



**Family and Community Services
Legislation Amendment (Welfare to
Work) Act 2005**

No. 150, 2005

**An Act to amend the law relating to family and
community services, and for related purposes**

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

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No. 150, 2005

**An Act to amend the law relating to family and
community services, and for related purposes**

[Assented to 14 December 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services
Legislation Amendment (Welfare to Work) Act 2005*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments relating to threshold for receiving child care benefit

A New Tax System (Family Assistance) Act 1999

1 Paragraph 53(1)(a)

Omit “20”, substitute “24”.

2 Paragraph 53(2)(a)

Omit “20”, substitute “24”.

3 Subsection 53(3)

Omit “20”, substitute “24”.

Note: The heading to subsection 53(3) is altered by omitting “20” and substituting “24”.

4 Subsection 54(8)

Omit “20”, substitute “24”.

5 Paragraph 54(9)(b)

Omit “20”, substitute “24”.

6 Subsection 54(10)

Omit “20”, substitute “24”.

7 Paragraph 54(12)(b)

Omit “20”, substitute “24”.

8 Paragraph 57A(1)(a)

Omit “20”, substitute “24”.

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

9 Paragraph 50H(3)(b)

Omit “20”, substitute “24”.

10 Subsection 54C(1)

Omit “20”, substitute “24”.

11 Paragraph 56C(3)(b)

Omit “20”, substitute “24”.

12 Paragraph 56D(1)(c)

Omit “20”, substitute “24”.

13 Subsection 59F(1)

Omit “20”, substitute “24”.

14 Subsection 64D(2)

Omit “20”, substitute “24”.

Note 1: The heading to section 64D is altered by omitting “20” and substituting “24”.

Note 2: The heading to subsection 64D(2) is altered by omitting “20” and substituting “24”.

15 Paragraph 219B(3)(a)

Omit “20”, substitute “24”.

16 Transitional provision—claimants for whom there is an existing 20-hour determination

(1) If:

- (a) immediately before the start of the first week commencing after 1 July 2006:
 - (i) a determination under subsection 50H(1) of the Family Assistance Administration Act is in force; or
 - (ii) a determination of a weekly limit of hours is taken to have been made under section 54C of that Act; and
- (b) the determination is a determination that the weekly limit of hours applicable to the claimant and the child referred to in that subsection or section (as the case may be) is 20 hours;

on and from the start of the first week commencing after 1 July 2006, the determination is taken to be a determination under that subsection or section (as the case may be) that the weekly limit of hours applicable to the claimant and the child is 24 hours.

- (2) If subitem (1) applies to a determination under subsection 50H(1) that is in force, the Secretary must give notice to:
 - (a) the claimant; and
 - (b) the approved child care service (within the meaning of the Family Assistance Administration Act), or approved child care services, that are, or will be, providing care to the child.
- (3) The notice must state that on and from the start of the first week commencing after 1 July 2006, the weekly limit of hours applicable to the claimant and the child is 24 hours.
- (4) A failure to comply with subitem (2) or (3), or both, does not affect the validity of a determination to which subitem (1) applies.
- (5) Section 219A of the Family Assistance Administration Act applies in relation to a notice under subitem (2) as if it were a notice of a kind referred to in column 1 of table item 6 of the table in subsection 219A(2) of that Act.

17 Application

The amendments made by this Schedule apply to sessions of care provided:

- (a) during the first week commencing after 1 July 2006; and
- (b) during subsequent weeks.

Schedule 2—Amendments relating to work/training/study test

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (definition of *paid work*)

After “(other than in paragraph 15(1)(a)”, insert “or section 17A”.

2 Subsection 3B(1)

After “(other than in paragraph 15(1)(a)”, insert “or section 17A”.

3 Subsection 3B(1) (at the end of the note)

Add “and section 17A”.

4 After subsection 14(1)

Insert:

- (1A) However, for the purposes of section 54, the individual satisfies the work/training/study test only if:
- (a) the individual meets the activity requirements under section 17A for the week; or
 - (b) the individual is not included in a class of individuals specified in a determination under subsection (1C) and:
 - (i) paragraph 15(1)(b), 15(1)(c), 17(1)(a), 17(1)(b), 17(1)(c) or 17(1)(d) applies to the person; or
 - (ii) the individual is an individual in a class of individuals specified in a determination under subsection 15(2); or
 - (iii) the individual is covered by a determination under subsection (1B) or (2).
- (1B) The Minister may, by legislative instrument, determine circumstances in which individuals are not required to meet the activity requirements under section 17A.
- (1C) The Minister may, by legislative instrument, determine that one or more of the classes of individuals specified in a determination under subsection 15(2) are classes of individuals who must meet the activity requirements under section 17A.
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5 Section 16

Before “An individual”, insert “(1)”.

6 At the end of section 16

Add:

- (2) For the purposes of subsection (1), if an individual is undertaking a training course then the individual is taken to be doing so even if the individual is not required to participate in any activity for the course (for example, because of a vacation break in the course).

7 Section 17

Before “An individual”, insert “(1)”.

8 At the end of section 17

Add:

- (2) For the purposes of subsection (1), if an individual is undertaking an education course then the individual is taken to be doing so even if the individual is not required to participate in any activity for the course (for example, because of a vacation break in the course).

9 After section 17

Insert:

17A Activity requirements for claims for child care benefit for care provided by approved child care service

- (1) An individual who has claimed child care benefit for care provided by an approved child care service during a week meets the activity requirements for a week if:
 - (a) during the week, the individual has engaged in one or more of the following activities:
 - (i) paid work (whether or not the individual performs the work as an employee);
 - (ii) a training course undertaken for the purpose of improving his or her work skills and/or employment prospects;

- (iii) a course of education undertaken for the purpose of improving his or her work skills and/or employment prospects;
 - (iv) any other activity that the Minister determines under subsection (2); and
 - (b) the sum of the number of hours that the individual spends during the week doing those activities:
 - (i) is at least 15; or
 - (ii) if subparagraph (i) does not apply—is, when added to the sum of the number of hours that the individual spends during the immediately preceding week doing those activities, at least 30; or
 - (iii) if neither subparagraph (i) nor (ii) applies—is, when added to the sum of the number of hours that the individual spends during the immediately following week doing those activities, at least 30.
- (2) The Minister may, by legislative instrument, determine activities that count towards meeting the activity requirements under this section.
- (3) A determination under subsection (2) may determine that specified kinds of leave are activities that count towards meeting the activity requirements under this section.
- (4) If, in determining whether an individual has met the activity requirements for a week, hours that the individual spends during another week doing the activities mentioned in paragraph (1)(a) are counted, then no hours spent during that other week are to be counted in determining whether the individual has met the activity requirements for a third week.
- (5) If:
- (a) an individual is in paid work; and
 - (b) the individual is taking leave of a kind specified in a determination under subsection (2);
- then, the individual is taken to have engaged in paid work for the number of hours that the individual would have spent doing the paid work if the individual did not take the leave.

10 Paragraph 52(4)(a)

Before “section 59F”, insert “subsection 59(2) or”.

11 Subsection 54(2)

Omit “work/training/study test at some time in the week.”, substitute:
work/training/study test:

- (a) if subsection 14(1A) requires the claimant to meet the activity requirements under section 17A—for the week; or
- (b) in any other case—at some time in the week.

12 At the end of subsection 54(2)

Add:

Note: Subsection 14(1A) specifies extra requirements for satisfying the work/training/study test for the purposes of this section.

13 Paragraph 54(3)(b)

Repeal the paragraph, substitute:

- (b) the individual, and the individual’s partner (if any), satisfy the work/training/study test:
 - (i) if subsection 14(1A) requires the claimant to meet the activity requirements under section 17A—for the week;
or
 - (ii) in any other case—at some time in the week.

14 At the end of subsection 54(3)

Add:

Note: Subsection 14(1A) specifies extra requirements for satisfying the work/training/study test for the purposes of this section.

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

15 Section 57F

Before “If a determination of conditional eligibility”, insert “(1)”.

16 At the end of section 57F

Add:

- (2) To avoid doubt, the Secretary may, before the start of the first week commencing after 1 July 2006, give a notice under
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subsection (1) requiring the claimant to give the Secretary information about whether or not the claimant will satisfy the work/training/study test on or after the start of the first week commencing after 1 July 2006.

Note: The *Family and Community Services Legislation Amendment (Welfare to Work) Act 2005* amends the work/training/study test and applies from the start of the first week commencing after 1 July 2006.

17 Section 59

Before “If:”, insert “(1)”.

18 At the end of section 59

Add:

- (2) Without limiting subsection (1), if:
- (a) determinations of conditional eligibility under section 50F and of a weekly limit of hours under section 50H are in force in respect of a claimant who is an individual; and
 - (b) the Secretary makes a request under section 57F in respect of a data verification form referred to in that section; and
 - (c) the request is a request for information of the kind described in subsection 57F(2); and
 - (d) the form is not returned in the time specified in the request;
- the Secretary may vary the determination of a weekly limit of hours with the effect that, on and from the start of the first week commencing after 1 July 2006, the limit is 24 hours.

Consequence of Secretary later becoming aware of the information

- (3) If:
- (a) under subsection (2), the Secretary varies the determination; and
 - (b) before the end of the income year following the one in which the variation took effect:
 - (i) the claimant returns the data verification form specified in the request under section 57F and provides the information mentioned in paragraph (2)(c); or
 - (ii) the Secretary finds out the information (whether from the claimant or someone else);
- the Secretary must vary the determination to undo the effect mentioned in subsection (2).
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19 Paragraph 62D(a)

After “62CA”, insert “or under subsection 59(2)”.

20 Paragraph 64A(5)(a)

After “in force”, insert “under subsection 59(2) or”.

Note: The heading to subsection 64A(5) is altered by omitting “*Section 59F and 62C variations*” and substituting “*Variations under subsection 59(2), section 59F and section 62C*”.

21 Paragraph 64A(5)(b)

After “the variation” (first occurring), insert “under subsection 59(2) or”.

22 Subsection 64A(5)

After “the variation” (third last occurring), insert “under subsection 59(2) or”.

23 Paragraph 64B(6)(a)

After “in force”, insert “under subsection 59(2) or”.

Note: The heading to subsection 64B(6) is altered by omitting “*Section 59F and 62C variations*” and substituting “*Variations under subsection 59(2), section 59F and section 62C*”.

24 Paragraph 64B(6)(b)

After “the variation” (first occurring), insert “under subsection 59(2) or”.

25 Subsection 64B(6)

After “the variation” (third last occurring), insert “under subsection 59(2) or”.

26 Paragraph 64C(5)(a)

After “in force”, insert “under subsection 59(2) or”.

Note: The heading to subsection 64C(5) is altered by omitting “*Section 59F and 62C variations*” and substituting “*Variations under subsection 59(2), section 59F and section 62C*”.

27 Paragraph 64C(5)(b)

After “the variation” (first occurring), insert “under subsection 59(2) or”.

28 Subsection 64C(5)

After “the variation” (second last occurring), insert “under subsection 59(2) or”.

29 Paragraph 65D(4)(a)

After “in force”, insert “under subsection 59(2) or”.

Note: The heading to subsection 65D(4) is altered by omitting “*Section 59F and 62C variations*” and substituting “*Variations under subsection 59(2), section 59F and section 62C*”.

30 Paragraph 65D(4)(b)

After “the variation” (first occurring), insert “under subsection 59(2) or”.

31 Subsection 65D(4)

After “the variation” (second last occurring), insert “under subsection 59(2) or”.

32 At the end of paragraph 157(2)(j)

Add:

; and (iii) the number of hours each week for which the person is employed;

33 At the end of subsection 157(2)

Add:

(k) in relation to any other work (other than as an employee) that the person does for the person given the notice and that is a recognised work or work related commitment for the purposes of the work/training/study test:

(i) the date on which the person’s work started;

(ii) the date on which the person’s work ended;

(iii) the number of hours each week for which the person does the work;

(l) in relation to any training of the person by the person given the notice:

(i) the name of the entity providing the training;

(ii) if the person is undertaking a training course—the name of the training course;

(iii) the period required to complete the training;

- (iv) the date on which the person's training started;
- (v) the date on which the person's training ended;
- (vi) the number of hours each week for which the person engages in the training.

34 Subsection 219A(2) (table item 6, column 1)

After "made under section", insert "59,".

35 Application

The amendments made by this Schedule apply to sessions of care provided:

- (a) during the first week commencing after 1 July 2006; and
- (b) during subsequent weeks.

*[Minister's second reading speech made in—
House of Representatives on 9 November 2005
Senate on 1 December 2005]*

(178/05)
