



Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018

No. 168, 2018

**An Act to amend the law relating to social security,
farm household support, family assistance and paid
parental leave, and for related purposes**

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

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Social security amendments		3
Part 1—Extending existing newly arrived resident’s waiting periods		3
<i>Social Security Act 1991</i>		3
Part 2—New newly arrived resident’s waiting periods		6
<i>Social Security Act 1991</i>		6
Schedule 2—Farm household support amendments		12
<i>Farm Household Support Act 2014</i>		12
Schedule 3—Family assistance amendments		13
<i>A New Tax System (Family Assistance) Act 1999</i>		13
<i>Social Security Act 1991</i>		16
Schedule 4—Paid parental leave amendments		17
<i>Paid Parental Leave Act 2010</i>		17
Schedule 5—Other amendments		25
Part 1—Higher income free area and indexation		25
<i>A New Tax System (Family Assistance) Act 1999</i>		25
<i>Paid Parental Leave Act 2010</i>		25
Part 2—Taper rate for Part A rate of family tax benefit (Method 2)		27
<i>A New Tax System (Family Assistance) Act 1999</i>		27



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**An Act to amend the law relating to social security,
farm household support, family assistance and paid
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[Assented to 10 December 2018]

The Parliament of Australia enacts:

No. 168, 2018

*Social Services and Other Legislation Amendment (Promoting
Sustainable Welfare) Act 2018*

1

1 Short title

This Act is the *Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018*.

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.	10 December 2018
2. Schedules 1 to 4	1 January 2019.	1 January 2019
3. Schedule 5	1 July 2019.	1 July 2019

Note: This table relates only to the provisions of this Act as originally enacted.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—Social security amendments

Part 1—Extending existing newly arrived resident's waiting periods

Social Security Act 1991

- 3 Paragraph 549D(1)(b)**
Omit “104”, substitute “208”.
 - 4 Paragraph 549E(b)**
Omit “104”, substitute “208”.
 - 5 Paragraph 575D(1)(b)**
Omit “104”, substitute “208”.
 - 6 Paragraph 575E(b)**
Omit “104”, substitute “208”.
 - 7 Paragraph 623A(1)(b)**
Omit “104”, substitute “208”.
 - 8 Subsection 623B(3)**
Omit “104”, substitute “208”.
 - 9 Paragraph 696B(1)(b)**
Omit “104”, substitute “208”.
 - 10 Subsection 696C(3)**
Omit “104”, substitute “208”.
 - 11 Paragraphs 739A(3)(d) and (4)(d)**
Omit “104”, substitute “208”.
 - 12 Subsection 739A(5)**
Omit “104”, substitute “208”.
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13 Paragraph 1039AA(1)(b)

Omit "104", substitute "208".

14 Paragraph 1039AB(b)

Omit "104", substitute "208".

15 Paragraph 1061PU(1)(b)

Omit "104", substitute "208".

16 Paragraph 1061PV(b)

Omit "104", substitute "208".

17 Paragraph 1061ZH(1)(b)

Omit "104", substitute "208".

18 Paragraph 1061ZI(b)

Omit "104", substitute "208".

19 Paragraph 1061ZQ(2)(c)

Omit "104", substitute "208".

20 Paragraphs 1061ZR(1)(b) and (2)(d)

Omit "104", substitute "208".

21 Application provisions

- (1) The amendments of sections 549D, 549E, 575D, 575E, 623A, 623B, 696B, 696C, 1039AA, 1039AB, 1061PU and 1061PV of the *Social Security Act 1991* made by this Part apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
 - (2) The amendment of paragraph 739A(3)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who applies for a visa covered by paragraph 739A(3)(b) of that Act on or after the commencement of this item.
 - (3) The amendment of paragraph 739A(4)(d) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the
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- holder of a visa covered by paragraph 739A(4)(b) of that Act on or after the commencement of this item.
- (4) The amendment of subsection 739A(5) of the *Social Security Act 1991* made by this Part applies in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
 - (5) The amendments of sections 1061ZH, 1061ZI, 1061ZQ and 1061ZR of the *Social Security Act 1991* made by this Part apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
 - (6) The amendments made by this Part do not apply in relation to a special category visa holder who is a protected SCV holder.
 - (7) The amendments made by this Part do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
 - (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (c) a visa of a kind determined in an instrument under subitem (8).
 - (8) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (7)(c).

Part 2—New newly arrived resident's waiting periods

Social Security Act 1991

22 Subsection 7(6AA)

After “carer payment,” (wherever occurring), insert “carer allowance,”.

23 Subsection 23(1) (after paragraph (a) of the definition of newly arrived resident's waiting period)

Insert:

- (b) a bereavement allowance newly arrived resident's waiting period under sections 322 and 323; or
- (bb) a parenting payment newly arrived resident's waiting period under sections 500X and 500Y; or

24 Subsection 23(1) (after paragraph (h) of the definition of newly arrived resident's waiting period)

Insert:

- (i) a carer allowance newly arrived resident's waiting period under sections 966 and 967; or

25 Subsection 23(1) (after paragraph (aa) of the definition of waiting period)

Insert:

- (ab) a bereavement allowance newly arrived resident's waiting period under sections 322 and 323; or

26 Subsection 23(1) (after paragraph (ac) of the definition of waiting period)

Insert:

- (aca) a parenting payment newly arrived resident's waiting period under sections 500X and 500Y; or

27 Subsection 23(1) (after paragraph (kb) of the definition of waiting period)

Insert:

- (l) a carer allowance newly arrived resident's waiting period under sections 966 and 967; or

28 At the end of Subdivision B of Division 1 of Part 2.7

Add:

322 Newly arrived resident's waiting period

- (1) Subject to this section, a person who:
- (a) has entered Australia; and
 - (b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;
- is subject to a newly arrived resident's waiting period.

Note: For *Australian resident* see subsection 7(2).

- (2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a bereavement allowance.

Note: For *qualifying residence exemption* in relation to a bereavement allowance see subsection 7(6).

- (3) Subsection (1) does not apply to a person if:
- (a) the person is a refugee, or a former refugee, at the time the person made the claim for a bereavement allowance; or
 - (b) the following apply:
 - (i) before the person made the claim for a bereavement allowance, the person was a family member of another person at the time the other person became a refugee;
 - (ii) the person is a family member of that other person at the time the person made the claim for a bereavement allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
 - (c) the person is an Australian citizen at the time the person made the claim for a bereavement allowance.
- (4) For the purposes of subsection (3):
- (a) *family member* has the meaning given by subsection 7(6D); and

- (b) *former refugee* has the meaning given by subsection 7(1);
and
- (c) *refugee* has the meaning given by subsection 7(6B).

323 Duration of newly arrived resident's waiting period

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

30 After section 500WB

Insert:

500X Newly arrived resident's waiting period

- (1) Subject to this section, a person who:
 - (a) has entered Australia; and
 - (b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;is subject to a newly arrived resident's waiting period.

Note: For *Australian resident* see subsection 7(2).

- (2) Subsection (1) does not apply to a person who has a qualifying residence exemption for parenting payment.

Note: For *qualifying residence exemption* in relation to parenting payment see subsection 7(6) and paragraph 7(6AA)(f).

- (3) Subsection (1) does not apply to a person if the person:
 - (a) is the principal carer of one or more children; and
 - (b) is not a member of a couple; and
 - (c) was not a lone parent at the start of the person's current period as an Australian resident.

Note 1: For *principal carer* see subsections 5(15) to (24).

Note 2: For *lone parent* and *current period as an Australian resident* see subsection 23(1).

- (4) Subsection (1) does not apply to a person if:
- (a) the person is a refugee, or a former refugee, at the time the person made the claim for parenting payment; or
 - (b) the following apply:
 - (i) before the person made the claim for parenting payment, the person was a family member of another person at the time the other person became a refugee;
 - (ii) the person is a family member of that other person at the time the person made the claim for parenting payment or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
 - (c) the person is an Australian citizen at the time the person made the claim for parenting payment.
- (5) For the purposes of subsection (4):
- (a) *family member* has the meaning given by subsection 7(6D); and
 - (b) *former refugee* has the meaning given by subsection 7(1); and
 - (c) *refugee* has the meaning given by subsection 7(6B).

500Y Duration of newly arrived resident's waiting period

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

31 At the end of Subdivision B of Division 2 of Part 2.19

Add:

966 Newly arrived resident's waiting period

- (1) A person is subject to a newly arrived resident's waiting period if the person:
 - (a) has entered Australia; and

Schedule 1 Social security amendments

Part 2 New newly arrived resident's waiting periods

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

Note: For *Australian resident* see subsection 7(2).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for carer allowance.

Note: For *qualifying residence exemption* in relation to carer allowance see paragraph 7(6AA)(f).

(3) Subsection (1) does not apply to a person if, at the time the person made the claim for carer allowance, the person holds a visa that is in a class of visas determined by the Minister for the purposes of subsection 201AA(5).

(4) Subsection (1) does not apply to a person if:

- (a) the person is receiving a social security pension or a social security benefit; or
- (b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*; or
- (c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the person.

(5) Subsection (1) does not apply to a person if:

- (a) the person is a refugee, or a former refugee, at the time the person made the claim for carer allowance; or
- (b) the following apply:
 - (i) before the person made the claim for carer allowance, the person was a family member of another person at the time the other person became a refugee;
 - (ii) the person is a family member of that other person at the time the person made the claim for carer allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
- (c) the person is an Australian citizen at the time the person made the claim for carer allowance.

(6) For the purposes of subsection (5):

- (a) *family member* has the meaning given by subsection 7(6D); and
-

- (b) *former refugee* has the meaning given by subsection 7(1);
and
- (c) *refugee* has the meaning given by subsection 7(6B).

967 Duration of newly arrived resident's waiting period

- (1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.
- (2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

32 Application provision

- (1) Sections 322, 323, 500X, 500Y, 966 and 967 of the *Social Security Act 1991*, as added or inserted by this Part, apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (2) Those sections do not apply in relation to a special category visa holder who is a protected SCV holder.
- (3) Those sections do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
 - (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (c) a visa of a kind determined in an instrument under subitem (4).
- (4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (3)(c).

Schedule 2—Farm household support amendments

Farm Household Support Act 2014

1 Subsection 42(1)

Omit “104”, substitute “208”.

2 Paragraph 43(b)

Omit “104”, substitute “208”.

3 Application provision

- (1) The amendments made by this Schedule apply in relation to a person who becomes the holder of a permanent visa on or after the commencement of this item.
- (2) Those amendments do not apply in relation to a special category visa holder who is a protected SCV holder.
- (3) Those amendments do not apply in relation to a person who, on or after the commencement of this item, becomes the holder of:
 - (a) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (c) a visa of a kind determined in an instrument under subitem (4).
- (4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (3)(c).

Schedule 3—Family assistance amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

permanent visa has the same meaning as in the *Migration Act 1958*.

2 After section 61

Insert:

61AA Part A rate of family tax benefit is nil for a day in newly arrived resident's waiting period

- (1) Despite Parts 2 to 3A of Schedule 1, an individual's Part A rate of family tax benefit in respect of a day is nil if the day occurs in a newly arrived resident's waiting period for the individual.

When individual subject to newly arrived resident's waiting period

- (2) Subject to this section, an individual is subject to a newly arrived resident's waiting period if, on or after the commencement of this subsection, the individual:
- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
 - (b) becomes the holder of a permanent visa, except:
 - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (iii) a visa of a kind determined in an instrument under subsection (2A).

- (2A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (2)(b)(iii).
- (2B) Paragraph (2)(b) does not apply in relation to an individual if, at any time before the commencement of this subsection, the individual held a visa covered by paragraph (2)(a).

Length of waiting period

- (3) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
 - (b) the visa covered by paragraph (2)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
 - (c) subsection (4) does not apply;
- the waiting period:
- (d) starts on the day on which the individual applied for that visa; and
 - (e) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (4) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
 - (b) the individual has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;
- the waiting period:
- (c) starts on the day on which the individual applied for the last of those visas; and
 - (d) ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.
- (5) If:
- (a) an individual is subject to a newly arrived resident's waiting period; and
 - (b) neither subsection (3) nor (4) applies to the individual;
- the waiting period starts on the day on which the individual:
-

- (c) first entered Australia; or
 - (d) becomes the holder of a permanent visa;
- whichever occurs last, and ends when the individual has been in Australia for a period of, or periods totalling, 52 weeks after that day.

Exemptions

- (6) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day the individual holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7) Subsection (1) does not apply to an individual in respect of a day in the newly arrived resident's waiting period for the individual if on that day:
 - (a) the individual is receiving a social security pension or a social security benefit; or
 - (b) the individual is receiving farm household allowance under the *Farm Household Support Act 2014*; or
 - (c) parental leave pay, or dad and partner pay, under the *Paid Parental Leave Act 2010* is payable to the individual.
- (8) Subsection (1) does not apply to an individual in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the individual if:
 - (a) on the assessment day the individual is a refugee or a former refugee; or
 - (b) the following apply:
 - (i) the individual was a family member of another individual at the time the other individual became a refugee before the assessment day;
 - (ii) the individual is a family member of that other individual on the assessment day or, if that other individual has died, the individual was a family member of that other individual immediately before that other individual died; or
 - (c) the individual is an Australian citizen on the assessment day; or

- (d) the individual is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (9) For the purposes of subsection (8):
 - (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
 - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
 - (c) **refugee** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

Social Security Act 1991

6 After paragraph 1061ZQ(2)(a)

Insert:

- (b) has an FTB child; or

7 Application provision

The amendment of section 1061ZQ of the *Social Security Act 1991* made by this Schedule applies in relation to working out whether a person is qualified for a health care card on a day on or after the commencement of this item.

Schedule 4—Paid parental leave amendments

Paid Parental Leave Act 2010

1 Section 6

Insert:

permanent visa has the same meaning as in the *Migration Act 1958*.

1A At the end of paragraph 15(3)(a)

Add:

- (iii) is, if the day the child was born is in a newly arrived resident's waiting period the primary claimant is subject to under section 31A, a person to whom subsection 31A(7) or (7A) applies on the day the child was born; and

2 At the end of section 31

Add:

Not eligible—newly arrived resident's waiting period

- (6) Despite subsections (2), (3) and (4), a person is not **eligible** for parental leave pay for a child on a day in a newly arrived resident's waiting period for the person (see section 31A).

3 At the end of Division 2 of Part 2-3

Add:

31A Newly arrived resident's waiting period

When person subject to newly arrived resident's waiting period

- (1) Subject to this section, a person is subject to a newly arrived resident's waiting period if, on or after the commencement of this subsection, the person:

- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
 - (b) becomes the holder of a permanent visa, except:
 - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (iii) a visa of a kind determined in an instrument under subsection (1A).
- (1A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (1)(b)(iii).
- (1B) Paragraph (1)(b) does not apply in relation to a person if, at any time before the commencement of this subsection, the person held a visa covered by paragraph (1)(a).

Length of waiting period

- (2) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
 - (b) the visa covered by paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
 - (c) subsection (3) does not apply;
- the waiting period:
- (d) starts on the day on which the person applied for that visa; and
 - (e) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (3) If:
- (a) a person is subject to a newly arrived resident's waiting period; and

(b) the person has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;

the waiting period:

(c) starts on the day on which the person applied for the last of those visas; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

(4) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) neither subsection (2) nor (3) applies to the person;

the waiting period starts on the day on which the person:

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Exemptions

(5) Subsection (1) does not apply to a person if:

(a) on the day before the day (the **relevant day**) that would be the start of the person's PPL period if a payability determination were made; and

(b) if the person is the primary claimant and the relevant day is at least 2 days after the day the child was born—on the day the child was born and on each later day (if any) before the day applicable under paragraph (a);

the person was receiving either of the following:

(c) a social security pension (within the meaning of the *Social Security Act 1991*) or a social security benefit (within the meaning of that Act);

(d) farm household allowance under the *Farm Household Support Act 2014*.

(6) However, subsection (5) does not apply if paragraphs 15(1)(a), (b) and (c) apply in relation to the child. Instead, in this case,

subsection (1) of this section does not apply to a person in the circumstances prescribed by the PPL rules.

- (7) Subsection 31(6) does not apply to a person in respect of a day in the newly arrived resident's waiting period for the person if on that day the person holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7A) Subsection 31(6) does not apply to a person in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the person if:
- (a) on the assessment day the person is a refugee or a former refugee; or
 - (b) the following apply:
 - (i) the person was a family member of another person at the time the other person became a refugee before the assessment day;
 - (ii) the person is a family member of that other person on the assessment day or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
 - (c) the person is an Australian citizen on the assessment day; or
 - (d) the person is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (8) For the purposes of subsection (7A):
- (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
 - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
 - (c) **refugee** has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

4 At the end of section 115CB

Add:

Not eligible—newly arrived resident’s waiting period

- (9) Despite subsections (2), (3) and (4), a DAPP claimant is not **eligible** for dad and partner pay for a child on a day in a newly arrived resident’s waiting period for the person (see section 115CBA).

5 At the end of Division 2 of Part 3A-3

Add:

115CBA Newly arrived resident’s waiting period*When person subject to newly arrived resident’s waiting period*

- (1) Subject to this section, a person is subject to a newly arrived resident’s waiting period if, on or after the commencement of this subsection, the person:
- (a) becomes the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; or
 - (b) becomes the holder of a permanent visa, except:
 - (i) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 117 (Orphan Relative) visa or as a Subclass 837 (Orphan Relative) visa; or
 - (ii) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 115 (Remaining Relative) visa or as a Subclass 835 (Remaining Relative) visa; or
 - (iii) a visa of a kind determined in an instrument under subsection (1A).
- (1A) The Minister may, by legislative instrument, determine a kind of visa for the purposes of subparagraph (1)(b)(iii).
- (1B) Paragraph (1)(b) does not apply in relation to a person if, at any time before the commencement of this subsection, the person held a visa covered by paragraph (1)(a).

Length of waiting period

- (2) If:

- (a) a person is subject to a newly arrived resident's waiting period; and
 - (b) the visa covered by paragraph (1)(a) or (b) is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b) of the *Social Security Act 1991*; and
 - (c) subsection (3) does not apply;
- the waiting period:
- (d) starts on the day on which the person applied for that visa; and
 - (e) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (3) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
 - (b) the person has previously held one or more visas in a class of visas determined by the Minister for the purposes of paragraph 739A(4)(b) of the *Social Security Act 1991*;
- the waiting period:
- (c) starts on the day on which the person applied for the last of those visas; and
 - (d) ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.
- (4) If:
- (a) a person is subject to a newly arrived resident's waiting period; and
 - (b) neither subsection (2) nor (3) applies to the person;
- the waiting period starts on the day on which the person:
- (c) first entered Australia; or
 - (d) becomes the holder of a permanent visa;
- whichever occurs last, and ends when the person has been in Australia for a period of, or periods totalling, 104 weeks after that day.

Exemptions

- (5) Subsection (1) does not apply to a person if, on the day before the day that would be the start of the person's DAPP period if a payability determination were made:
- (a) the person is receiving a social security pension (within the meaning of the *Social Security Act 1991*) or a social security benefit (within the meaning of that Act); or
 - (b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*.
- (6) Subsection 115CB(9) does not apply to a person in respect of a day in the newly arrived resident's waiting period for the person if on that day the person holds, or is the former holder of, a visa in a class of visas determined by the Minister for the purposes of subsection 739A(6) of the *Social Security Act 1991*.
- (7) Subsection 115CB(9) does not apply to a person in respect of a day (the **assessment day**) in the newly arrived resident's waiting period for the person if:
- (a) on the assessment day the person is a refugee or a former refugee; or
 - (b) the following apply:
 - (i) the person was a family member of another person at the time the other person became a refugee before the assessment day;
 - (ii) the person is a family member of that other person on the assessment day or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
 - (c) the person is an Australian citizen on the assessment day; or
 - (d) the person is residing in Australia on the assessment day and has held a special category visa on any day before the assessment day.
- (8) For the purposes of subsection (7):
- (a) **family member** has the meaning given by subsection 7(6D) of the *Social Security Act 1991*; and
 - (b) **former refugee** has the meaning given by subsection 7(1) of the *Social Security Act 1991*; and
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- (c) *refugee* has the meaning given by subsection 7(6B) of the *Social Security Act 1991*.

6 Application provision

The amendments made by this Schedule do not apply in respect of a child:

- (a) who is born either before the commencement of this item or in the 6 months beginning on the day this item commences; or
- (b) who becomes entrusted to the care of a person (as mentioned in subsection 275(2) of the *Paid Parental Leave Act 2010*) either before the commencement of this item or in the 6 months beginning on the day this item commences.

Schedule 5—Other amendments

Part 1—Higher income free area and indexation

A New Tax System (Family Assistance) Act 1999

1 Clause 2 of Schedule 1 (cell at table item 1, column 1)

Repeal the cell, substitute:

\$98,988

2 Subclause 3(7) of Schedule 4

Repeal the subclause, substitute:

Indexation rules for certain income limits for certain years

(7) The FTB basic HIFA (A) is not to be indexed on 1 July 2019 and 1 July 2020.

(7A) For the purposes of working out the indexed amount for the FTB basic HIFA (A) on 1 July 2021, the current figure for the FTB basic HIFA (A) immediately before that day is taken to be \$98,988.

(7B) The FTB income limit (B) is not to be indexed on 1 July 2019 and 1 July 2020.

3 Application provision

The amendment made by item 1 applies in relation to working out the Part A rate of family tax benefit for days on or after the commencement of this item.

Paid Parental Leave Act 2010

4 Section 30

Omit “30 June 2020”, substitute “30 June 2021”.

5 Paragraph 41(a)

Omit “1 July 2020”, substitute “1 July 2021”.

Schedule 5 Other amendments

Part 1 Higher income free area and indexation

6 Subsection 42(1)

Omit “1 July 2020”, substitute “1 July 2021”.

7 Section 115CA

Omit “30 June 2020”, substitute “30 June 2021”.

Part 2—Taper rate for Part A rate of family tax benefit (Method 2)

A New Tax System (Family Assistance) Act 1999

8 Clause 25 of Schedule 1

Omit “and 25C”, substitute “, 25C and 25D”.

9 Clause 25 of Schedule 1 (at the end of step 3 of the method statement)

Add:

Note: Clause 25D modifies the application of this step.

10 At the end of Division 1 of Part 3 of Schedule 1

Add:

25D Working out the Method 2 income and maintenance tested rate

In applying step 3 of the method statement in clause 25, step 2 of the method statement in clause 3 is taken to be replaced with the following:

- | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Step 2. Subtract the individual’s income free area (worked out under clause 38N) from the individual’s higher income free area (worked out under clause 2).</p> <p>Step 2A. Work out 20% of the amount at step 2.</p> <p>Step 2B. Subtract the individual’s higher income free area (worked out under clause 2) from the individual’s adjusted taxable income.</p> <p>Step 2C. Work out 30% of the amount at step 2B.</p> <p>Step 2D. The individual’s <i>reduction for adjusted taxable income</i> is the sum of the amounts at steps 2A and 2C. Take that</p> |
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Schedule 5 Other amendments

Part 2 Taper rate for Part A rate of family tax benefit (Method 2)

reduction away from the individual's maximum rate: the result is the individual's *income tested rate*.

11 Application provision

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

*[Minister's second reading speech made in—
House of Representatives on 15 February 2018
Senate on 28 November 2018]*

(26/18)
