



**Family and Community Services and
Veterans' Affairs Legislation
Amendment (Further 2004 Election
Commitments and Other Measures) Act
2005**

No. 29, 2005

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

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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

[Assented to 21 March 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services and Veterans' Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Act 2005*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	21 March 2005
2. Schedule 1	1 January 2005.	1 January 2005
3. Schedule 2	1 July 2005.	1 July 2005
4. Schedule 3	The day on which this Act receives the Royal Assent.	21 March 2005

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

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—FTB Part B supplement

A New Tax System (Family Assistance) Act 1999

1 Subclauses 29(1) and (2) of Schedule 1

Repeal the subclauses, substitute:

- (1) The individual's Part B rate is the amount worked out by adding the following amounts if the individual is not a member of a couple:
 - (a) the individual's standard rate under Division 2 (clauses 30 and 31);
 - (b) the individual's FTB Part B supplement under Division 2A (clause 31A).
- (2) The individual's Part B rate is worked out using the following method statement if the individual is a member of a couple:

Method statement

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 (clauses 30 and 31);
- (b) the individual's FTB Part B supplement under Division 2A (clause 31A).

The result is the individual's *maximum rate*.

Step 2. Work out the individual's *reduction for adjusted taxable income* using Division 3 (clauses 32 and 33).

Step 3. The individual's Part B rate is the maximum rate less the reduction for adjusted taxable income.

2 Subclause 29(3) of Schedule 1

Omit "standard rate", substitute "Part B rate".

3 After Division 2 of Part 4 of Schedule 1

Insert:

Division 2A—FTB Part B supplement

31A Rate of FTB Part B supplement

- (1) The amount of the FTB Part B supplement to be added in working out an individual's Part B rate under clause 29 is:
 - (a) if the individual has one FTB child, or more than one FTB child, and that child, or at least one of those children, is not covered by a determination under subsection 59(1)—the FTB (B) gross supplement amount; or
 - (b) if the individual has only one FTB child and the Secretary has determined under subsection 59(1) the percentage that is to be the individual's percentage of family tax benefit for that child—that percentage of the FTB (B) gross supplement amount; or
 - (c) if the individual has more than one FTB child and the Secretary has determined under subsection 59(1) a percentage for each of those children that is to be the individual's percentage of family tax benefit for each of those children—the highest of those percentages of the FTB (B) gross supplement amount.
- (2) For the purposes of subclause (1), the *FTB (B) gross supplement amount* is \$302.95.
- (3) To avoid doubt, when the FTB (B) gross supplement amount is indexed on a 1 July under Part 2 of Schedule 4, the amount, as it stood before that indexation, continues to apply in working out an individual's Part B rate under clause 29 for the income year ending just before that 1 July.

4 Clause 2 of Schedule 4 (after table item 9)

Insert:

9A	FTB (B) gross supplement amount for family tax benefit (Part B)	FTB gross supplement amount (B)	[Schedule 1—subclause 31A(2)]
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5 Subclause 3(1) of Schedule 4 (after table item 9)

	Insert:				
9A	FTB gross supplement amount (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2004)	\$3.65

6 At the end of clause 3 of Schedule 4

Add:

Indexation of FTB gross supplement amount (B) for 2006-2007 income year and later income years

- (3) The first indexation under subclause (1) of the FTB gross supplement amount (B), after the indexation of that amount under clause 3A, is to take place on 1 July 2006.

7 After clause 3 of Schedule 4

Insert:

3A One-off 6-month indexation of FTB gross supplement amount (B) for 2005-2006 income year

The FTB gross supplement amount (B) is to be indexed under this Part on the indexation day, using the reference quarter, base quarter and indexation day and rounding off to the nearest multiple of the rounding base, where:

base quarter means June quarter 2004.

indexation day means 1 July 2005.

reference quarter means December quarter 2004.

rounding base means \$3.65.

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

8 After paragraph 32A(2)(b)

Insert:

- (ba) paragraph 29(1)(b) of Schedule 1 to the Family Assistance Act;
- (bb) paragraph (b) of step 1 of the method statement in subclause 29(2) of Schedule 1 to the Family Assistance Act;
- (bc) subclause 31A(1) of Schedule 1 to the Family Assistance Act;

Note: The heading to section 32A is altered by inserting “**and FTB Part B supplement**” after “**Part A supplement**”.

9 After subparagraph 105A(2)(a)(ii)

Insert:

- (iia) paragraph 29(1)(b) of Schedule 1 to the Family Assistance Act;
- (iib) paragraph (b) of step 1 of the method statement in subclause 29(2) of Schedule 1 to the Family Assistance Act;
- (iic) subclause 31A(1) of Schedule 1 to the Family Assistance Act;

Note: The heading to section 105A is altered by adding at the end “**or FTB Part B supplement**”.

10 Application of amendments

- (1) The amendments made by items 1, 2, 3, 8 and 9 of this Schedule apply in relation to FTB Part B supplement included, on or after 1 January 2005, in family tax benefit for the 2004-2005 income year or a later income year.
- (2) The amendments made by items 4 and 7 of this Schedule apply in relation to family tax benefit for the 2005-2006 income year.
- (3) The amendments made by items 4, 5 and 6 of this Schedule apply in relation to family tax benefit for the 2006-2007 income year or a later income year.

Schedule 2—Child income cut-out amount

A New Tax System (Family Assistance) Act 1999

1 Subsection 22A(2) (definition of *cut-out amount*)

Repeal the definition, substitute:

cut-out amount means \$11,233.

2 Subsection 35(3) (definition of *cut-out amount*)

Repeal the definition, substitute:

cut-out amount means \$11,233.

3 Clause 2 of Schedule 4 (after table item 14)

Insert:

14A	Child income cut-out amount	cut-out amount	[subsections 22A(2) and 35(3)]
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4 Subclause 3(1) of Schedule 4 (after table item 14)

Insert:

14A	cut-out amount	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 2004)	\$1.00
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5 At the end of clause 3 of Schedule 4

Add:

Indexation of cut-out amount for 2006-2007 income year and later income years

- (4) The first indexation under subclause (1) of the cut-out amount is to take place on 1 July 2006.

6 Application of amendments

- (1) The amendments made by items 1 and 2 of this Schedule apply in relation to family tax benefit for the 2005-2006 income year or a later income year.
- (2) The amendments made by items 3, 4 and 5 of this Schedule apply in relation to family tax benefit for the 2006-2007 income year or a later income year.

Schedule 3—Accommodation bonds

Part 1—Amendment of the Social Security Act 1991

1 After paragraph 8(8)(zn)

Insert:

- (zna) while a person is liable to pay all or some of an accommodation bond by periodic payments—any rent from the person’s principal home that the person, or the person’s partner, earns, derives or receives from another person;

2 Subsection 11(1) (definition of *exempt assets*)

Omit “any of paragraphs 1118(1)(a) to (s)”, substitute “subsection 1118(1)”.

3 Subsection 11(3B)

Omit “For the purposes of this Act,”, substitute “To avoid doubt,”.

4 After paragraph 11(6A)(a)

Insert:

- (aa) if the Secretary is satisfied that the residence was previously the person’s principal home but that the person left it for the purpose of going into a care situation—any period during which:
 - (i) the person is liable to pay all or some of an accommodation bond by periodic payments (or would be liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person’s partner, is earning, deriving or receiving rent for the residence from another person; and

5 Paragraph 11(6A)(b)

After “(a)”, insert “or (aa)”.

6 Paragraphs 1118(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) if the person is not a member of a couple—the value of any right or interest of the person in the person’s principal home that is a right or interest that gives the person reasonable security of tenure in the home;
- (b) if the person is a member of a couple—the value of any right or interest of the person in one residence that is the principal home of the person, of the person’s partner or of both of them that is a right or interest that gives the person or the person’s partner reasonable security of tenure in the home;

7 At the end of subsection 1118(1)

Add:

- ; (u) the amount of any accommodation bond balance in respect of an accommodation bond paid by the person.

8 Application provision

The amendments made by this Part apply in respect of accommodation bonds in calculating the value of a person’s assets on or after the later of:

- (a) the day on which this Act receives the Royal Assent; and
- (b) 1 July 2005;

(irrespective of when a bond was paid).

9 Transitional provision

(1) If:

- (a) either:
 - (i) a person makes a claim for a social security payment between 1 July 2005 and 30 September 2005 (inclusive); or
 - (ii) the Secretary determines under subitem (2) that this subitem should apply in respect of a person; and
- (b) the social security payment first becomes payable to the person because of the amendments made by this Part;

the person’s start day in relation to the social security payment is the later of:

- (c) 1 July 2005; and
- (d) the day on which the social security payment first becomes payable.

- (2) The Secretary may determine in writing that subitem (1) should apply in respect of a person if:
- (a) the person makes a claim for a social security payment between 1 October 2005 and 30 June 2006 (inclusive); and
 - (b) the Secretary is satisfied that special circumstances apply in respect of the person.
- (3) A determination under subitem (2) is not a legislative instrument.

Part 2—Amendment of the Veterans' Entitlements Act 1986

10 After paragraph 5H(8)(nc)

Insert:

- (nd) while a person is liable to pay all or some of an accommodation bond by periodic payments—any rent from the person's principal home that the person, or the person's partner, earns, derives or receives from another person;

11 Subsection 5L(3B)

Omit "For the purposes of this Act,", substitute "To avoid doubt,".

12 After paragraph 5L(6A)(a)

Insert:

- (aa) if the Commission is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation or becoming an aged care resident—any period during which:
 - (i) the person is liable to pay all or some of an accommodation bond by periodic payments (or would be liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and
 - (ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and

13 Paragraph 5L(6A)(b)

After "(a)", insert "or (aa)".

14 Subsection 5L(6A) (note 1)

Omit "*Accommodation charge* has", substitute "*Accommodation charge* and *accommodation bond* have".

15 Subsection 5L(6A) (at the end of note 4)

Add "For rules about accommodation bonds, see Division 57 of the *Aged Care Act 1997*".

16 Paragraph 52(1)(o)

Omit "payment.", substitute "payment;".

17 At the end of subsection 52(1) (after the note)

Add:

- (p) the amount of any accommodation bond balance in respect of an accommodation bond paid by the person.

18 Application provision

The amendments made by this Part apply in respect of accommodation bonds in calculating the value of a person's assets on or after the later of:

- (a) the day on which this Act receives the Royal Assent; and
- (b) 1 July 2005;

(irrespective of when a bond was paid).

19 Transitional provision

(1) If:

(a) either:

- (i) a person makes a claim for a service pension or an income support supplement under the *Veterans' Entitlements Act 1986* between 1 July 2005 and 30 September 2005 (inclusive); or
- (ii) the Commission determines under subitem (2) that this subitem should apply in respect of a person; and

(b) the pension or supplement first becomes payable to the person because of the amendments made by this Part;

the pension or supplement is payable from the later of:

- (c) 1 July 2005; and
- (d) the day on which the pension or supplement first becomes payable to the person.

(2) The Commission may determine in writing that subitem (1) should apply in respect of a person if:

- (a) the person makes a claim for a service pension or an income support supplement under the *Veterans' Entitlements Act 1986* between 1 October 2005 and 30 June 2006 (inclusive); and
 - (b) the Commission is satisfied that special circumstances apply in respect of the person.
- (3) A determination under subitem (2) is not a legislative instrument.
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*[Minister's second reading speech made in—
House of Representatives on 17 February 2005
Senate on 9 March 2005]*

(20/05)
