



Social Services Legislation Amendment Act 2017

No. 33, 2017

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

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

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

[Assented to 12 April 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Social Services Legislation Amendment Act 2017*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 April 2017
2. Schedule 1	The day this Act receives the Royal Assent.	12 April 2017
3. Schedule 2	The day after this Act receives the Royal Assent.	13 April 2017
4. Schedule 3	The first 1 January or 1 July to occur after the day this Act receives the Royal Assent.	1 July 2017
5. Schedule 4	The day this Act receives the Royal Assent.	12 April 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Indexation

Social Security Act 1991

1 After subsection 1192(4AB)

Insert:

- (4AC) Amounts under item 14AAA of the CPI Indexation Table in subsection 1191(1) are not to be indexed on 1 July of the first financial year beginning on or after the day this subsection commences and on 1 July of the next 2 financial years.

2 After subsection 1192(5)

Insert:

- (5AAA) The amount under item 14 of the CPI Indexation Table in subsection 1191(1), to the extent to which that item relates to the amount in column 2 of Table E in point 1068A-E14 of the Pension PP (Single) Rate Calculator, is not to be indexed on 1 July of the first financial year beginning on or after the day this subsection commences and on 1 July of the next 2 financial years.
- (5AAB) Amounts under items 14AA, 14AB and 15 of the CPI Indexation Table in subsection 1191(1) are not to be indexed on 1 January of the first calendar year beginning on or after the day this subsection commences and on 1 January of the next 2 calendar years.

Schedule 2—Automation of income stream review processes

Social Security (Administration) Act 1999

1 After paragraph 195(2)(j)

Insert:

- (ja) in relation to an income stream received by the person:
 - (i) the type of income stream; and
 - (ii) a unique identifier allocated to the income stream (also known as a product reference number); and
 - (iii) the date on which the income stream was purchased; and
 - (iv) the purchase price; and
 - (v) the commencement day; and
 - (vi) the date of the first payment under the income stream; and
 - (vii) the relevant number; and
 - (viii) the account balance of the income stream as at the date of the notice; and
 - (ix) the account balance of the income stream on 1 July of the financial year in which the notice is given; and
 - (x) for every payment made under the income stream in the 52 weeks before the date of the notice—the gross amount of the payment, the date on which it was paid and, if the payment is paid as a lump sum, the period to which the payment relates; and
 - (xi) for every payment to be made under the income stream in the 52 weeks after the date of the notice—the gross amount of the payment and the date on which it is to be paid; and
 - (xii) the date on which, rate at which and way in which the income stream is indexed; and
 - (xiii) the residual capital value; and
 - (xiv) if there is a reversionary beneficiary to which the income stream reverts on the death of the person—the name of the reversionary beneficiary and the percentage

of the income stream that the reversionary beneficiary will receive; and

- (xv) if the income stream was purchased before 20 September 2007—whether the income stream satisfies section 9A, 9B or 9BA of the 1991 Act, as those sections applied immediately before that date; and
- (xvi) if the income stream was purchased on or after 20 September 2007—whether the income stream was purchased with funds resulting from the commutation of an asset-test exempt income stream and whether it is eligible to retain its asset-test exempt income stream status; and
- (xvii) if the income stream is commuted—the date of commutation and the commuted amount; and
- (xviii) if the income stream is a defined benefit income stream—the deductible amount for the year in which the notice is given and the method used to work out the tax free components of that deductible amount; and
- (xix) if payments made under the income stream represent an amount for a child of the person—the number of children for which payment is made and the gross amount of each payment made under the income stream for each child; and
- (xx) any other information required by the Minister in an instrument made under subsection (3A);

2 After subsection 195(3)

Insert:

- (3A) The Minister may, by legislative instrument, specify information required to be given in relation to an income stream received by a person.
- (3B) Before making an instrument under subsection (3A), the Minister must consult the Information Commissioner in relation to matters that relate to the privacy functions (within the meaning of the *Australian Information Commissioner Act 2010*) and have regard to any submissions made by the Information Commissioner because of that consultation.

Schedule 3—Ordinary waiting periods

Social Security Act 1991

1 Subsection 19C(4)

After “or a person to whom an income maintenance period applies,”, insert “or in relation to working out if a person is subject to an ordinary waiting period,”.

2 At the end of paragraph 19C(4)(a)

Add:

; or (iv) in relation to working out if the person is subject to an ordinary waiting period—the 4 weeks immediately before the person’s start day mentioned in paragraph 500WA(1)(a), 549CA(2)(a), 620(1)(a) or 693(a);

3 At the end of subsection 19C(6)

Add:

; or (d) in relation to working out if the person is subject to an ordinary waiting period—the amount of allowance or parenting payment (as the case may be) that would have been payable to the person during the 4-week period mentioned in subparagraph (4)(a)(iv) if that allowance or payment were payable to the person for that period.

4 At the end of subsection 19C(7)

Add:

; or (d) in relation to working out if the person is subject to an ordinary waiting period—twice the amount of allowance or parenting payment (as the case may be) that would have been payable to the person during the 4-week period mentioned in subparagraph (4)(a)(iv) if that allowance or payment were payable to the person for that period.

5 After section 19D

Insert:

19DA Experiencing a personal financial crisis definition

- (1) A person is *experiencing a personal financial crisis* if and only if:
- (a) the person is in severe financial hardship; and
 - (b) subsection (2), (3) or (4) applies to the person.

Note 1: This definition relates to ordinary waiting periods.

Note 2: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Domestic violence

- (2) This subsection applies to the person if the person was subjected to domestic violence at some time in the 4 weeks immediately before the person's start day mentioned in paragraph 500WA(1)(a), 549CA(2)(a), 620(1)(a) or 693(a).

Unavoidable or reasonable expenditure

- (3) This subsection applies to the person if the person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure in the 4 weeks immediately before the person's start day mentioned in paragraph 500WA(1)(a), 549CA(2)(a), 620(1)(a) or 693(a).

Note: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Other circumstances

- (4) This subsection applies to the person if the person satisfies the circumstances prescribed in an instrument under subsection (5).
- (5) The Secretary may, by legislative instrument, prescribe circumstances for the purposes of subsection (4).

Evidence

- (6) Without limiting subsection (2), (3) or (4), that subsection does not apply to the person unless he or she produces evidence that demonstrates a reasonable possibility that it applies to the person.

6 Subsection 23(1)

Insert:

experiencing a personal financial crisis: see section 19DA.

7 Subsection 23(1) (before paragraph (a) of the definition of ordinary waiting period)

Insert:

- (aa) a parenting payment ordinary waiting period under sections 500WA and 500WB; or
- (ab) a youth allowance ordinary waiting period under sections 549CA and 549CB; or

8 Subsection 23(1) (before paragraph (b) of the definition of waiting period)

Insert:

- (ac) a parenting payment ordinary waiting period under sections 500WA and 500WB; or
- (ad) a youth allowance ordinary waiting period under sections 549CA and 549CB; or
- (ae) a youth allowance newly arrived resident's waiting period under sections 549D and 549E; or

9 Subsection 23(10)

Omit "social security benefit under Part 2.12 (newstart allowance) or Part 2.14 (sickness allowance)", substitute "social security benefit or social security pension".

10 Before section 500Z

Insert:

500WA Ordinary waiting period

- (1) Subject to subsection (2), a person is subject to an ordinary waiting period unless:
 - (a) at some time in the 13 weeks immediately before the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act), the person received an income support payment; or
 - (b) the Secretary is satisfied that the person is experiencing a personal financial crisis.

Note 1: For *income support payment* see subsection 23(1).

Note 2: For *experiencing a personal financial crisis* see section 19DA.

- (2) Subsection (1) does not apply to a person who:
 - (a) is undertaking an activity specified in an instrument made under subsection (3); and
 - (b) has been exempted from the application of subsection (1) by the Secretary.
- (3) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (2)(a).

500WB Duration of ordinary waiting period

- (1) Subject to subsections (2) and (4), if a person is subject to an ordinary waiting period, the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act).
- (2) Subject to subsection (4), if:
 - (a) a person is subject to an ordinary waiting period; and
 - (b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act); and
 - (c) that start day falls within one or more of the following periods (each of which is an *exclusion period*) that the person is subject to:
 - (i) a seasonal work preclusion period;
 - (ii) a lump sum preclusion period under Part 3.14;
 - (iii) an income maintenance period, where the person's rate of parenting payment on that start day would be nil;

then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.
- (3) If:
 - (a) subparagraph (2)(c)(iii) applies to a person; and
 - (b) on a day in that income maintenance period, the person's rate of parenting payment would be greater than nil if parenting payment were payable to the person on that day;

then, for the purposes of subsection (2), that income maintenance period is taken to have ended at the end of the day before that day.

- (4) If:
- (a) a person qualifies for a social security payment (other than parenting payment); and
 - (b) because the person is subject to an ordinary waiting period relating to that payment, that payment is not payable to the person for a period starting on a particular day (the *initial day*); and
 - (c) during that period the person:
 - (i) ceases to be qualified for that payment; and
 - (ii) claims parenting payment;
- the person's ordinary waiting period relating to parenting payment is the period of 7 days that starts on the initial day.

Note: Ordinary waiting periods apply to parenting payment, youth allowance, newstart allowance and sickness allowance.

11 After paragraph 549(2)(a)

Insert:

- (aa) an ordinary waiting period (see sections 549CA and 549CB);

12 After section 549C

Insert:

549CA Ordinary waiting period

- (1) This section applies if a person is qualified for a youth allowance, where neither section 540AA (about new apprentices) nor paragraph 541(1)(a) (about full-time study) applies.
- (2) Subject to subsection (3), the person is subject to an ordinary waiting period unless:
 - (a) at some time in the 13 weeks immediately before the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act), the person received an income support payment; or
 - (b) the Secretary is satisfied that the person is experiencing a personal financial crisis; or
 - (c) on the day before the day the person qualified for the youth allowance mentioned in subsection (1), the person was qualified for a youth allowance where section 540AA or paragraph 541(1)(a) applied.

Note 1: For *income support payment* see subsection 23(1).

Note 2: For *experiencing a personal financial crisis* see section 19DA.

- (3) Subsection (2) does not apply to a person who:
- (a) is undertaking an activity specified in an instrument made under subsection (4); and
 - (b) has been exempted from the application of subsection (2) by the Secretary.
- (4) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (3)(a).

549CB Duration of ordinary waiting period

- (1) Subject to subsections (2) and (4), if a person is subject to an ordinary waiting period, the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act).
- (2) Subject to subsection (4), if:
- (a) a person is subject to an ordinary waiting period; and
 - (b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act); and
 - (c) that start day falls within one or more of the following periods (each of which is an *exclusion period*) that the person is subject to:
 - (i) a liquid assets test waiting period;
 - (ii) a newly arrived resident's waiting period;
 - (iii) a seasonal work preclusion period;
 - (iv) a lump sum preclusion period under Part 3.14;
 - (v) an income maintenance period, where the person's rate of youth allowance on that start day would be nil;
- then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.
- (3) If:
- (a) subparagraph (2)(c)(v) applies to a person; and

(b) on a day in that income maintenance period, the person's rate of youth allowance would be greater than nil if youth allowance were payable to the person on that day;
then, for the purposes of subsection (2), that income maintenance period is taken to have ended at the end of the day before that day.

(4) If:

- (a) a person qualifies for a social security payment (other than youth allowance); and
- (b) because the person is subject to an ordinary waiting period relating to that payment, that payment is not payable to the person for a period starting on a particular day (the *initial day*); and
- (c) during that period the person:
 - (i) ceases to be qualified for that payment; and
 - (ii) claims youth allowance and is qualified for youth allowance, where neither section 540AA (about new apprentices) nor paragraph 541(1)(a) (about full-time study) applies;

the person's ordinary waiting period relating to that youth allowance is the period of 7 days that starts on the initial day.

Note: Ordinary waiting periods apply to parenting payment, youth allowance, newstart allowance and sickness allowance.

13 Section 549F (heading)

Repeal the heading, substitute:

549F Effect of being subject to multiple waiting periods

14 Section 549F

After "2", insert "or more".

15 Section 549F

Omit "both", substitute "all".

16 Paragraph 620(1)(a)

After "person's start day", insert "(worked out disregarding clause 5 of Schedule 2 to the Administration Act)".

17 Paragraph 620(1)(a) (note)

Repeal the note.

18 Paragraph 620(1)(g)

Repeal the paragraph, substitute:

- (g) the Secretary is satisfied that the person is experiencing a personal financial crisis.

19 Subsection 620(1) (note)

Repeal the note, substitute:

Note 1: For *income support payment* see subsection 23(1).

Note 2: For *experiencing a personal financial crisis* see section 19DA.

20 Section 621

Repeal the section, substitute:

621 Duration of ordinary waiting period

- (1) Subject to subsections (3) and (5), if a person:
 - (a) is subject to an ordinary waiting period; and
 - (b) is not disqualified for newstart allowance under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act).
- (2) Subject to subsections (3) and (5), if a person:
 - (a) is subject to an ordinary waiting period; and
 - (b) is disqualified for newstart allowance under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the liquid assets test waiting period referred to in subsection 598(2).
- (3) Subject to subsection (5), if:
 - (a) a person is subject to an ordinary waiting period; and
 - (b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day

(worked out disregarding clause 5 of Schedule 2 to the Administration Act); and

(c) that start day falls within one or more of the following periods (each of which is an *exclusion period*) that the person is subject to:

- (i) a newly arrived resident's waiting period;
- (ii) a seasonal work preclusion period;
- (iii) a lump sum preclusion period under Part 3.14;
- (iv) an income maintenance period, where the person's rate of newstart allowance on that start day would be nil;

then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.

(4) If:

- (a) subparagraph (3)(c)(iv) applies to a person; and
- (b) on a day in that income maintenance period, the person's rate of newstart allowance would be greater than nil if newstart allowance were payable to the person on that day;

then, for the purposes of subsection (3), that income maintenance period is taken to have ended at the end of the day before that day.

(5) If:

- (a) a person qualifies for a social security payment (other than newstart allowance); and
- (b) because the person is subject to an ordinary waiting period relating to that payment, that payment is not payable to the person for a period starting on a particular day (the *initial day*); and
- (c) during that period the person:
 - (i) ceases to be qualified for that payment; and
 - (ii) claims newstart allowance;

the person's ordinary waiting period relating to newstart allowance is the period of 7 days that starts on the initial day.

Note: Ordinary waiting periods apply to parenting payment, youth allowance, newstart allowance and sickness allowance.

21 Paragraph 693(a)

After "person's start day", insert "(worked out disregarding clause 5 of Schedule 2 to the Administration Act)".

22 Paragraph 693(a) (note)

Repeal the note.

23 Paragraph 693(f)

Repeal the paragraph, substitute:

- (f) the Secretary is satisfied that the person is experiencing a personal financial crisis.

24 Section 693 (notes 2 to 5)

Repeal the notes, substitute:

Note 1: For *income support payment* see subsection 23(1).

Note 2: For *experiencing a financial crisis* see section 19DA.

25 Section 694

Repeal the section, substitute:

694 Duration of ordinary waiting period

- (1) Subject to subsections (3) and (5), if a person:
 - (a) is subject to an ordinary waiting period; and
 - (b) is not disqualified for sickness allowance under section 676 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act).
- (2) Subject to subsections (3) and (5), if a person:
 - (a) is subject to an ordinary waiting period; and
 - (b) is disqualified for sickness allowance under section 676 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the period referred to in subsection 676(3).
- (3) Subject to subsection (5), if:
 - (a) a person is subject to an ordinary waiting period; and
 - (b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day (worked out disregarding clause 5 of Schedule 2 to the Administration Act); and

- (c) that start day falls within one or more of the following periods (each of which is an *exclusion period*) that the person is subject to:
- (i) a newly arrived resident's waiting period;
 - (ii) a seasonal work preclusion period;
 - (iii) a lump sum preclusion period under Part 3.14;
 - (iv) an income maintenance period, where the person's rate of sickness allowance on that start day would be nil;
- then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.

- (4) If:
- (a) subparagraph (3)(c)(iv) applies to a person; and
 - (b) on a day in that income maintenance period, the person's rate of sickness allowance would be greater than nil if sickness allowance were payable to the person on that day;
- then, for the purposes of subsection (3), that income maintenance period is taken to have ended at the end of the day before that day.

- (5) If:
- (a) a person qualifies for a social security payment (other than sickness allowance); and
 - (b) because the person is subject to an ordinary waiting period relating to that payment, that payment is not payable to the person for a period starting on a particular day (the *initial day*); and
 - (c) during that period the person:
 - (i) ceases to be qualified for that payment; and
 - (ii) claims sickness allowance;
- the person's ordinary waiting period relating to sickness allowance is the period of 7 days that starts on the initial day.

Note: Ordinary waiting periods apply to parenting payment, youth allowance, newstart allowance and sickness allowance.

26 Application provision

The amendments made by this Schedule apply in relation to a claim for a social security payment that is made on or after the commencement of this item.

Schedule 4—Family tax benefit

A New Tax System (Family Assistance) Act 1999

1 Subclause 3(3) of Schedule 4

Repeal the subclause, substitute:

No indexation of certain FTB rates on 1 July 2017 and 1 July 2018

- (3) The FTB child rate (A1), the FTB child rate (A2), the FTB standard rate (B) and the FTB standard ACO rate are not to be indexed on 1 July 2017 and 1 July 2018.

*[Minister's second reading speech made in—
Senate on 22 March 2017
House of Representatives on 23 March 2017]*

(50/17)
