section 25 of that Act;
  - (d) the Secretary determines under that Act that parental leave pay for the child is not payable;
  - (e) the claim for parental leave pay is withdrawn under section 61 of that Act.

**37 Sections 42 to 47AB**

Repeal the sections, substitute:

**42 Determination of “normal circumstances” entitlement claim**

- If:
- (a) the claim is one for payment of a stillborn baby payment in normal circumstances; and
-

- (b) the Secretary is satisfied that the claimant is eligible for a stillborn baby payment in accordance with Subdivision A of Division 2 of Part 3 of the Family Assistance Act in respect of the child to whom the claim relates;

the Secretary must determine that the claimant is entitled to be paid the stillborn baby payment and must determine the amount of the payment that the claimant is entitled to be paid.

#### **43 Determination of “bereavement” entitlement claim**

If:

- (a) the claim is one for payment of a stillborn baby payment because of the death of another individual; and
- (b) the Secretary is satisfied that the claimant is, in the circumstances covered by the claim, eligible for a stillborn baby payment in accordance with Subdivision B of Division 2 of Part 3 of the Family Assistance Act;

the Secretary must determine that the claimant is entitled to be paid the stillborn baby payment and must determine the amount of the payment that the claimant is entitled to be paid.

#### **44 Determination that no entitlement**

If the Secretary is not satisfied as mentioned in section 42 or 43, the Secretary must determine that the claimant is not entitled to be paid a stillborn baby payment in respect of the child to whom the claim relates, or in the circumstances covered by the claim, as the case requires.

#### **45 When determination is in force**

A determination comes into force when it is made and remains in force at all times afterwards.

#### **46 Notice of determination**

- (1) The Secretary must give notice of the determination to the claimant, stating:
  - (a) whether the claimant is entitled to be paid a stillborn baby payment under the determination; and

- (b) if the claimant is entitled—the amount of the stillborn baby payment and how it is to be paid; and
  - (c) that the claimant may apply for review of the determination in the manner set out in Part 5.
- (2) The determination is not ineffective by reason only that the requirements of subsection (1) are not complied with.

#### **47 Payment of stillborn baby payment**

- (1) If the claimant is entitled to be paid a stillborn baby payment, the Secretary must pay the amount of the payment to the claimant in a single lump sum:
- (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the amount to be paid; and
  - (b) to the credit of a bank account nominated and maintained by the claimant.

##### *Payment not to bank account*

- (2) However, the Secretary may direct that an amount that is to be paid under subsection (1) is to be paid in a way other than by payment to the credit of a bank account nominated and maintained by the claimant. A direction has effect accordingly.

##### *Interaction with other provisions*

- (3) This section is subject to Part 4, Division 3 of Part 8B and sections 225 and 226.

#### **38 Paragraphs 47A(1)(b) and (2)(b)**

Omit “baby bonus”, substitute “a stillborn baby payment”.

#### **39 Subsection 47A(3)**

Omit “baby bonus”, substitute “a stillborn baby payment”.

#### **40 Sections 47B and 47C**

Repeal the sections.

#### **41 Paragraph 66(1)(c)**

Repeal the paragraph, substitute:

(c) stillborn baby payments;

**42 Paragraph 71(1)(a)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**43 Subsection 93A(6) (paragraph (a) of the definition of *family assistance payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**44 Section 219TA (paragraph (d) of the definition of *relevant benefit*)**

Repeal the paragraph, substitute:

(d) stillborn baby payment; or

***Income Tax Assessment Act 1997***

**45 Section 11-15 (table item headed “family assistance”)**

Omit:

baby bonus ..... 52-150

**46 Section 11-15 (at the end of the table item headed “family assistance”)**

Add:

stillborn baby payment ..... 52-150

**47 Section 52-150**

Omit “baby bonus”, substitute “stillborn baby payment”.

***Paid Parental Leave Act 2010***

**48 Section 4**

Omit:

(c) not have returned to work; and

(d) not be entitled to baby bonus.

substitute:

(c) not have returned to work.

**49 Section 6 (definition of *baby bonus*)**

Repeal the definition.

**50 Section 30**

Omit:

(c) not have returned to work; and

(d) not be entitled to baby bonus.

substitute:

(c) not have returned to work.

**51 Paragraph 31(2)(e)**

Omit “Division 7); and”, substitute “Division 7).”.

**52 Paragraph 31(2)(f)**

Repeal the paragraph.

***Social Security (Administration) Act 1999***

**53 Section 123TC (paragraph (e) of the definition of *category I welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**54 Section 123TC (paragraph (p) of the definition of *category Q welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**55 Section 123TC (paragraph (c) of the definition of *category S welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**56 Subsection 123XJA(3)**

Repeal the subsection.

**57 Subsection 123XJA(4) (heading)**

Omit “—instalments of other category I welfare payments”.

**58 Subsection 123XJA(4)**

Omit “(other than baby bonus under the Family Assistance Act)”.

**59 Subsection 123XJC(3)**

Repeal the subsection.

**60 Subsection 123XJC(4) (heading)**

Omit “—instalments of other category I welfare payments”.

**61 Subsection 123XJC(4)**

Omit “(other than baby bonus under the Family Assistance Act)”.

## Part 3—Counting previous PPL period etc. for work test

### *Paid Parental Leave Act 2010*

#### **62 Section 30**

After “(for a secondary claimant).”, insert “A previous PPL period and previous DAPP period of the person may be taken into account in working out whether the person satisfies the work test for a subsequent child.”.

#### **63 At the end of section 32**

Add:

Note 3: If the person performs qualifying work on a day because of paragraph (c) or (d) of the definition of *qualifying work* in subsection 34(1), see section 35A to work out the hours of qualifying work the person is taken to have performed on the day.

#### **64 Subsection 34(1)**

Repeal the subsection, substitute:

- (1) A person performs *qualifying work* on a day if at least one of the following applies on the day:
  - (a) the person performs at least one hour of paid work;
  - (b) the person takes a period of paid leave of at least one hour;
  - (c) the day is in the person’s PPL period for a previous child;
  - (d) the day is in the person’s DAPP period for a previous child.

#### **65 After section 35**

Insert:

#### **35A Hours of qualifying work on a day in a PPL or DAPP period**

*If person does not perform paid work or take paid leave in previous PPL or DAPP period*

- (1) For the purposes of step 5 of the method statement in section 32, if a person performs qualifying work on a day only because the day is in the person’s PPL period or DAPP period for a previous child, the person is taken to have performed on that day:

- (a) 7.6 hours of work, if the day is a week day; and
- (b) no hours of work, if the day is a Saturday or Sunday.

*If person performs paid work in previous PPL or DAPP period*

- (2) For the purposes of step 5 of the method statement in section 32, if a person performs qualifying work on a day because both:
  - (a) the person performs at least one hour of paid work on the day; and
  - (b) the day is in the person's PPL period or DAPP period for a previous child;the person is taken to have performed on that day the greater of:
  - (c) the hours of work the person would be taken to have performed if subsection (1) applied; and
  - (d) the number of hours of paid work performed by the person on that day.

Note: Paid work for a permissible purpose could be performed during a person's PPL period or DAPP period for a previous child (see Division 7 of this Part and Division 7 of Part 3A-3).

*If person takes paid leave in previous PPL or DAPP period*

- (3) For the purposes of step 5 of the method statement in section 32, if a person performs qualifying work on a day because both:
  - (a) the person takes a period of paid leave of at least one hour on the day; and
  - (b) the day is in the person's PPL period or DAPP period for a previous child;the person is taken to have performed on that day the greater of:
  - (c) the hours of work the person would be taken to have performed if subsection (1) applied; and
  - (d) the number of hours of paid leave taken by the person on that day.

## **66 Section 115CA**

After "nominated start date for dad and partner pay.", insert "A previous PPL period and previous DAPP period of the person may be taken into account in working out whether the person satisfies the work test for a subsequent child."

## **Part 4—Application and transitional provisions**

### **67 Application and transitional provisions—Parts 1 and 2**

- (1) Despite the amendments made by this Schedule, the Assistance Act and the Administration Act, as in force immediately before the commencement of this item, to the extent to which they relate to baby bonus, continue to apply on and after that commencement in relation to an individual if the following circumstances exist:
  - (a) for subsection 36(2) of the Assistance Act—the child was born before 1 March 2014;
  - (b) for subsection 36(3) of the Assistance Act—the child was born before 1 March 2014;
  - (c) for subsection 36(4) of the Assistance Act—the child was born as a stillborn child before 1 March 2014;
  - (d) for subsection 36(5) of the Assistance Act—the child was entrusted to care before 1 March 2014.
- (2) Subclause 35A(2) of Schedule 1 to the Assistance Act, as inserted by this Schedule, applies in relation to a child who is born on or after 1 March 2014.
- (3) Subclause 35A(5) of Schedule 1 to the Assistance Act, as inserted by this Schedule, applies in relation to a child who is born on or after 1 March 2014.
- (4) Subclause 35A(7) of Schedule 1 to the Assistance Act, as inserted by this Schedule, applies in relation to a child who is entrusted to care on or after 1 March 2014.
- (5) To avoid doubt, for the purposes of paragraph 35B(1)(a) of Schedule 1 to the Assistance Act, as inserted by this Schedule, in working out whether a child is the first child born alive to a woman, take into account children born alive to the woman before, on or after 1 March 2014.
- (6) To avoid doubt, for the purposes of paragraph 35B(1)(b) or (c) of Schedule 1 to the Assistance Act, as inserted by this Schedule, in working out whether a child is the first child entrusted to the care of an individual, or the partner of an individual, take into account children entrusted to the care of the individual, or the partner of the individual, before, on or after 1 March 2014.

- (7) Paragraph 36(1)(a) of the Assistance Act, as inserted by this Schedule, applies in relation to a child who is born as a stillborn child on or after 1 March 2014.
- (8) To avoid doubt, for the purposes of paragraph 66(1)(a) of the Assistance Act, as inserted by this Schedule, in working out whether a child is the first stillborn child of a woman, take into account children born as stillborn children of the woman before, on or after 1 March 2014.
- (9) Despite the amendments made by this Schedule, section 52-150 of the *Income Tax Assessment Act 1997* (as in force immediately before the commencement of this item) continues to apply on and after that commencement in relation to payments of baby bonus made before, on or after that commencement.
- (10) Despite the amendments made by this Schedule:
- (a) paragraph (e) of the definition of *category I welfare payment* in section 123TC of the *Social Security (Administration) Act 1999* (as in force immediately before the commencement of this item); and
  - (b) paragraph (p) of the definition of *category Q welfare payment* in that section as so in force; and
  - (c) paragraph (c) of the definition of *category S welfare payment* in that section as so in force; and
  - (d) sections 123XJA and 123XJC of that Act as so in force;
- continue to apply on and after that commencement in relation to payments of baby bonus made before, on or after that commencement.
- (11) Despite the amendments made by this Schedule, paragraph 31(2)(f) of the *Paid Parental Leave Act 2010* (as in force immediately before the commencement of this item) continues to apply on and after that commencement in relation to working out eligibility for parental leave pay for a child before, on or after that commencement.
- (12) In this item:
- Administration Act* means the *A New Tax System (Family Assistance) (Administration) Act 1999*.
- Assistance Act* means the *A New Tax System (Family Assistance) Act 1999*.

## 68 Application and transitional provisions—Part 3

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**Schedule 2A** Replacement of baby bonus from 1 March 2014

**Part 4** Application and transitional provisions

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- (1) The amendments made by Part 3 of this Schedule apply in relation to a person's eligibility for parental leave pay and dad and partner pay for a child born on or after 1 March 2014.
- (2) The following provisions of the *Paid Parental Leave Act 2010* apply in relation to this item as if this item were a provision of that Act:
  - (a) section 275 (which deals with how that Act applies to an adopted child);
  - (b) section 276 (which deals with how that Act applies to claims made in exceptional circumstances);
  - (c) section 277A (which deals with how that Act applies to claims for dad and partner pay made in prescribed circumstances).

## **Schedule 2B—Time periods**

### **Part 1—Amendments**

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

##### **1 Paragraph 35UB(2)(b)**

Omit “second income year after the income year in which the bonus test day occurs”, substitute “first income year after the income year in which the bonus test day occurs or of such further period (if any) as the Secretary allows”.

##### **2 After subsection 35UB(2)**

Insert:

(2A) For the purposes of paragraph (2)(b):

- (a) the Secretary must not allow a further period unless:
  - (i) the Secretary is satisfied that there are special circumstances; and
  - (ii) a further period in respect of the individual’s claim for payment of family tax benefit in respect of the FTB child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act; and
  - (iii) that claim is for a past period falling within the income year in which the bonus test day occurs; and
- (b) any further period allowed by the Secretary must end no later than the end of the second income year after the income year in which the bonus test day occurs.

##### **3 Subsection 35UD(1)**

Omit “second income year after the income year in which the bonus test day occurs”, substitute “first income year after the income year in which the bonus test day occurs or of such further period (if any) as the Secretary allows”.

##### **4 After subsection 35UD(1)**

Insert:

(1A) For the purposes of subsection (1):

- (a) the Secretary must not allow a further period unless:
  - (i) the Secretary is satisfied that there are special circumstances; and
  - (ii) a further period in respect of the individual's claim for payment of family tax benefit in respect of the child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act; and
  - (iii) that claim is for a past period falling within the income year in which the bonus test day occurs; and
- (b) any further period allowed by the Secretary must end no later than the end of the second income year after the income year in which the bonus test day occurs.

**5 Paragraph 61A(2A)(a)**

Omit "second income year after the income year in which the FTB child turned 4", substitute "first income year after the income year in which the FTB child turned 4 or of such further period (if any) as the Secretary allows".

**6 Paragraph 61A(2A)(b)**

Omit "second income year", substitute "first income year or of the further period (if any)".

**7 After subsection 61A(2A)**

Insert:

(2AA) For the purposes of paragraph (2A)(a):

- (a) the Secretary must not allow a further period unless:
  - (i) the Secretary is satisfied that there are special circumstances; and
  - (ii) a further period in respect of the individual's claim for payment of family tax benefit in respect of the FTB child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act; and
  - (iii) that claim is for a past period falling within the income year in which the FTB child turned 4; and
- (b) any further period allowed by the Secretary must end no later than the end of the second income year after the income year in which the FTB child turned 4.

### **8 Subsection 61A(3)**

Repeal the subsection, substitute:

*Death of the FTB child*

- (3) Subsections (1), (2) and (2A) do not apply if the FTB child dies before the end of:
- (a) the first income year after the income year in which the FTB child turned 4; or
  - (b) the further period (if any) allowed by the Secretary under paragraph (2A)(a).

### **9 Paragraph 61B(3)(a)**

Omit “second income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires)”, substitute “first income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires) or of such further period (if any) as the Secretary allows”.

### **10 Paragraph 61B(3)(b)**

Omit “second income year”, substitute “first income year or of the further period (if any)”.

### **11 After subsection 61B(3)**

Insert:

- (3A) For the purposes of paragraph (3)(a):
- (a) the Secretary must not allow a further period unless:
    - (i) the Secretary is satisfied that there are special circumstances; and
    - (ii) a further period in respect of the individual’s claim for payment of family tax benefit in respect of the FTB child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act; and
    - (iii) that claim is for a past period falling within the income year in which the FTB child turned 1, 2 or 5 (as the case requires); and
  - (b) any further period allowed by the Secretary must end no later than the end of the second income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires).

## 12 Subsection 61B(4)

Repeal the subsection, substitute:

*Death of the FTB child or eligible individual*

- (4) Subsections (1), (2) and (3) do not apply if the FTB child, or the individual mentioned in subsection (1) or (2), dies before the end of:
- (a) the first income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires); or
  - (b) the further period (if any) allowed by the Secretary under paragraph (3)(a).

## 13 Subsection 65B(4)

Omit “second income year after the income year in which the bonus test day occurs”, substitute “first income year after the income year in which the bonus test day occurs or of such further period (if any) as the Secretary allows”.

## 14 After subsection 65B(4)

Insert:

- (4AA) For the purposes of subsection (4):
- (a) the Secretary must not allow a further period unless:
    - (i) the Secretary is satisfied that there are special circumstances; and
    - (ii) a further period in respect of the individual’s claim for payment of family tax benefit in respect of the eligible child was allowed under paragraph 10(2)(b) of the Family Assistance Administration Act; and
    - (iii) that claim is for a past period falling within the income year in which the bonus test day occurs; and
  - (b) any further period allowed by the Secretary must end no later than the end of the second income year after the income year in which the bonus test day occurs.

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

## 15 Paragraph 10(2)(b)

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Repeal the paragraph, substitute:

- (b) the period does fall wholly within one income year (the *relevant income year*) but the claim is made after the end of:
  - (i) the first income year after the relevant income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the claimant from making the claim before the end of that first income year.

## **16 After subsection 10(2)**

Insert:

- (2A) The further period referred to in subparagraph (2)(b)(ii) must end no later than the end of the second income year after the relevant income year.

## **17 After section 14**

Insert:

### **14A Restriction on determining claim where income tax return not lodged**

- (1) If, in relation to a claim for payment of family tax benefit made by an individual:
  - (a) the claim is for payment of that benefit for a past period; and
  - (b) the past period falls in an income year (the *past period income year*) that is one of the 2 income years before the one in which the claim is made; and
  - (c) either or both of subsections (2) and (3) apply;then the claim is taken never to have been made.
- (2) This subsection applies if:
  - (a) the claimant is required to lodge an income tax return for the past period income year; and
  - (b) the claimant has not lodged the return before the end of:
    - (i) the first income year after the past period income year; or
    - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special

circumstances that prevented the claimant from lodging the return before the end of that first income year.

- (3) This subsection applies if:
- (a) at the time the claim is made, a person is the claimant's partner, and that person was the claimant's partner at any time during the past period; and
  - (b) that person is required to lodge an income tax return for the past period income year; and
  - (c) that person has not lodged the return before the end of:
    - (i) the first income year after the past period income year; or
    - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the person from lodging the income tax return before the end of that first income year.
- (4) The further period referred to in subparagraph (2)(b)(ii) or (3)(c)(ii) must end no later than the end of the second income year after the past period income year.

### **18 Paragraph 28(3)(c)**

Repeal the paragraph, substitute:

- (c) if each of the taxpayers involved lodged an income tax return with the Commissioner of Taxation:
  - (i) before the end of the income year after the cancellation income year; or
  - (ii) within such further period as the taxpayer is allowed under Subdivision D of Division 1 of this Part; the recalculated amount; or

### **19 Paragraph 28(4)(a)**

Omit all the words after "couple", substitute "during the further period that the Secretary has allowed, under Subdivision D of Division 1 of this Part, within which the ex-partner may lodge an income tax return".

### **20 Paragraph 28(4)(c)**

Repeal the paragraph, substitute:

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- (c) if the claimant was required to lodge an income tax return for the cancellation income year:
  - (i) the claimant has lodged an income tax return for the cancellation income year before the end of the first income year after the cancellation income year, or of the further period that the Secretary has allowed, under Subdivision D of Division 1 of this Part, within which the claimant may lodge an income tax return; and
  - (ii) an assessment is or has been made under the *Income Tax Assessment Act 1936* of the claimant's taxable income for the cancellation income year;

## **21 Subsection 28(5)**

Omit all the words after "entitled to be", substitute "paid the recalculated amount".

## **22 Paragraphs 32C(1)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) the first individual was a member of a couple throughout the same-rate benefit period; and
- (b) the first individual or the other member of the couple is or was required to lodge an income tax return for the relevant income year; and
- (c) the first individual continues to be a member of the couple until the end of the latest of the following:
  - (i) the first income year after the relevant income year;
  - (ii) such further period (if any) as the Secretary allows for the first individual to lodge the return, if the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that first income year;
  - (iii) such further period (if any) as the Secretary allows for the other member of the couple to lodge the return, if the Secretary is satisfied that there are special circumstances that prevented the other member from lodging the return before the end of that first income year.

## **23 Subsection 32C(2)**

Repeal the subsection, substitute:

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- (2) If only one member of the couple was required to lodge an income tax return for the relevant income year, the relevant reconciliation time is the time when an assessment is made under the *Income Tax Assessment Act 1936* of the member's taxable income for the relevant income year, so long as the member's income tax return for the relevant income year was lodged before the end of:
- (a) the first income year after the relevant income year; or
  - (b) such further period as the Secretary allows for that member under subparagraph (1)(c)(ii) or (iii), as the case requires.

#### **24 Paragraph 32C(3)(b)**

Repeal the paragraph, substitute:

- (b) each member of the couple lodged an income tax return for the relevant income year before the end of:
  - (i) the first income year after the relevant income year; or
  - (ii) such further period as the Secretary allows for that member under subparagraph (1)(c)(ii) or (iii), as the case requires;

#### **25 At the end of section 32C**

Add:

- (4) The further period under subparagraph (1)(c)(ii) or (iii) must end no later than the end of the second income year after the relevant income year.

#### **26 Subsection 32D(2)**

Repeal the subsection, substitute:

- (2) The relevant reconciliation time is the time when an assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the relevant income year, so long as the first individual's income tax return for the relevant income year was lodged before the end of:
  - (a) the first income year after the relevant income year; or
  - (b) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that first income year.

#### **27 At the end of section 32D**

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Add:

- (3) The further period referred to in paragraph (2)(b) must end no later than the end of the second income year after the relevant income year.

## **28 Subsection 32E(2)**

Repeal the subsection, substitute:

- (2) The relevant reconciliation time is the time when an assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the relevant income year, so long as the first individual's income tax return for the relevant income year was lodged before the end of:
  - (a) the first income year after the relevant income year; or
  - (b) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that first income year.

## **29 At the end of section 32E**

Add:

- (3) The further period referred to in paragraph (2)(b) must end no later than the end of the second income year after the relevant income year.

## **30 Subsection 32F(4)**

Omit all the words after "relevant reconciliation time", substitute:  
is whichever is the later of the following:

- (c) the end of the designated date in the next income year;
- (d) the time when an assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the relevant income year.

## **31 Subsection 32F(6)**

Repeal the subsection (including the note), substitute:

- (6) If:

- (a) the other member of the couple lodged an income tax return for the relevant income year before the end of the designated date in the next income year; and
- (b) the first individual is or was required to lodge an income tax return for the relevant income year, but did not lodge an income tax return for the relevant income year before the end of the designated date in the next income year;

the relevant reconciliation time is whichever is the later of the following:

- (c) the time when an assessment is made under the *Income Tax Assessment Act 1936* of the other member's taxable income for the relevant income year;
- (d) the time when an assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the relevant income year, so long as the first individual's income tax return for the relevant income year was lodged before the end of such further period (if any) as the Secretary allows.

Note: For *designated date*, see section 32R.

- (7) The Secretary must not allow a further period under paragraph (6)(d) unless the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that next income year.
- (8) The further period referred to in paragraph (6)(d) must end no later than the end of the second income year after the relevant income year.

### **32 At the end of subsection 32G(1)**

Add:

- ; and (e) if the first individual is or was required to lodge an income tax return—the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that next income year.

### **33 Subsection 32G(2)**

Repeal the subsection (including the note), substitute:

- (2) If the first individual is or was required to lodge an income tax return, the relevant reconciliation time is the time when an

assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the relevant income year, so long as the first individual's income tax return for the relevant income year was lodged before the end of such further period as the Secretary allows.

- (3) If the first individual is not or was not required to lodge an income tax return, the relevant reconciliation time is the end of the designated date in the next income year.

Note: For *designated date*, see section 32R.

- (4) The further period referred to in subsection (2) must end no later than the end of the second income year after the relevant income year.

### **34 Paragraphs 32H(1)(a), (b) and (c)**

Repeal the paragraphs, substitute:

- (a) the first individual was a member of a couple throughout the same-rate benefit period; and
- (b) the first individual is or was required to lodge an income tax return for the relevant income year; and
- (c) the first individual ceases to be a member of the couple during the period:
  - (i) beginning just after the designated date in the next income year; and
  - (ii) ending at the end of such further period as the Secretary allows for the first individual to lodge the return, if the Secretary is satisfied that there are special circumstances that prevented the first individual from lodging the return before the end of that next income year.

### **35 Subsection 32H(2)**

Repeal the subsection, substitute:

- (2) The further period referred to in subparagraph (1)(c)(ii) must end no later than the end of the second income year after the relevant income year.
- (2A) If the first individual ceased to be a member of the couple before the time when an assessment is made under the *Income Tax Assessment Act 1936* of the first individual's taxable income for the

relevant income year, the relevant reconciliation time is the time when the assessment is made, so long as the first individual's income tax return for the relevant income year was lodged before the end of such further period as the Secretary allows.

### 36 Section 32R

Repeal the section, substitute:

### 32R Designated date

The *designated date* is 30 June.

### 37 Paragraph 49J(2)(b)

Repeal the paragraph, substitute:

- (b) the period does fall wholly within one income year (the *relevant income year*) but the claim is made before the end of the relevant income year or after the end of:
  - (i) the first income year after the relevant income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the claimant from lodging the claim before the end of that first income year.

### 38 After subsection 49J(2)

Insert:

- (2A) The further period referred to in subparagraph (2)(b)(ii) must end no later than the end of the second income year after the relevant income year.

### 39 Paragraph 65KD(2)(b)

Repeal the paragraph, substitute:

- (b) the period does fall wholly within one income year (the *relevant income year*) but the claim is made after the end of:
  - (i) the first income year after the relevant income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the claimant from lodging the claim before the end of that first income year.

#### **40 After subsection 65KD(2)**

Insert:

- (2A) The further period referred to in subparagraph (2)(b)(ii) must end no later than the end of the second income year after the relevant income year.

#### **41 Paragraph 65KI(2)(b)**

Repeal the paragraph, substitute:

- (b) the claimant has not lodged the return before the end of:
- (i) the first income year after the past period income year;  
or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the claimant from lodging the return before the end of that first income year.

#### **42 Paragraph 65KI(3)(c)**

Repeal the paragraph, substitute:

- (c) that person has not lodged the return before the end of:
- (i) the first income year after the past period income year;  
or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the person from lodging the return before the end of that first income year.

#### **43 At the end of section 65KI**

Add:

- (4) The further period referred to in subparagraph (2)(b)(ii) or (3)(c)(ii) must end no later than the end of the second income year after the past period income year.

#### **44 Paragraph 65KP(3)(a)**

Repeal the paragraph, substitute:

- (a) the individual is required to lodge an income tax return for the past period income year, but the individual has not lodged the return before the end of:

- (i) the first income year after the past period income year;  
or
- (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the individual from lodging the return before the end of that first income year.

**45 Subparagraph 65KP(3)(b)(iii)**

Repeal the subparagraph, substitute:

- (iii) that person has not lodged the return before the end of the first income year after the past period income year, or of such further period (if any) as the Secretary allows if the Secretary is satisfied that there are special circumstances that prevented the person from lodging the income tax return before the end of that first income year;

**46 After subsection 65KP(3)**

Insert:

- (3A) The further period referred to in subparagraph (3)(a)(ii) or (3)(b)(iii) must end no later than the end of the second income year after the past period income year.

**47 Paragraph 95(4A)(a)**

Omit “(the *later income year*) that began 2 years after the beginning of”, substitute “after”.

**48 Subparagraph 107(3A)(b)(i)**

Omit “second income year after the income year in which the FTB child turned 4”, substitute “first income year after the income year in which the FTB child turned 4 or of the further period (if any) allowed by the Secretary under paragraph 61A(2A)(a) of that Act”.

**49 Subparagraph 107(3C)(b)(i)**

Omit “second income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires)”, substitute “first income year after the income year in which the FTB child turned 1, 2 or 5 (as the case requires) or of the further period (if any) allowed by the Secretary under paragraph 61B(3)(a) of that Act”.

**50 Subparagraph 109D(4)(d)(iii)**

Omit “second income year after the income year in which that FTB child turned 4”, substitute “first income year after the income year in which that FTB child turned 4 or of the further period (if any) allowed by the Secretary under paragraph 61A(2A)(a) of that Act”.

**51 Subparagraph 109D(4)(f)(iii)**

Omit “second income year after the income year in which that FTB child turned 1, 2 or 5 (as the case requires)”, substitute “first income year after the income year in which that FTB child turned 1, 2 or 5 (as the case requires) or of the further period (if any) allowed by the Secretary under paragraph 61B(3)(a) of that Act”.

**52 Subparagraph 109E(3)(d)(iii)**

Omit “second income year after the income year in which that FTB child turned 4”, substitute “first income year after the income year in which that FTB child turned 4 or of the further period (if any) allowed by the Secretary under paragraph 61A(2A)(a) of that Act”.

**53 Subparagraph 109E(3)(f)(iii)**

Omit “second income year after the income year in which that FTB child turned 1, 2 or 5 (as the case requires)”, substitute “first income year after the income year in which that FTB child turned 1, 2 or 5 (as the case requires) or of the further period (if any) allowed by the Secretary under paragraph 61B(3)(a) of that Act”.

## Part 2—Application provisions

### 54 Application provisions—schoolkids bonus

- (1) The amendments made by items 1, 2, 13 and 14 apply in relation to working out eligibility for schoolkids bonus on bonus test days occurring on or after 1 January 2013.
- (2) The amendments made by items 3 and 4 apply in relation to working out eligibility for schoolkids bonus on bonus test days occurring on or after the commencement of those items.

### 55 Application provision—health check requirement and immunisation requirements

The amendments made by items 5 to 12 and 48 to 53 apply in relation to an income year referred to in subsection 61A(1) or (2) or 61B(1) or (2) of the *A New Tax System (Family Assistance) Act 1999* that is the 2012-13 income year or a later income year.

### 56 Application provisions—family tax benefit

- (1) The amendments made by items 15 to 21 apply in relation to a past period falling in the 2012-13 income year or a later income year.
- (2) The amendments made by items 22 to 36 apply in relation to a relevant income year referred to in subsection 32A(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* that is the 2012-13 income year or a later income year.

### 57 Application provision—child care benefit

The amendments made by items 37 and 38 apply in relation to a past period falling in the 2012-13 income year or a later income year.

### 58 Application provision—single income family supplement

The amendments made by items 39 to 46 apply in relation to a past period falling in the 2012-13 income year or a later income year.

## **Schedule 3—Other amendments**

### **Part 1—Schoolkids bonus**

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

##### **1 Paragraph 35UA(2)(d)**

Repeal the paragraph, substitute:

- (d) at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on the bonus test day:
  - (i) the other individual was undertaking full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*); or
  - (ii) the other individual was undertaking an eligible activity (see subsection (6)); and

##### **2 Paragraph 35UA(4)(e)**

Repeal the paragraph, substitute:

- (e) at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on the bonus test day:
  - (i) the other individual was participating in a course of primary education; or
  - (ii) the other individual satisfied the secondary study test within the meaning of section 35UI; or
  - (iii) the other individual was undertaking an eligible activity (see subsection (6)); and

##### **3 Paragraph 35UA(4A)(d)**

Omit “at any time before the end of the period of 13 weeks beginning on the bonus test day”, substitute “at any time before the end of the calendar year in which the bonus test day occurs”.

##### **4 Paragraph 35UB(2)(b)**

Omit “—the Secretary is notified, or otherwise becomes aware, that”.

**5 Subparagraphs 35UB(2)(b)(i), (ii) and (iii)**

Before “the FTB child”, insert “the Secretary is notified, or otherwise becomes aware, that”.

**6 At the end of paragraph 35UB(2)(b)**

Add:

; or (iv) if the FTB child has at any time participated in a course of primary education or undertaken full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*)—the Secretary is satisfied that there are special circumstances that justify the child not participating in that course, or undertaking that study, during the current education period for the bonus test day.

**7 Subsection 35UD(1)**

Omit “, and who”, substitute “and in respect of whom one of the following applies at any time before the end of the second income year after the income year in which the bonus test day occurs”.

**8 Paragraph 35UD(1)(a)**

Omit “on at least one day in the previous education period for the bonus test day”, substitute “the Secretary is notified, or otherwise becomes aware, that on at least one day in the previous education period for the bonus test day the child”.

**9 Subparagraph 35UD(1)(a)(iii)**

Omit “or”.

**10 After paragraph 35UD(1)(a)**

Insert:

(aa) if the child has at any time participated in a course of primary education or undertaken full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*)—the Secretary is satisfied that there were special circumstances that justified the child not participating in that course, or undertaking that study, during the previous education period for the bonus test day;

**11 Paragraph 35UD(1)(b)**

Omit “on a day in the current education period for the bonus test day”, substitute “the Secretary is notified, or otherwise becomes aware, that on a day in the current education period for the bonus test day the child”.

**12 Subsection 35UD(2)**

Omit “who”, substitute “in respect of whom the following apply”.

**13 Paragraph 35UD(2)(a)**

Before “is covered”, insert “the other individual”.

**14 Paragraph 35UD(2)(a)**

Omit “and” (last occurring).

**15 Paragraph 35UD(2)(b)**

Omit “on at least one day in the previous education period for the bonus test day”, substitute “at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on at least one day in the previous education period for the bonus test day the other individual”.

**16 Subsection 35UD(4)**

Omit “who”, substitute “in respect of whom the following apply”.

**17 Paragraph 35UD(4)(a)**

Before “is covered”, insert “the other individual”.

**18 Paragraph 35UD(4)(a)**

Omit “and” (last occurring).

**19 Paragraph 35UD(4)(b)**

Omit “on at least one day in the previous education period for the bonus test day”, substitute “at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on at least one day in the previous education period for the bonus test day the other individual”.

**20 Subsection 35UD(4A)**

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Omit “and who”, substitute “and in respect of whom one of the following applies at any time before the end of the calendar year in which the bonus test day occurs”.

**21 Paragraph 35UD(4A)(a)**

Omit “on at least one day in the previous education period for the bonus test day”, substitute “the Secretary is notified, or otherwise becomes aware, that on at least one day in the previous education period for the bonus test day the other individual”.

**22 Subparagraph 35UD(4A)(a)(iii)**

Omit “or”.

**23 Paragraph 35UD(4A)(b)**

Omit “on a day in the current education period for the bonus test day”, substitute “the Secretary is notified, or otherwise becomes aware, that on a day in the current education period for the bonus test day the other individual”.

**24 Paragraph 35UE(1)(e)**

Repeal the paragraph, substitute:

- (e) at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on the bonus test day:
  - (i) the individual was undertaking full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*); or
  - (ii) the individual was undertaking an eligible activity (see subsection (6)); and

**25 Paragraph 35UE(1)(f)**

Before “on at least”, insert “at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that”.

**26 Paragraph 35UE(3)(f)**

Repeal the paragraph, substitute:

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- (f) at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that on the bonus test day:
  - (i) the individual was participating in a course of primary education; or
  - (ii) the individual satisfied the secondary study test within the meaning of section 35UI; or
  - (iii) the individual was undertaking an eligible activity (see subsection (6)); and

**27 Paragraph 35UE(3)(g)**

Before “on at least”, insert “at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that”.

**28 Subsection 65B(4)**

Omit “, the Secretary is notified, or otherwise becomes aware, that”.

**29 Paragraphs 65B(4)(a) and (b)**

Before “the eligible child”, insert “the Secretary is notified, or otherwise becomes aware, that”.

**30 At the end of subsection 65B(4) (before the note)**

Add:

- ; or (c) if the eligible child has at any time undertaken full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*)—the Secretary is satisfied that there were special circumstances that justified the child not undertaking that study during the previous education period for the bonus test day.

**31 Subsections 65B(4A) and (4B)**

Omit “at any time before the end of the period of 13 weeks beginning on the bonus test day”, substitute “at any time before the end of the calendar year in which the bonus test day occurs”.

**32 Subparagraph 65E(1)(a)(ii)**

Omit “subsection (2) or (3)”, substitute “subsection (2), (3) or (3A)”.

**33 Subsection 65E(3)**

Repeal the subsection, substitute:

- (3) This subsection applies to an individual for the bonus test day if, at any time before the end of the calendar year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that:
- (a) if the individual is eligible under subsection 35UE(1) for schoolkids bonus on the bonus test day—the individual:
    - (i) undertook full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*) on at least one day during the previous education period for the bonus test day; or
    - (ii) undertook, or will undertake, full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*) on at least one day during the current education period for the bonus test day; or
  - (b) if the individual is eligible under subsection 35UE(3) for schoolkids bonus on the bonus test day—the individual:
    - (i) satisfied the secondary study test within the meaning of section 35UI on at least one day during the previous education period for the bonus test day; or
    - (ii) satisfied, or will satisfy, the secondary study test within the meaning of section 35UI on at least one day during the current education period for the bonus test day; or
  - (c) in any case—the individual:
    - (i) undertook an eligible activity on at least one day during the previous education period for the bonus test day; or
    - (ii) undertook, or will undertake, an eligible activity on at least one day during the current education period for the bonus test day.
- (3A) This subsection applies to an individual for the bonus test day if:
- (a) the individual is eligible under subsection 35UE(2) for schoolkids bonus on the bonus test day; and
  - (b) the individual:
    - (i) undertook full-time study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act on at least one day during the previous education period for the bonus test day; or
-

- (ii) undertook, or will undertake, full-time study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act on at least one day during the current education period for the bonus test day; or
- (iii) undertook an eligible activity on at least one day during the previous education period for the bonus test day; or
- (iv) undertook, or will undertake, an eligible activity on at least one day during the current education period for the bonus test day.

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

#### **34 At the end of Division 2A of Part 3**

Add:

#### **35H Obligation to notify change of circumstances**

- (1) If:
  - (a) an individual is eligible for schoolkids bonus on a bonus test day; and
  - (b) there is a change in circumstances that may affect the individual's eligibility for schoolkids bonus on a later bonus test day or the amount of schoolkids bonus for the individual for a later bonus test day;the individual must, in the manner set out in a written notice given to the individual under subsection (3) and as soon as practicable after the change in circumstances, notify the Secretary of that change.
- (2) The Secretary must approve a manner of notification that an individual is to use when notifying the Secretary of a thing under subsection (1).
- (3) The Secretary must, by written notice, notify the individual of the approved manner of notification.

#### **35 Application provisions**

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**Schedule 3** Other amendments

**Part 1** Schoolkids bonus

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- (1) The amendments made by items 1 to 33 apply in relation to working out eligibility for schoolkids bonus on bonus test days occurring on or after the commencement of those items.
- (2) Paragraph 35H(1)(a) of the *A New Tax System (Family Assistance) (Administration) Act 1999*, as inserted by this Part, applies in relation to bonus test days occurring on or after the commencement of this item.

## **Part 2—Entrusted to care**

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

#### **36 Subsection 3(1)**

Insert:

*becomes entrusted*: a child *becomes entrusted* to the care of an individual at a time if:

- (a) any person entrusts the child to the individual’s care; and
- (b) as a result, the child is in the individual’s care at that time; and
- (c) the child was not in the individual’s care at any earlier time.

#### **37 Subparagraphs 36(3)(b)(i) and (ii)**

Omit “is entrusted”, substitute “becomes entrusted”.

#### **38 Paragraphs 36(5)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) the child becomes entrusted to the care of the individual on a day; and
- (aa) it is an authorised party that entrusts the child to the care of the individual; and
- (ab) the authorised party does so as part of the process for the adoption of the child by the individual; and
- (b) the child is aged under 16 on that day; and

#### **39 Subparagraphs 36(5)(bc)(i) and (ii) and (c)(i)**

Omit “the day the child is entrusted to the care of the individual”, substitute “that day”.

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

#### **40 Paragraph 39(2)(b)**

Omit “is entrusted”, substitute “becomes entrusted”.

**41 Subparagraph 47B(1)(b)(ii)**

Omit “is entrusted”, substitute “becomes entrusted”.

***Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008***

**42 Paragraph 22(1)(b) of Schedule 2**

Omit “that Act—children entrusted to care”, substitute “the *A New Tax System (Family Assistance) Act 1999*—children who become entrusted to care (within the meaning of that Act, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

**43 Paragraph 22(1)(c) of Schedule 2**

Omit “that Act”, substitute “the *A New Tax System (Family Assistance) Act 1999*”.

**44 Paragraph 22(1)(d) of Schedule 2**

Omit “that Act—children entrusted to care”, substitute “the *A New Tax System (Family Assistance) Act 1999*—children who become entrusted to care (within the meaning of that Act, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

**45 Paragraph 34(1)(d) of Schedule 2**

Omit “entrusted to care”, substitute “who become entrusted to care (within the meaning of that Act, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

**46 Item 44 of Schedule 2**

Omit “entrusted to care”, substitute “who become entrusted to care (within the meaning of the *A New Tax System (Family Assistance) Act 1999*, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

***Paid Parental Leave Act 2010***

**47 Section 6 (definition of *day of placement*)**

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Repeal the definition.

**48 Section 274**

Before “under 16”, insert “aged”.

**49 Section 274**

Omit “of placement of the adopted child”, substitute “the adopted child becomes entrusted to care”.

**50 Paragraph 275(1)(b)**

Omit “of placement of the child”, substitute “the child becomes entrusted to the care of a person as mentioned in subsection (2)”.

**51 Paragraph 275(1)(c)**

Omit “expected day of placement of the child”, substitute “day expected to be the day the child will become entrusted to the care of a person as mentioned in subsection (2)”.

**52 Paragraph 275(1)(d)**

Omit “of placement of the child”, substitute “the child became entrusted to the care of a person as mentioned in subsection (2)”.

**53 Subsections 275(2) and (3)**

Repeal the subsections, substitute:

*When a child satisfies this subsection*

- (2) A child satisfies the requirements of this subsection if:
- (a) the child becomes, or is to become, entrusted (within the meaning of the Family Assistance Act) to the care of the person; and
  - (b) it is an authorised party that entrusts, or is to entrust, the child to the care of the person; and
  - (c) the authorised party does so, or is to do so, as part of the process for the adoption of the child by the person; and
  - (d) the child is, or will be, aged under 16 on the day the child becomes entrusted to the care of the person.

## ***Paid Parental Leave (Consequential Amendments) Act 2010***

### **54 Paragraph 3(b) of Schedule 2**

Omit “was entrusted”, substitute “became entrusted (within the meaning of that Act, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

### **55 Paragraph 3(c) of Schedule 2**

Omit “that Act”, substitute “the *A New Tax System (Family Assistance) Act 1999*”.

### **56 Paragraph 3(d) of Schedule 2**

Omit “that Act for baby bonus in respect of a child who was entrusted”, substitute “the *A New Tax System (Family Assistance) Act 1999* for baby bonus in respect of a child who became entrusted (within the meaning of that Act, as amended by Part 2 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2013*)”.

### **57 Application provision**

- (1) The amendments made by this Part apply in relation to a child becoming entrusted to the care of a person before, on or after the commencement of this item.
- (2) However, the amendments do not affect the rights or liabilities arising between parties to a proceeding heard and finally determined by a court before the commencement of this item, to the extent that those rights or liabilities arose from, or were affected by, a child being entrusted to the care of a person.

## **Part 3—Family assistance clean energy payments**

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

#### **58 Subsection 58A(1) (note 2)**

Omit “after the end of a quarter”.

#### **59 After subsection 58A(3)**

Insert:

- (3A) An election ceases to be in force if subsection 32(1) applies in relation to the individual. The election ceases to be in force on the request day (see subsection 32(1)).
- (3B) If an election ceases to be in force under subsection (3A), the individual cannot make another election under subsection (1) until after the end of the lump sum period referred to in step 1 of the method statement in subsection 65(1).

#### **60 At the end of paragraph 109(b)**

Add “and”.

#### **61 After paragraph 109(b)**

Insert:

- (c) the amount of the advance was not worked out under subsection 108(1A);

#### **62 Application provision**

The amendments made by items 60 and 61 apply in relation to working out whether individuals are entitled to payments of clean energy advance on or after the day those items commence (whether the entitlement referred to in paragraph 109(a) of the *A New Tax System (Family Assistance) Act 1999* arose before, on or after that commencement).

#### **63 Subclause 31B(3) of Schedule 1 (note)**

Omit “after the end of the quarter”.

#### **64 Subclause 38AA(3) of Schedule 1 (note)**

Omit “after the end of the quarter”.

**65 Subclause 38AF(3) of Schedule 1 (note)**

Omit “after the end of the quarter”.

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

**66 Paragraph 105B(1)(b)**

Omit “subsection (2)”, substitute “subsections (2) and (2A)”.

**67 Subsection 105B(2)**

Repeal the subsection, substitute:

- (2) The consequences in subsection (2A) apply:
- (a) once one of the following applies in that quarter:
    - (i) the individual ceases to be entitled to be paid family tax benefit under the determination;
    - (ii) a revocation of the election takes effect;
    - (iii) the election ceases to be in force under subsection 58A(3A) of the Family Assistance Act; or
  - (b) otherwise—after the end of that quarter.
- (2A) The consequences are:
- (a) for the purposes of subsection 105(1), the Secretary is taken to be satisfied that there is sufficient reason to review the determination; and
  - (b) the Secretary must exercise the power conferred by subsection 105(1) to review the determination; and
  - (c) the review must be done by assuming that:
    - (i) Division 2B of Part 4 of Schedule 1 to the Family Assistance Act and Division 2AA of Part 5 of that Schedule applied in relation to those days; and
    - (ii) the election was not in force on those days.

Note: Those Divisions deal with clean energy supplement (Part A) and clean energy supplement (Part B).

## **Part 4—Social security and veterans' entitlements supplements**

### **Division 1—Instalments of quarterly supplements**

#### ***Social Security (Administration) Act 1999***

##### **68 Subsection 48B(2)**

Omit “on or after the first seniors supplement test day (the *current test day*) that follows a day on which the person is qualified for seniors supplement”, substitute “after the end of an instalment period”.

##### **69 Paragraph 48B(3)(a)**

Omit “during the test period on which the person was qualified for seniors supplement”, substitute “in the instalment period”.

##### **70 Subsection 48B(4)**

Repeal the subsection, substitute:

(4) In this section:

*instalment period* means a period:

(a) in relation to each day of which seniors supplement is payable to the person; and

Note: For when seniors supplement is payable to the person, see section 1061UA of the 1991 Act.

(b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and

(c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and

(d) that is not included in a longer instalment period.

##### **71 Subsection 48C(2)**

Omit “on or after the first supplement test day (the *current test day*) that follows a day on which an election by the person under subsection 1061VA(1) is in force”, substitute “after the end of an instalment period”.

##### **72 Subsection 48C(3)**

Omit “during the test period for which an election by the person under subsection 1061VA(1) is in force”, substitute “in the instalment period”.

### 73 Subsection 48C(4)

Repeal the subsection, substitute:

(4) In this section:

*instalment period* means a period:

(a) in relation to each day of which quarterly pension supplement is payable to the person; and

Note: For when quarterly pension supplement is payable to the person, see section 1061VA of the 1991 Act.

(b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and

(c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and

(d) that is not included in a longer instalment period.

### 74 Subsection 48D(2)

Omit “on or after the first supplement test day (the *current test day*) that follows a day for which quarterly clean energy supplement is payable to the person”, substitute “after the end of an instalment period”.

### 75 Paragraph 48D(3)(a)

Omit “during the test period for which quarterly clean energy supplement is payable to the person”, substitute “in the instalment period”.

### 76 Subsection 48D(4)

Repeal the subsection, substitute:

(4) In this section:

*instalment period* means a period:

(a) for each day of which quarterly clean energy supplement is payable to the person; and

Note: For when quarterly clean energy supplement is payable to the person, see section 915 of the 1991 Act.

(b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and

- (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
- (d) that is not included in a longer instalment period.

### ***Veterans' Entitlements Act 1986***

#### **77 Subsection 60C(2)**

Omit "on or after the first supplement test day (the *current test day*) that follows a day on which an election by the person under subsection 60A(1) is in force", substitute "after the end of an instalment period".

#### **78 Subsection 60C(3)**

Omit "during the test period for which an election by the person under subsection 60A(1) is in force", substitute "in the instalment period".

#### **79 Subsection 60C(5)**

Repeal the subsection, substitute:

- (5) In this section:

*instalment period* means a period:

- (a) in relation to each day of which quarterly pension supplement is payable to the person; and

Note: For when quarterly pension supplement is payable to the person, see section 60A.

- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
- (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
- (d) that is not included in a longer instalment period.

#### **80 Subsection 62D(3)**

Repeal the subsection, substitute:

*Quarterly payment*

- (3) An instalment of the clean energy supplement is to be paid to the person as soon as is reasonably practicable after the end of an instalment period.

**81 Subsection 62D(4)**

Omit “that period on which the election was in force”, substitute “the instalment period”.

**82 At the end of section 62D**

Add:

(5) In this section:

*instalment period* means a period:

- (a) on each day of which the election is in force; and
- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
- (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
- (d) that is not included in a longer instalment period.

**83 Subsection 62E(2)**

Repeal the subsection, substitute:

- (2) An instalment of quarterly clean energy supplement is to be paid to the person as soon as is reasonably practicable after the end of an instalment period.

**84 Subsection 62E(3)**

Omit “that period on which the election was in force”, substitute “the instalment period”.

**85 After subsection 62E(4)**

Insert:

(4A) In this section:

*instalment period* means a period:

- (a) for each day of which quarterly clean energy supplement for service pension that the person is receiving is payable to the person; and
  - (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
  - (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
-

(d) that is not included in a longer instalment period.

**86 Subsection 118PC(2)**

Omit “on or after the first seniors supplement test day (the *current test day*) that follows a day on which the person is eligible for seniors supplement”, substitute “after the end of an instalment period”.

**87 Paragraph 118PC(3)(a)**

Omit “during the test period on which the person was qualified for seniors supplement”, substitute “in the instalment period”.

**88 Subsection 118PC(4)**

Repeal the subsection, substitute:

(4) In this section:

*instalment period* means a period:

(a) in relation to each day of which seniors supplement is payable to the person; and

Note: For when seniors supplement is payable to the person, see section 118PA.

(b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and

(c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and

(d) that is not included in a longer instalment period.

**Division 2—Interactions with quarterly clean energy supplement**

*Social Security Act 1991*

**89 Subsection 1210(1) (at the end of note 1)**

Add “See also subsection (2A).”.

**90 After subsection 1210(2)**

Insert:

(2A) If:

(a) quarterly clean energy supplement is payable to a person; and

**Schedule 3** Other amendments

**Part 4** Social security and veterans' entitlements supplements

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- (b) if quarterly clean energy supplement were not payable to the person:
  - (i) the rate (the *main rate*) of the person's social security payment would be increased under the CE Module of the Rate Calculator; and
  - (ii) the main rate would be reduced as described in paragraph (1)(b); and
- (c) the social security payment:
  - (i) is not a social security pension; or
  - (ii) is a disability support pension to which subsection 1066A(1) or 1066B(1) applies; or
  - (iii) if the person has not reached pension age—is a pension PP (single);

the reduction is to be applied to the components mentioned in items 5 and 6 of the table in subsection (1) only to the extent that the amount of the reduction (after it is applied to the components mentioned in items 1 to 4) exceeds the amount of the increase mentioned in subparagraph (b)(i) of this subsection.

**91 Subsection 1210(3A) (note)**

Omit "person's quarterly clean energy supplement is", substitute "main rate would be".

***Social Security (Administration) Act 1999***

**92 Paragraph 43(4)(a)**

Omit "(other than a social security pension)".

**93 After paragraph 43(4)(a)**

Insert:

- (aa) the social security payment:
  - (i) is not a social security pension; or
  - (ii) is a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; or
  - (iii) if the person has not reached pension age on the day—is a pension PP (single); and

**94 After paragraph 43(5AA)(a)**

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Insert:

- (aa) the social security pension:
  - (i) is not a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; and
  - (ii) if the person has not reached pension age on the day—is not a pension PP (single); and

### **95 Paragraphs 43(5B)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) the social security payment to which the quarterly clean energy supplement relates:
  - (i) is a social security pension; and
  - (ii) is not a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; and
  - (iii) if the person has not reached pension age on the day—is not a pension PP (single); and
- (c) apart from this subsection, the portion of the instalment of the person's quarterly clean energy supplement that corresponds to that day would be reduced under subsection 1210(3A) of the 1991 Act; and
- (d) the reduction of the main rate mentioned in subparagraph 1210(3A)(b)(ii) would not be to a nil amount;

### ***Veterans' Entitlements Act 1986***

#### **96 Paragraph 62E(6)(b)**

Repeal the paragraph, substitute:

- (b) apart from this subsection, the portion of the instalment of the person's quarterly clean energy supplement that corresponds to that day would be reduced under subclause 4(5) of Schedule 6; and
- (c) the reduction of the main rate mentioned in paragraph 4(5)(a) would not be to a nil amount;

#### **97 Subclause 4(5) of Schedule 6 (note)**

Omit "person's quarterly clean energy supplement is", substitute "main rate would be".

### **Division 3—Other minimum daily rate amendments**

#### ***Social Security (Administration) Act 1999***

##### **98 Paragraph 43(4)(a)**

Omit “of the following amounts (an *added amount*) is”, substitute “or both of the following amounts (the *added amounts*) are”.

##### **99 Paragraph 43(4)(b)**

Repeal the paragraph, substitute:

- (b) if an added amount is a pension supplement amount used by the Rate Calculator to produce an annual rate—the total of the added amounts is more than the person's pension supplement basic amount; and

##### **100 Subsection 43(5) (definition of *minimum daily rate*)**

Repeal the definition, substitute:

*minimum daily rate*, for a person, means:

- (a) if an amount of pharmaceutical allowance is an added amount:
  - (i) if the Rate Calculator for the social security payment produces a fortnightly rate— $1/14$  of that amount; or
  - (ii) if the Rate Calculator for the social security payment produces an annual rate— $1/364$  of that amount; or
- (b) if a pension supplement amount is the only added amount— $1/364$  of the person's minimum pension supplement amount.

## **Part 5—Dad and partner pay**

### ***Paid Parental Leave Act 2010***

#### **101 After Division 3 of Part 6-1**

Insert:

### **Division 3A—How this Act applies to claims for dad and partner pay made in prescribed circumstances**

#### **277A How this Act applies to claims for dad and partner pay made in prescribed circumstances**

- (1) This section applies to a claim for dad and partner pay that is made in circumstances prescribed by the PPL rules as being circumstances in which this section applies.
- (2) This Act (other than subsection 18(3), which deals with birth registration) applies in relation to the claim as if:
  - (a) a reference to the birth of a child were a reference to the earlier of:
    - (i) the claimant beginning to care for the child; and
    - (ii) the claimant's partner (if any) beginning to care for the child; and
  - (b) a reference to the day the child was born were a reference to the earlier of:
    - (i) the day the claimant began to care for the child; and
    - (ii) the day the claimant's partner (if any) began to care for the child; and
  - (c) a reference to the expected date of birth of the child were a reference to the earlier of:
    - (i) the day the claimant expects to begin to care for the child; and
    - (ii) the day the claimant's partner (if any) expects to begin to care for the child; and
  - (d) a reference to a child's first birthday were a reference to the first anniversary of the earlier of:
    - (i) the day the claimant began to care for the child; and

**Schedule 3** Other amendments

**Part 5** Dad and partner pay

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- (ii) the day the claimant's partner (if any) began to care for the child; and
  - (e) a reference to a completed birth verification form for a child were a reference to information required by the Secretary about the earlier of:
    - (i) the claimant beginning to care for the child; and
    - (ii) the claimant's partner (if any) beginning to care for the child; and
  - (f) a reference to a child being born during the same multiple birth were a reference to:
    - (i) unless subparagraph (ii) applies—the claimant beginning to care for the child at the same time as beginning to care for another child; or
    - (ii) if the claimant's partner (if any) begins to care for the child before the claimant—the claimant's partner beginning to care for the child at the same time as beginning to care for another child.
- (3) This section does not limit Division 2 of this Part (which deals with how this Act applies to an adopted child).

Note: Not all circumstances to which paragraph 115DD(d) applies must be prescribed as being circumstances in which this section applies. For example, the adoption of a child could be prescribed for the purposes of that paragraph but not for the purposes of this section, in which case section 275 (which deals with how this Act applies to an adopted child) would apply.

**102 Application provision**

The amendment made by this Part applies to claims for dad and partner pay made on or after the commencement of this item.

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*[Minister's second reading speech made in—  
House of Representatives on 13 February 2013  
Senate on 17 June 2013]*

(24/13)

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