



Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012

No. 154, 2012

**An Act to amend the law relating to family
assistance, social security, child support, paid
parental leave and Indigenous education, 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. 154, 2012

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

[Assented to 17 November 2012]

The Parliament of Australia enacts:

*Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures)
Act 2012No. 154, 2012I*

Schedule 1 Extending Cape York welfare reform trial
Part 1 Amendments

1 Short title

This Act may be cited as the *Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012*.

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 this Act receives the Royal Assent.	17 November 2012
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	17 November 2012
3. Schedule 3	The 28th day after this Act receives the Royal Assent.	15 December 2012
4. Schedule 4	The day this Act receives the Royal Assent.	17 November 2012
5. Schedule 5, items 1 to 60	The day this Act receives the Royal Assent.	17 November 2012
6. Schedule 5, item 61	27 May 2012.	27 May 2012
7. Schedule 6, item 1	1 July 2012.	1 July 2012
8. Schedule 6, items 2 to 9	The day this Act receives the Royal Assent.	17 November 2012

Note: This table relates only to the provisions of this Act as originally enacted.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 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Extending Cape York welfare reform trial

Social Security (Administration) Act 1999

1 Paragraphs 123UF(1)(g) and (2)(h)

Omit “1 January 2013”, substitute “1 January 2014”.

Schedule 2—Indigenous education payments

Indigenous Education (Targeted Assistance) Act 2000

1 Subsection 14B(1) (table item 4)

Omit “\$120,701,000”, substitute “\$132,607,000”.

2 Subsection 14C(1) (table item 1)

Omit “\$133,527,000”, substitute “\$137,699,000”.

Schedule 3—Social Security Appeals Tribunal

Part 1—Amendments

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

1 Subsection 3(1) (at the end of the definition of *Principal Member*)

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the Social Security Appeals Tribunal.

2 Subsection 3(1) (at the end of the definition of *SSAT*)

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

3 Subsection 3(1)

Insert:

SSAT member means a member of the SSAT (and includes the Principal Member).

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

4 Section 110

Before “In”, insert “(1)”.

5 At the end of section 110

Add:

- (2) That objective must also be pursued by the Principal Member in performing or exercising his or her functions and powers under this Act.

6 Subparagraph 112(3)(b)(i)

Omit “withdrawn”, substitute “dismissed”.

7 Subsection 117(3)

Repeal the subsection, substitute:

- (3) If:
- (a) a person applies to the SSAT for review of a decision; and
 - (b) before determination of the review, an officer varies the decision or sets it aside and substitutes a new decision;
- the person may:
- (c) proceed with the application for review of the decision as varied or the new decision; or
 - (d) request the Principal Member to dismiss the application under section 135; or
 - (e) notify, under section 136, the SSAT that the application is discontinued or withdrawn.

8 After paragraph 118(1)(b)

Insert:

- (c) for a review of a care percentage decision—each person who is a responsible person (within the meaning of the *Child Support (Assessment) Act 1989*) for the child to whom the decision relates; and

9 Subsection 120(1)

Omit “(1)”.

10 Subsections 120(2), (3) and (4)

Repeal the subsections.

11 Subsection 123(3)

Repeal the subsection, substitute:

- (3) The party may, with the permission of the Principal Member, have another person make submissions to the SSAT on the party’s behalf.
- (3A) In deciding whether to grant permission under subsection (3), the Principal Member must have regard to the wishes of the parties and the need to protect their privacy.

12 Subsection 126A(3)

Omit “having regard to the objective laid down by section 110”.

13 After paragraph 126A(4)(a)

Insert:

(aa) written submissions to the SSAT; or

14 Subsection 126A(4)

Omit “having regard to the objective laid down by section 110”.

15 Subdivision BC of Division 3 of Part 5 (heading)

Repeal the heading, substitute:

Subdivision BC—Directions hearings

16 Section 129A (heading)

Repeal the heading, substitute:

129A Directions hearings

17 Subsection 129A(1)

Omit “conferences”, substitute “directions hearings”.

18 Subsection 129A(2)

Omit “conference”, substitute “directions hearing”.

19 Paragraph 129A(2)(d)

Omit “evidence is to be brought before”, substitute “information is to be given to”.

20 Subsections 129A(3), (4) and (5)

Repeal the subsections.

21 Paragraph 129B(1)(a)

Omit “pre-hearing conference”, substitute “directions hearing”.

22 Paragraph 130(1)(b)

Omit “allows; and”, substitute “allows.”.

23 Paragraph 130(1)(c)

Repeal the paragraph.

24 Section 133

Repeal the section.

25 Paragraph 134(2)(b)

Repeal the paragraph.

26 Sections 135 and 136

Repeal the sections, substitute:

135 Dismissal of application for review by SSAT

- (1) The Principal Member may, on the request of a party or on his or her own initiative, dismiss an application for review of a decision if:
 - (a) the decision is not reviewable under this Part; or
 - (b) the application is frivolous or vexatious; or
 - (c) all of the parties consent; or
 - (d) the Principal Member is satisfied:
 - (i) after having communicated with each party; or
 - (ii) after having made reasonable attempts to communicate with each party and having failed to do so;or a combination of both, that none of the parties intend to proceed with the application; or
 - (e) all of the parties fail to attend the hearing.
- (2) The Principal Member may dismiss an application under paragraph (1)(b) only if:
 - (a) one of the following applies:
 - (i) the Principal Member has received and considered submissions from the applicant for review;
 - (ii) the Principal Member has otherwise communicated with the applicant in relation to the grounds of the application;
 - (iii) the Principal Member has made reasonable attempts to communicate with the applicant in relation to the grounds of the application and has failed to do so; and

- (b) all of the parties (other than the applicant) consent to the dismissal.
- (3) If the Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b)), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;request that the Principal Member reinstate the application.
- (4) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (5) If it appears to the Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary.

136 Dismissal of application for review on request of party

- (1) An applicant for review may notify the SSAT at any time that the application for review is discontinued or withdrawn.
- (2) If the applicant orally notifies the SSAT, the person who receives the notification must make a written record of the day on which the notification was given.
- (3) If notification is given under subsection (1), the Principal Member is taken to have dismissed the application.
- (4) If the Principal Member dismisses an application under subsection (3), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;

request that the Principal Member reinstate the application.

- (5) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary.

27 Subsection 139(7)

Repeal the subsection.

28 At the end of Division 3 of Part 5

Add:

Subdivision G—Restrictions on disclosure of information

141C Orders restricting disclosure of information

- (1) The Principal Member may make an order directing a person:
 - (a) not to disclose information specified in the order; or
 - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
 - (c) not to disclose information specified in the order, except to a specified person or class of persons.
- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
 - (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

141D Varying an order to permit certain disclosures

- (1) A person in relation to whom an order has been made under subsection 141C(1) may request the Principal Member to vary the order to allow the person to disclose particular information specified in the order:
 - (a) in particular circumstances or for particular purposes; or
 - (b) to a particular person or class of persons.
- (2) The Principal Member may vary the order in accordance with the request.
- (3) This section does not limit the Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

141E Orders restricting secondary disclosures of information

- (1) If an order (the *primary order*) under subsection 141C(1) directs a person not to disclose information specified in the order, except to any of the following (an *authorised recipient*):
 - (a) a specified person;
 - (b) a member of a specified class of persons;the Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.
- (2) A person commits an offence if:
 - (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

Child Support (Registration and Collection) Act 1988

29 Subsection 4(1)

Insert:

Human Services Department means the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

30 Subsection 4(1) (at the end of the definition of SSAT)

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

31 Subsection 4(1)

Insert:

SSAT member means a member of the SSAT (and includes the SSAT Principal Member).

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

**32 Subsection 4(1) (at the end of the definition of SSAT
Principal Member)**

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

33 Paragraph 16(2AB)(a)

Omit “proceedings”, substitute “review”.

34 Paragraph 16(2AB)(b)

Omit “proceedings concerned or is, or is alleged to be, in any other way concerned in the matter to which the proceedings concerned relate”, substitute “review concerned or is, or is alleged to be, in any other way concerned in the matter to which the review concerned relates”.

35 Paragraph 16(2AB)(c)

Omit “proceedings”, substitute “review”.

36 After subsection 16(3)

Insert:

- (3A) Subsection (2) does not prevent an SSAT member from communicating any protected information to a person, if the information concerns a threat to the life, health or welfare of a person and either of the following applies:
- (a) the member believes on reasonable grounds that the communication is necessary to prevent or lessen the threat;
 - (b) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the member communicates the information for the purpose of preventing, investigating or prosecuting such an offence.

37 Section 88

Before “In”, insert “(1)”.

38 At the end of section 88

Add:

- (2) That objective must also be pursued by the SSAT Principal Member in performing or exercising his or her functions and powers under this Act.

39 Subparagraph 94(1)(a)(ii)

Omit “Department”, substitute “Human Services Department”.

40 Subsection 95(1)

Omit “Department” (wherever occurring), substitute “Human Services Department”.

41 Subsection 96(1)

Omit “(1)”.

42 Subsections 96(2) and (3)

Repeal the subsections.

43 Subsection 97(1A)

Omit “subsection 96(1)”, substitute “section 96”.

44 Subsection 97(2)

Omit “or subsection 95(5) or 96(1)”, substitute “, subsection 95(5) or section 96”.

45 Subsection 98(1)

Omit “subsection 96(1)”, substitute “section 96”.

46 After paragraph 100(1)(c)

Insert:

- (ca) the applicant has been removed from the review under subsection 101(5) and all of the remaining parties consent to the dismissal; or

47 Paragraph 100(1)(f)

Omit “proceeding”, substitute “review”.

48 At the end of section 100

Add:

- (3) If the SSAT Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b) or (f)), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the SSAT Principal Member, in special circumstances, allows;request that the SSAT Principal Member reinstate the application.
- (4) If the SSAT Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (5) If it appears to the SSAT Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.

49 Subsection 100A(2)

Omit “SSAT is taken to have dismissed the application without proceeding to review the decision”, substitute “SSAT Principal Member is taken to have dismissed the application”.

50 Subsections 100A(3), (4) and (5)

Repeal the subsections, substitute:

- (3) If the SSAT Principal Member dismisses an application under subsection (2), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the SSAT Principal Member, in special circumstances, allows;request that the SSAT Principal Member reinstate the application.
- (4) If the SSAT Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.

51 Division 3A of Part VIIA (heading)

Repeal the heading, substitute:

Division 3A—Directions hearings

52 Section 103 (heading)

Repeal the heading, substitute:

103 Directions hearings

53 Subsection 103(1)

Omit “conferences”, substitute “directions hearings”.

54 Subsection 103(2)

Omit “conference”, substitute “directions hearing”.

55 At the end of subsection 103(2) (before the note)

Add:

; and (d) give directions about what information is to be given to the SSAT.

56 Subsection 103(2) (note)

Omit “pre-hearing conference”, substitute “directions hearing”.

57 Paragraph 103A(1)(c)

Omit “pre-hearing conference”, substitute “directions hearing”.

58 Subsection 103C(2)

Repeal the subsection, substitute:

(2) A party to a review may, with the permission of the SSAT Principal Member, have another person make submissions to the SSAT on the party’s behalf.

(2A) In deciding whether to grant permission under subsection (2), the SSAT Principal Member must have regard to:

- (a) the wishes of the parties; and
- (b) the need to protect their privacy.

59 Subsection 103F(3)

Omit “having regard to the objective laid down by section 88”.

60 Subsection 103F(4) (heading)

Repeal the heading, substitute:

SSAT may order Registrar to make oral submissions etc.

61 After paragraph 103F(4)(a)

Insert:

- (aa) written submissions to the SSAT; or

62 Subsection 103F(4)

Omit “having regard to the objective laid down by section 88”.

63 Paragraph 103N(1)(b)

Omit “allows; and”, substitute “allows.”.

64 Paragraph 103N(1)(c)

Repeal the paragraph.

65 Section 103Q

Repeal the section.

66 Subsection 103R(2)

Repeal the subsection, substitute:

- (2) Without limiting subsection (1), the SSAT may refuse to adjourn the hearing of a review if the hearing has already been adjourned on 2 or more occasions.

67 Subsection 103W(1)

Omit “a proceeding for a review (including at a pre-hearing conference”, substitute “a review (including at a directions hearing”.

68 Subparagraphs 103W(1)(a)(i) and (ii)

Omit “proceeding” (wherever occurring), substitute “review”.

69 Subsection 103W(2)

Omit “in the proceeding”, substitute “on the review”.

70 Paragraph 103W(2)(a)

Omit “proceeding”, substitute “review”.

71 Subsection 103W(3)

Omit “part of the proceeding, or a matter arising out of the proceeding, the SSAT may in its decision in the proceeding give effect to the terms of the agreement without dealing at the hearing of the proceeding”, substitute “part of the review, or a matter arising out of the review, the SSAT may in its decision on the review give effect to the terms of the agreement without dealing at the hearing of the review”.

72 At the end of section 103X

Add:

Copies to removed party

- (6) The SSAT must, in relation to any person who was removed as a party to the review under subsection 101(5):

- (a) give the person a copy of the notice under paragraph (1)(a), within 14 days after making the decision; and
- (b) if a notice under paragraph (3)(b) was not part of the notice under paragraph (1)(a)—do at least one of the following:
 - (i) give reasons for the decision orally to the person, within 14 days after making the decision;
 - (ii) give the person a copy of any notice under paragraph (3)(b), at the same time as giving it to the parties to the review.

73 Subsection 103ZA(7)

Repeal the subsection.

74 At the end of Division 6 of Part VIIA

Add:

103ZAA Orders restricting disclosure of information

- (1) The SSAT Principal Member may make an order directing a person:
 - (a) not to disclose information specified in the order; or
 - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
 - (c) not to disclose information specified in the order, except to a specified person or class of persons.
- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
 - (a) the SSAT Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4); see subsection 13.3(3) of the *Criminal Code*.

103ZAB Varying an order to permit certain disclosures

- (1) A person in relation to whom an order has been made under subsection 103ZAA(1) may request the SSAT Principal Member to vary the order to allow the person to disclose particular information specified in the order:
 - (a) in particular circumstances or for particular purposes; or
 - (b) to a particular person or class of persons.
- (2) The SSAT Principal Member may vary the order in accordance with the request.
- (3) This section does not limit the SSAT Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

103ZAC Orders restricting secondary disclosures of information

- (1) If an order (the *primary order*) under subsection 103ZAA(1) directs a person not to disclose information specified in the order, except to any of the following (an *authorised recipient*):
 - (a) a specified person;
 - (b) a member of a specified class of persons;the SSAT Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.
- (2) A person commits an offence if:
 - (a) the SSAT Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3); see subsection 13.3(3) of the *Criminal Code*.

75 Section 103ZB

Omit “proceeding”, substitute “review”.

76 Section 110A

Omit “proceeding”, substitute “review”.

77 Section 110B

Repeal the section, substitute:

110B Appeals from decisions of SSAT

A party to a review by the SSAT under Part VIIA may appeal to a court having jurisdiction under this Act, on a question of law, from a decision of the SSAT on that review under section 103S.

78 Section 110D

Omit “the people who were”.

79 Section 110D

Omit “proceeding” (second occurring), substitute “review”.

80 At the end of section 110D

Add:

Note: A person may be added or removed as a party to a review under subsection 101(4) or (5).

81 Paragraph 110F(3)(b)

Omit “proceeding” (wherever occurring), substitute “review”.

82 Subsections 110G(1) and (2)

Omit “proceeding before” (wherever occurring), substitute “review by”.

83 Subsection 110H(1)

Omit “proceeding before”, substitute “review by”.

84 Subsection 110H(3)

Omit “any proceeding”, substitute “any review”.

85 Subsection 110H(3)

Omit “in that proceeding”, substitute “on that review”.

86 Paragraph 110K(a)

Omit “proceeding”, substitute “review”.

Paid Parental Leave Act 2010

87 Section 6 (at the end of the definition of *Principal Member*)

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the Social Security Appeals Tribunal.

88 Section 6 (at the end of the definition of *SSAT*)

Add:

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

89 Section 6

Insert:

SSAT member means a member of the SSAT.

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

90 After section 130

Insert:

130A Disclosure of information by SSAT members—threat to life, health or welfare

Despite section 130, an SSAT member may disclose information if the information concerns a threat to the life, health or welfare of a person and either of the following applies:

- (a) the member believes on reasonable grounds that the disclosure is necessary to prevent or lessen the threat;

- (b) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the member discloses the information for the purpose of preventing, investigating or prosecuting such an offence.

91 Section 214

Before “In”, insert “(1)”.

92 At the end of section 214

Add:

- (2) That objective must also be pursued by the Principal Member in performing or exercising his or her functions and powers under this Act.

93 Subsection 221(4)

Repeal the subsection, substitute:

- (4) The person may:
 - (a) proceed with the application for review of the decision as varied or the new decision; or
 - (b) request the Principal Member to dismiss the application under section 251; or
 - (c) notify, under section 252, the SSAT that the application is discontinued or withdrawn.

94 Subsection 229(4)

Repeal the subsection, substitute:

- (4) The employer may:
 - (a) proceed with the application for review of the decision as varied or the new decision; or
 - (b) request the Principal Member to dismiss the application under section 251; or
 - (c) notify, under section 252, the SSAT that the application is discontinued or withdrawn.

95 Section 231

Omit “pre-hearing conferences”, substitute “directions hearings”.

96 Section 231

Omit “pre-hearing conference”, substitute “directions hearing”.

97 Subsections 233(3) and (4)

Repeal the subsections.

98 Subsection 237(2)

Repeal the subsection, substitute:

- (2) The party may, with the permission of the Principal Member, have another person make submissions to the SSAT on the party’s behalf.
- (2A) In deciding whether to grant permission under subsection (2), the Principal Member must have regard to the wishes of the parties and the need to protect their privacy.

99 Subsection 240(3)

Omit “taking into account the objective laid down by section 214”.

100 After paragraph 240(4)(a)

Insert:

- (aa) written submissions to the SSAT; or

101 Subsection 240(4)

Omit “taking into account the objective laid down by section 214”.

102 Division 6 of Part 5-3 (heading)

Repeal the heading, substitute:

Division 6—Directions hearings

103 Section 245 (heading)

Repeal the heading, substitute:

245 Directions hearings

104 Subsection 245(1)

Omit “conferences”, substitute “directions hearings”.

105 Subsection 245(2)

Omit “conference”, substitute “directions hearing”.

106 Paragraph 245(2)(d)

Omit “evidence is to be brought before”, substitute “information is to be given to”.

107 Subsections 245(3), (4) and (5)

Repeal the subsections.

108 Paragraph 246(1)(a)

Omit “pre-hearing conference”, substitute “directions hearing”.

109 Paragraph 247(1)(b)

Omit “allows; and”, substitute “allows.”.

110 Paragraph 247(1)(c)

Repeal the paragraph.

111 Section 249

Repeal the section.

112 Subsection 250(2)

Repeal the subsection, substitute:

- (2) Without limiting subsection (1), the SSAT may refuse to adjourn the hearing of a review if the hearing has already been adjourned on 2 or more occasions.

113 Sections 251 and 252

Repeal the sections, substitute:

251 Dismissal of application for review by SSAT

- (1) The Principal Member may, on the request of a party or on his or her own initiative, dismiss an application for review of a decision if:
- (a) the decision is not reviewable under Part 5-2; or
 - (b) the application is frivolous or vexatious; or

- (c) all of the parties consent; or
 - (d) the applicant has been removed from the review under subsection 222(4) and all of the remaining parties consent to the dismissal; or
 - (e) the Principal Member is satisfied:
 - (i) after having communicated with each party; or
 - (ii) after having made reasonable attempts to communicate with each party and having failed to do so;or a combination of both, that none of the parties intend to proceed with the application; or
 - (f) all of the parties fail to attend the hearing; or
 - (g) all of the parties have been removed from the review under subsection 222(4).
- (2) The Principal Member may dismiss an application under paragraph (1)(b) only if:
- (a) one of the following applies:
 - (i) the Principal Member has received and considered submissions from the applicant for review;
 - (ii) the Principal Member has otherwise communicated with the applicant in relation to the grounds of the application;
 - (iii) the Principal Member has made reasonable attempts to communicate with the applicant in relation to the grounds of the application and has failed to do so; and
 - (b) all of the parties (other than the applicant) consent to the dismissal.
- (3) If the Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b) or (g)), a party to the review may:
- (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;
- request that the Principal Member reinstate the application.
- (4) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.

- (5) If it appears to the Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary, the Chief Executive Centrelink or the Chief Executive Medicare.

252 Dismissal of application for review on request of party

- (1) An applicant for review may notify the SSAT at any time that the application for review is discontinued or withdrawn.
- (2) If the applicant orally notifies the SSAT, the person who receives the notification must make a written record of the day on which the notification was given.
- (3) If notification is given under subsection (1), the Principal Member is taken to have dismissed the application.
- (4) If the Principal Member dismisses an application under subsection (3), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;request that the Principal Member reinstate the application.
- (5) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary, the Chief Executive Centrelink or the Chief Executive Medicare.

114 Subsection 255(7)

Repeal the subsection.

115 At the end of Division 9 of Part 5-3

Add:

257A Notice to persons removed as parties

If SSAT affirms decision

- (1) If subsection 257(1) applies in relation to a review, the SSAT must, in relation to any person who was removed as a party to the review under subsection 222(4):
 - (a) give the person a copy of the initial statement referred to in paragraph 257(1)(a), within 14 days after making the decision; and
 - (b) if a written statement referred to in subparagraph 257(1)(c)(ii) was not part of the initial statement—do at least one of the following:
 - (i) give reasons for the decision orally to the person, within 14 days after making the decision;
 - (ii) give the person a copy of any written statement referred to in subparagraph 257(1)(c)(ii), at the same time as giving it to the parties to the review.

If SSAT varies or sets aside decision

- (2) If subsection 257(5) applies in relation to a review, the SSAT must give any person who was removed as a party to the review under subsection 222(4) a copy of the statement referred to in paragraph 257(5)(a), within 14 days after making the decision.

116 At the end of Division 2 of Part 5-5

Add:

273A Orders restricting disclosure of information

- (1) The Principal Member may make an order directing a person:
 - (a) not to disclose information specified in the order; or
 - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
 - (c) not to disclose information specified in the order, except to a specified person or class of persons.

- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
 - (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

273B Varying an order to permit certain disclosures

- (1) A person in relation to whom an order has been made under subsection 273A(1) may request the Principal Member to vary the order to allow the person to disclose particular information specified in the order:
 - (a) in particular circumstances or for particular purposes; or
 - (b) to a particular person or class of persons.
- (2) The Principal Member may vary the order in accordance with the request.
- (3) This section does not limit the Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

273C Orders restricting secondary disclosures of information

- (1) If an order (the **primary order**) under subsection 273A(1) directs a person not to disclose information specified in the order, except to any of the following (an **authorised recipient**):
 - (a) a specified person;
 - (b) a member of a specified class of persons;

the Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.

- (2) A person commits an offence if:
- (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

Social Security (Administration) Act 1999

117 Section 141

Before “In”, insert “(1)”.

118 At the end of section 141

Add:

- (2) That objective must also be pursued by the Principal Member in performing or exercising his or her functions and powers under this Act.

119 Subparagraph 145(4)(b)(i)

Omit “withdrawn” (wherever occurring), substitute “dismissed”.

120 Subsection 155(3)

Repeal the subsection, substitute:

- (3) If:
- (a) a person applies to the SSAT for review of a decision; and
 - (b) before determination of the review, an officer varies the decision or sets it aside and substitutes a new decision;
- the person may:

- (c) proceed with the application for review of the decision as varied or the new decision; or
- (d) request the Principal Member to dismiss the application under section 171; or
- (e) notify, under section 172, the SSAT that the application is discontinued or withdrawn.

121 Subsection 158(1)

Omit “(1)”.

122 Subsections 158(2), (3) and (4)

Repeal the subsections.

123 Subsection 161(3)

Repeal the subsection, substitute:

- (2) A party to a review of a decision may, with the permission of the Principal Member, have another person make submissions to the SSAT on the party’s behalf.
- (3) In deciding whether to grant permission under subsection (2), the Principal Member must have regard to the wishes of the parties and the need to protect their privacy.

124 Subsection 163A(3)

Omit “having regard to the objective laid down by section 141”.

125 After paragraph 163A(4)(a)

Insert:

- (aa) written submissions to the SSAT; or

126 Subsection 163A(4)

Omit “having regard to the objective laid down by section 141”.

127 Subdivision BC of Division 4 of Part 4 (heading)

Repeal the heading, substitute:

Subdivision BC—Directions hearings

128 Section 166A (heading)

Repeal the heading, substitute:

166A Directions hearings

129 Subsection 166A(1)

Omit “conferences”, substitute “directions hearings”.

130 Subsection 166A(2)

Omit “conference”, substitute “directions hearing”.

131 Paragraph 166A(2)(d)

Omit “evidence is to be brought before”, substitute “information is to be given to”.

132 Subsections 166A(3), (4) and (5)

Repeal the subsections.

133 Paragraph 166B(1)(a)

Omit “pre-hearing conference”, substitute “directions hearing”.

134 Paragraph 167(1)(b)

Omit “allows; and”, substitute “allows.”.

135 Paragraph 167(1)(c)

Repeal the paragraph.

136 Section 169

Repeal the section.

137 Paragraph 170(2)(b)

Repeal the paragraph.

138 Sections 171 and 172

Repeal the sections, substitute:

171 Dismissal of application for review by SSAT

- (1) The Principal Member may, on the request of a party or on his or her own initiative, dismiss an application for review of a decision if:
 - (a) the decision is not reviewable under this Division; or
 - (b) the application is frivolous or vexatious; or
 - (c) all of the parties consent; or
 - (d) the Principal Member is satisfied:
 - (i) after having communicated with each party; or
 - (ii) after having made reasonable attempts to communicate with each party and having failed to do so;or a combination of both, that none of the parties intend to proceed with the application; or
 - (e) all of the parties fail to attend the hearing.
- (2) The Principal Member may dismiss an application under paragraph (1)(b) only if:
 - (a) one of the following applies:
 - (i) the Principal Member has received and considered submissions from the applicant for review;
 - (ii) the Principal Member has otherwise communicated with the applicant in relation to the grounds of the application;
 - (iii) the Principal Member has made reasonable attempts to communicate with the applicant in relation to the grounds of the application and has failed to do so; and
 - (b) all of the parties (other than the applicant) consent to the dismissal.
- (3) If the Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b)), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;request that the Principal Member reinstate the application.

- (4) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (5) If it appears to the Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary or the Chief Executive Centrelink.

172 Dismissal of application for review on request of party

- (1) An applicant for review may notify the SSAT at any time that the application for review is discontinued or withdrawn.
- (2) If the applicant orally notifies the SSAT, the person who receives the notification must make a written record of the day on which the notification was given.
- (3) If notification is given under subsection (1), the Principal Member is taken to have dismissed the application.
- (4) If the Principal Member dismisses an application under subsection (3), a party to the review may:
 - (a) within 28 days after receiving notification that the application has been dismissed; or
 - (b) within such longer period as the Principal Member, in special circumstances, allows;request that the Principal Member reinstate the application.
- (5) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary or the Chief Executive Centrelink.

139 Subsection 175(7)

Repeal the subsection.

140 At the end of Division 4 of Part 4

Add:

Subdivision G—Restrictions on disclosure of information

177B Orders restricting disclosure of information

- (1) The Principal Member may make an order directing a person:
 - (a) not to disclose information specified in the order; or
 - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
 - (c) not to disclose information specified in the order, except to a specified person or class of persons.
- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
 - (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

177C Varying an order to permit certain disclosures

- (1) A person in relation to whom an order has been made under subsection 177B(1) may request the Principal Member to vary the order to allow the person to disclose particular information specified in the order:
 - (a) in particular circumstances or for particular purposes; or
 - (b) to a particular person or class of persons.
- (2) The Principal Member may vary the order in accordance with the request.

- (3) This section does not limit the Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

177D Orders restricting secondary disclosures of information

- (1) If an order (the *primary order*) under subsection 177B(1) directs a person not to disclose information specified in the order, except to any of the following (an *authorised recipient*):

- (a) a specified person;
- (b) a member of a specified class of persons;

the Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.

- (2) A person commits an offence if:
- (a) the Principal Member makes an order under subsection (1) in relation to the person; and
 - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

141 Subclause 1(1) of Schedule 1

Insert:

Principal Member means the Principal Member of the SSAT.

Note: Schedule 3 deals with the constitution and membership of the SSAT.

142 Subclause 1(1) of Schedule 1 (at the end of the definition of SSAT)

Add:

Note: Schedule 3 deals with the constitution and membership of the SSAT.

143 After paragraph 1(a) of Schedule 3

Insert:

- (aa) such number of Deputy Principal Members as are appointed in accordance with this Act; and

144 Subclauses 7(1) and (2) of Schedule 3

Omit “1(b)”, substitute “1(aa), (b)”.

145 Subclause 10(1) of Schedule 3

Omit “written”.

146 After subclause 10(2) of Schedule 3

Insert:

- (2A) If the Principal Member gives a direction under subclause (1) in relation to a particular review, he or she may at any time before the commencement of the hearing of the review:
 - (a) revoke the direction; and
 - (b) give a further direction under subclause (1) as to the member who is, or the members who are, to constitute the SSAT for the purposes of the review.
- (2B) If the Principal Member gives a direction under subclause (1) in relation to reviews of a particular kind, he or she may:
 - (a) revoke the direction; and
 - (b) give a further direction under subclause (1) as to the member who is, or the members who are, to constitute the SSAT for the purposes of reviews of that kind that commence after the further direction is given.

147 Clause 12 of Schedule 3 (heading)

Repeal the heading, substitute:

12 Reconstitution of SSAT if member unavailable to complete review

148 Paragraph 12(1)(b) of Schedule 3

Omit “before the matter to which the proceeding relates has been determined”, substitute “before a decision on the review has been made by the SSAT”.

149 Subparagraph 12(1)(b)(ii) of Schedule 3

Repeal the subparagraph, substitute:

- (ii) for any reason, ceased to be available for the purposes of the review; or
- (iii) been directed by the Principal Member not to continue to take part in the review.

150 After subclause 12(1) of Schedule 3

Insert:

- (1AA) The Principal Member must not give a direction under subparagraph (1)(b)(iii) unless the Principal Member:
- (a) is satisfied, having regard to the objective of conducting reviews in a manner that is fair, just, economical, informal and quick, that the direction is in the interests of justice; and
 - (b) has consulted the member concerned.

151 Paragraphs 12(1A)(a) and (1B)(a) and (b) of Schedule 3

Omit “under clause 10”.

152 Subclauses 12(2) and (3) of Schedule 3

Repeal the subclauses, substitute:

SSAT may have regard to record of previous review

- (2) If the SSAT is reconstituted in accordance with this clause, the SSAT may, for the purposes of the review, have regard to any record of:
- (a) the hearing of the review before the SSAT as previously constituted (including a record of any evidence taken); and
 - (b) any directions hearings convened by the Principal Member with the parties to the review.

Reconstituted Tribunal must continue review

- (3) The SSAT as reconstituted in accordance with a direction under this clause must continue the review.

153 At the end of Part 2 of Schedule 3

Add:

12A Reconstitution of SSAT to achieve expeditious and efficient conduct of review

Scope

- (1) This clause applies if:
 - (a) the hearing of a review of a decision has commenced or is completed; and
 - (b) the SSAT has not made a decision on the review.

Reconstitution to achieve expeditious and efficient conduct of review

- (2) The Principal Member may direct that the SSAT as constituted for the purposes of the review be reconstituted by one or more of the following:
 - (a) adding one or more members;
 - (b) removing one or more members;
 - (c) substituting one or more other members;if the Principal Member thinks that the reconstitution is in the interests of achieving the expeditious and efficient conduct of the review.
- (3) The SSAT as reconstituted in accordance with a direction under this clause must continue the review.

SSAT may have regard to record of previous review

- (4) If the SSAT is reconstituted in accordance with this clause, the SSAT may, for the purposes of the review, have regard to any record of:
 - (a) the hearing of the review before the SSAT as previously constituted (including a record of any evidence taken); and
 - (b) any directions hearings convened by the Principal Member with the parties to the review.

12B Reconstituted SSAT—who is to preside

If a direction is given under clause 10, 12 or 12A reconstituting the SSAT for the purposes of a particular review, any necessary

direction may be given under this clause as to the member who is to preside for the purposes of the review.

154 Paragraph 19(1)(c) of Schedule 3

Omit “interpreting”.

155 Subclause 19(7) of Schedule 3

Omit “interpreting”.

156 After clause 19 of Schedule 3

Insert:

19A Disclosure of confidential information—threat to life, health or welfare

- (1) A member of the SSAT may divulge or communicate information if the information concerns a threat to the life, health or welfare of a person and either of the following applies:
 - (a) the member believes on reasonable grounds that the divulging or the communication is necessary to prevent or lessen the threat;
 - (b) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the member divulges or communicates the information for the purpose of preventing, investigating or prosecuting such an offence.
- (2) Subclause (1) applies despite subclause 19(3) and any other provision of the social security law or the family assistance law.

157 Clause 20 of Schedule 3

After “assistance law,”, insert “the *Paid Parental Leave Act 2010*,”.

158 Schedule 4

Before “or Senior Member” (wherever occurring), insert “or Deputy Principal Member”.

Part 2—Application and transitional provisions for amendments of the A New Tax System (Family Assistance) (Administration) Act 1999

159 Application of amendments relating to non-disclosure orders under the A New Tax System (Family Assistance) (Administration) Act 1999

- (1) An order given to a person under subsection 120(2) of the *A New Tax System (Family Assistance) (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 120(2), (3) and (4) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 120(4) of that Act.

- (2) An order given to a person under subsection 129A(4) of the *A New Tax System (Family Assistance) (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 129A(4) and (5) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 129A(5) of that Act.

- (3) An order given to a person under subsection 133(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if section 133 of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 133(2) of that Act.

- (4) An order referred to in this item does not apply to information which the person to whom the order was given knew before the disclosure of the information was made to the person.

Note: A defendant bears an evidential burden in relation to the matter in subitem (4): see subsection 13.3(3) of the *Criminal Code*.

160 Application of amendment of section 123 of the *A New Tax System (Family Assistance) (Administration) Act 1999*

The amendment of section 123 of the *A New Tax System (Family Assistance) (Administration) Act 1999* made by this Act applies in relation to applications for review made after the commencement of this item.

161 Application of paragraph 126A(4)(aa) of the *A New Tax System (Family Assistance) (Administration) Act 1999*

Paragraph 126A(4)(aa) of the *A New Tax System (Family Assistance) (Administration) Act 1999*, as inserted by this Act, applies in relation to:

- (a) hearings pending immediately before the commencement of this item; and
- (b) hearings commencing after the commencement of this item.

162 Application of amendments relating to the dismissal of applications for SSAT review under the *A New Tax System (Family Assistance) (Administration) Act 1999*

- (1) Section 135 of the *A New Tax System (Family Assistance) (Administration) Act 1999*, as amended by this Act, applies in relation to applications dismissed on or after the commencement of this item (whether the application for review was made before or after that commencement).
- (2) Section 136 of the *A New Tax System (Family Assistance) (Administration) Act 1999*, as amended by this Act, applies in relation to notifications given on or after the commencement of this item (whether the application for review was made before or after that commencement).

Part 3—Application and transitional provisions for amendments of the Child Support (Registration and Collection) Act 1988

163 Application of amendments relating to non-disclosure directions and orders under the *Child Support (Registration and Collection) Act 1988*

- (1) A direction given to a person under subsection 96(2) of the *Child Support (Registration and Collection) Act 1988* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 96(2) and (3) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (3) existed in relation to an offence under subsection 96(3) of that Act.
- (2) An order made under subsection 103Q(1) of the *Child Support (Registration and Collection) Act 1988* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if section 103Q of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (3) existed in relation to an offence under subsection 103Q(2) of that Act.
- (3) A direction or order referred to in this item does not apply to information which the person to whom the direction was given, or in relation to whom the order was made, knew before the disclosure of the information was made to the person.

Note: A defendant bears an evidential burden in relation to the matter in subitem (3): see subsection 13.3(3) of the *Criminal Code*.

164 Application of subsection 16(3A) of the *Child Support (Registration and Collection) Act 1988*

Subsection 16(3A) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to the communication of protected information after the commencement of this item (whether the information was obtained before or after that commencement).

165 Application of subsections 100(3), (4) and (5) of the *Child Support (Registration and Collection) Act 1988*

Subsections 100(3), (4) and (5) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, apply in relation to applications dismissed on or after the commencement of this item (whether the application was made before or after that commencement).

166 Application of amendments of subsections 100A(3) and (4) of the *Child Support (Registration and Collection) Act 1988*

Subsections 100A(3) and (4) of the *Child Support (Registration and Collection) Act 1988*, as amended by this Act, apply in relation to notifications given under subsection 100A(1) of that Act after the commencement of this item.

167 Application of amendment of section 103C of the *Child Support (Registration and Collection) Act 1988*

The amendment of section 103C of the *Child Support (Registration and Collection) Act 1988* made by this Act applies in relation to applications for review made after the commencement of this item.

168 Application of paragraph 103F(4)(aa) of the *Child Support (Registration and Collection) Act 1988*

Paragraph 103F(4)(aa) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to:

- (a) hearings pending immediately before the commencement of this item; and
- (b) hearings commencing after the commencement of this item.

169 Application of subsection 103X(6) of the *Child Support (Registration and Collection) Act 1988*

Social Security Appeals Tribunal **Schedule 3**
Application and transitional provisions for amendments of the Child Support
(Registration and Collection) Act 1988 **Part 3**

Subsection 103X(6) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to a decision made after the commencement of this item (whether the application to which the decision relates was made before or after that commencement).

Part 4—Application and transitional provisions for amendments of the Paid Parental Leave Act 2010

170 Application of amendments relating to non-disclosure directions under the *Paid Parental Leave Act 2010*

- (1) A direction given to a person under subsection 233(3) of the *Paid Parental Leave Act 2010* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 233(3) and (4) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 233(4) of that Act.
- (2) A direction given to a person under subsection 245(4) of the *Paid Parental Leave Act 2010* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 245(4) and (5) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 245(5) of that Act.
- (3) A direction given to a person under section 249 of the *Paid Parental Leave Act 2010* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if section 249 had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 249(2) of that Act.
- (4) A direction referred to in this item does not apply to information which the person to whom the direction was given knew before the disclosure of the information was made to the person.

Note: A defendant bears an evidential burden in relation to the matter in subitem (4): see subsection 13.3(3) of the *Criminal Code*.

171 Application of section 130A of the *Paid Parental Leave Act 2010*

Section 130A of the *Paid Parental Leave Act 2010*, as inserted by this Act, applies in relation to the disclosure of information after the commencement of this item (whether the information was obtained before or after that commencement).

172 Application of amendment of section 237 of the *Paid Parental Leave Act 2010*

The amendment of section 237 of the *Paid Parental Leave Act 2010* made by this Act applies in relation to applications for review made after the commencement of this item.

173 Application of paragraph 240(4)(aa) of the *Paid Parental Leave Act 2010*

Paragraph 240(4)(aa) of the *Paid Parental Leave Act 2010*, as inserted by this Act, applies in relation to:

- (a) hearings pending immediately before the commencement of this item; and
- (b) hearings commencing after the commencement of this item.

174 Application of amendments relating to the dismissal of applications for SSAT review under the *Paid Parental Leave Act 2010*

- (1) The amendment of section 251 of the *Paid Parental Leave Act 2010* made by this Act applies in relation to applications dismissed on or after the commencement of this item (whether the application for review was made before or after that commencement).
- (2) The amendment of section 252 of the *Paid Parental Leave Act 2010* made by this Act applies in relation to notifications given on or after the commencement of this item (whether the application for review was made before or after that commencement).

175 Application of section 257A of the *Paid Parental Leave Act 2010*

Section 257A of the *Paid Parental Leave Act 2010*, as inserted by this Act, applies in relation to a decision made after the commencement of this item (whether the application to which the decision relates was made before or after that commencement).

Part 5—Application and transitional provisions for amendments of the Social Security (Administration) Act 1999

176 Application of amendments relating to non-disclosure orders under the *Social Security (Administration) Act 1999*

- (1) An order given to a person under subsection 158(2) of the *Social Security (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 158(2), (3) and (4) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, subitem (4) had effect in relation to subsection 158(4) of that Act.
- (2) An order given to a person under subsection 166A(4) of the *Social Security (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if subsections 166A(4) and (5) of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 166A(5) of that Act.
- (3) An order given to a person under subsection 169(1) of the *Social Security (Administration) Act 1999* before the day on which this item commences continues to have effect on and after that day:
 - (a) as if section 169 of that Act had not been repealed by this Act; and
 - (b) as if, on and after that day, the defence in subitem (4) existed in relation to an offence under subsection 169(2) of that Act.
- (4) An order referred to in this item does not apply to information which the person to whom the order was given knew before the disclosure of the information was made to the person.

Note: A defendant bears an evidential burden in relation to the matter in subitem (4): see subsection 13.3(3) of the *Criminal Code*.

177 Application of amendments of section 161 of the *Social Security (Administration) Act 1999*

The amendments of section 161 of the *Social Security (Administration) Act 1999* made by this Act apply in relation to applications for review made on or after the commencement of this item.

178 Application of paragraph 163A(4)(aa) of the *Social Security (Administration) Act 1999*

Paragraph 163A(4)(aa) of the *Social Security (Administration) Act 1999*, as inserted by this Act, applies in relation to:

- (a) hearings pending immediately before the commencement of this item; and
- (b) hearings commencing after the commencement of this item.

179 Application of amendments relating to reconstituting the Social Security Appeals Tribunal

- (1) The amendment made by item 146 of this Schedule applies in relation to directions given before or after the commencement of that item.
- (2) The amendments made by items 147 to 153 of this Schedule apply in relation to hearings:
 - (a) that commence after the commencement of those items; and
 - (b) that had commenced, but had not yet been decided, before that commencement.

180 Application of amendments relating to the dismissal of applications for SSAT review under the *Social Security (Administration) Act 1999*

- (1) The amendment of section 171 of the *Social Security (Administration) Act 1999* made by this Act applies in relation to applications dismissed on or after the commencement of this item (whether the application for review was made before or after that commencement).
- (2) The amendment of section 172 of the *Social Security (Administration) Act 1999* made by this Act applies in relation to notifications given on or after the commencement of this item (whether the application for review was made before or after that commencement).

181 Application of amendments of clause 19 of Schedule 3 to the Social Security (Administration) Act 1999

The amendment of clause 19 of Schedule 3 to the *Social Security (Administration) Act 1999* made by this Act applies in relation to records made, or information divulged or communicated, after the commencement of this item (whether the information recorded, divulged or communicated was obtained before or after that commencement).

182 Application of clause 19A of Schedule 3 to the Social Security (Administration) Act 1999

Clause 19A of Schedule 3 to the *Social Security (Administration) Act 1999*, as inserted by this Act, applies in relation to the divulging or communication of information after the commencement of this item (whether the information was obtained before or after that commencement).

183 SSAT membership—transitioning existing members

(1) If:

- (a) before the day Part 1 of this Schedule commences (the *commencement day*), a person was appointed under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* as a member of the SSAT referred to in paragraph 1(b) of that Schedule; and
- (b) the person was described in the instrument of appointment as a Senior Member of the SSAT; and
- (c) the appointment was in force immediately before the commencement day;

the person is taken, at the start of the commencement day, to have been duly appointed as a Deputy Principal Member by the Governor-General under clause 3 of Schedule 3 to that Act:

- (d) for the balance of the person's term of appointment that remained immediately before the commencement day; and
- (e) on the same terms and conditions as applied to the person immediately before the commencement day.

(2) If:

- (a) before the commencement day, a person was appointed under clause 3 of Schedule 3 to the *Social Security (Administration)*
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Act 1999 as a member of the SSAT referred to in paragraph 1(ba) of that Schedule; and

- (b) the person was described in the instrument of appointment as an Assistant Senior Member of the SSAT; and
- (c) the appointment was in force immediately before the commencement day;

the person is taken, at the start of the commencement day, to have been duly appointed as a Senior Member by the Governor-General under clause 3 of Schedule 3 to that Act:

- (d) for the balance of the person's term of appointment that remained immediately before the commencement day; and
- (e) on the same terms and conditions as applied to the person immediately before the commencement day.

- (3) Subitems (1) and (2) do not prevent the terms and conditions being varied on or after the commencement day.

184 SSAT membership—transitioning acting appointments

- (1) If:

- (a) before the day Part 1 of this Schedule commences (the **commencement day**), a person was appointed under clause 7 of Schedule 3 to the *Social Security (Administration) Act 1999* to act as a member of the SSAT referred to in paragraph 1(b) of that Schedule; and
- (b) the person was described in the instrument of appointment as a Senior Member of the SSAT; and
- (c) the appointment was in force immediately before the commencement day;

the person is taken, at the start of the commencement day, to have been duly appointed to act as a Deputy Principal Member under clause 7 of Schedule 3 to that Act in the circumstances, and on the same terms and conditions, as applied to the person immediately before the commencement day.

- (2) If:

- (a) before the commencement day, a person was appointed under clause 7 of Schedule 3 to the *Social Security (Administration) Act 1999* to act as a member of the SSAT referred to in paragraph 1(ba) of that Schedule; and

- (b) the person was described in the instrument of appointment as an Assistant Senior Member of the SSAT; and
- (c) the appointment was in force immediately before the commencement day;

the person is taken, at the start of the commencement day, to have been duly appointed to act as a Senior Member under clause 7 of Schedule 3 to that Act in the circumstances, and on the same terms and conditions, as applied to the person immediately before the commencement day.

- (3) Subitems (1) and (2) do not prevent the terms and conditions being varied on or after the commencement day.

185 SSAT membership—operation of laws

- (1) If, before the day Part 1 of this Schedule commences (the *commencement day*), a thing was done by, or in relation to, a person in the capacity as a Senior Member, then, for the purposes of the operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the person in the capacity as a Deputy Principal Member.
- (2) If, before the commencement day, a thing was done by, or in relation to, a person in the capacity as an Assistant Senior Member, then, for the purposes of the operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the person in the capacity as a Senior Member.
- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified thing.
- (4) To avoid doubt, for the purposes of this item, *doing* a thing includes making an instrument.
- (5) A determination made under subitem (3) is not a legislative instrument.

186 SSAT membership—references in instruments

- (1) If:
 - (a) an instrument is in force immediately before the day Part 1 of this Schedule commences (the *commencement day*); and
 - (b) the instrument contains a reference to a Senior Member;the instrument has effect from the commencement day as if the reference were a reference to a Deputy Principal Member.
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- (2) If:
- (a) an instrument is in force immediately before the commencement day; and
 - (b) the instrument contains a reference to an Assistant Senior Member;
- the instrument has effect from the commencement day as if the reference were a reference to a Senior Member.
- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified reference.
- (4) A determination under subitem (3) is not a legislative instrument.

187 SSAT membership—party to pending proceedings

- (1) If any proceedings to which a person, in the capacity as a Senior Member, was a party were pending in any court or tribunal immediately before the day Part 1 of this Schedule commences (the *commencement day*), the person, in the capacity as a Deputy Principal Member, is substituted for the Senior Member, from the commencement day, as a party to the proceedings.
- (2) If any proceedings to which a person, in the capacity as an Assistant Senior Member, was a party were pending in any court or tribunal immediately before the commencement day, the person, in the capacity as a Senior Member, is substituted for the Assistant Senior Member, from the commencement day, as a party to the proceedings.

188 SSAT membership—reviews by SSAT

- (1) If:
- (a) before the day Part 1 of this Schedule commences (the *commencement day*), a person who was a Senior Member was one of the members who constituted the SSAT for the purposes of the review of a decision; and
 - (b) the SSAT had not made its decision on the review before that day;
- then, from the commencement day, that person is taken to be one of the members who constitute the SSAT for the purposes of the review in the capacity as a Deputy Principal Member.
- (2) If:
-

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- (a) before the commencement day, a person who was an Assistant Senior Member was one of the members who constituted the SSAT for the purposes of the review of a decision; and
- (b) the SSAT had not made its decision on the review before that day;

then, from the commencement day, that person is taken to be one of the members who constitute the SSAT for the purposes of the review in the capacity as a Senior Member.

Part 6—Regulations

189 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Schedule to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) The regulations may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments made by this Schedule.

Schedule 4—Amendments relating to certain child support declarations

Child Support (Assessment) Act 1989

1 After section 107

Insert:

107A Implementation of declaration under section 107 if assessment relates to 2 or more children

- (1) This section applies if:
 - (a) the Registrar accepts an application for administrative assessment for child support for a child; and
 - (b) a declaration is granted under section 107 that a person should not be assessed in respect of the costs of the child because the person is not a parent of the child; and
 - (c) the administrative assessment of the child support payable for one or more days (the *affected days*) in a child support period relates to:
 - (i) that child; and
 - (ii) at least one other child in relation to whom a declaration under section 107 that the person is not the parent of the child has not been granted.
- Note: As to whether an administrative assessment relates to one or more children, see section 67.
- (2) The Registrar must amend the administrative assessment on the basis that the assessment of child support payable for the affected days relates, and has always related, to the other child or children, as the case may be.
- (3) Subject to subsection (4), the total amount of child support (if any) paid by the person, and received by the carer entitled to receive it, under the administrative assessment for the affected days is to be applied against the total amount of child support payable for those days under the assessment as amended.

- (4) If the total amount of child support received by the carer for the affected days exceeds the total amount payable for those days under the assessment as amended, the excess is to be disregarded.

Note: The excess may be recovered under section 143.

- (5) This section does not limit section 108.

2 Application of amendment

- (1) The amendment made by item 1 applies in relation to declarations granted before or after the commencement of the amendment.
- (2) However, the amendment made by item 1 does 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 declaration referred to in subitem (1).

Child Support (Registration and Collection) Act 1988

3 After subsection 26(1)

Insert:

- (1A) To avoid doubt, the reference to 2 or more persons in paragraph (1)(g) does not include a reference to 2 or more children in relation to whom a single administrative assessment applies (see section 67 of the Assessment Act).

Schedule 5—Schoolkids bonus

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

current education period:

- (a) for a bonus test day that is a 1 January—means the period beginning on the bonus test day and ending on the next 30 June; and
- (b) for a bonus test day that is a 30 June—means the period beginning on the day after the bonus test day and ending on the next 31 December.

2 Subparagraph 35UA(2)(c)(i)

Omit “has turned 16 but”.

3 Paragraph 35UA(2)(d)

Repeal the paragraph, substitute:

- (d) on the bonus test day:
 - (i) the other individual is 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 is undertaking an eligible activity (see subsection (6)); and

4 Paragraph 35UA(3)(d)

Repeal the paragraph, substitute:

- (d) on the bonus test day:
 - (i) the student is participating in a course of primary education; or
 - (ii) the student is undertaking 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; or

- (iii) the student is undertaking an eligible activity (see subsection (6)); and

5 Subsection 35UA(4) (heading)

Repeal the heading, substitute:

Disability support pension, carer payment or parenting payment

6 Paragraph 35UA(4)(a)

After “1991”, insert “, of carer payment under Part 2.5 of that Act or of parenting payment under Part 2.10 of that Act”.

7 Paragraph 35UA(4)(b)

Repeal the paragraph.

8 Paragraph 35UA(4)(c)

Repeal the paragraph, substitute:

- (c) the instalment referred to in paragraph (a) was in respect of a period that included the bonus test day; and

9 Paragraph 35UA(4)(d)

Omit “instalments referred to in paragraphs (a) and (b) were”, substitute “instalment referred to in paragraph (a) was”.

10 Subparagraph 35UA(4)(d)(i)

Omit “has turned 16 but”.

11 Paragraph 35UA(4)(e)

Repeal the paragraph, substitute:

- (e) on the bonus test day:
- (i) the other individual is participating in a course of primary education; or
 - (ii) the other individual satisfies the secondary study test within the meaning of section 35UI; or
 - (iii) the other individual is undertaking an eligible activity (see subsection (6)); and

12 Paragraph 35UA(4)(f)

Omit “disability support pension and the pensioner education supplement are both”, substitute “the pension or payment referred to in paragraph (a) is”.

13 After subsection 35UA(4)

Insert:

Special benefit

- (4A) An individual (the *eligible individual*) is eligible for schoolkids bonus on a bonus test day if:
- (a) an instalment of special benefit under Part 2.15 of the *Social Security Act 1991* has been paid to the eligible individual; and
 - (b) the instalment referred to in paragraph (a) was in respect of a period that included the bonus test day; and
 - (c) the instalment referred to in paragraph (a) was of another individual who:
 - (i) on the bonus test day, is aged under 20; and
 - (ii) if the other individual is aged 19 on the bonus test day—turned 19 during the calendar year in which the bonus test day occurs; and
 - (d) at any time before the end of the period of 13 weeks beginning on the bonus test day, the Secretary is notified, or otherwise becomes aware, that on at least one day in the current education period for the bonus test day:
 - (i) the other individual participated, or will participate, in a course of primary education; or
 - (ii) the other individual satisfied, or will satisfy, the secondary study test within the meaning of section 35UI; or
 - (iii) the other individual undertook, or will undertake, an eligible activity (see subsection (6)); and
 - (e) the benefit referred to in paragraph (a) is payable to the other individual in respect of the bonus test day; and
 - (f) the instalment referred to in paragraph (a) was paid to the eligible individual as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.

14 Paragraph 35UA(5)(d)

Repeal the paragraph, substitute:

- (d) on the bonus test day, the student is undertaking primary or secondary education; and

15 At the end of section 35UA

Add:

Eligible activity

- (6) For the purposes of this section, *eligible activity* means study, education or an activity of a kind prescribed in a legislative instrument made by the Minister for the purposes of this subsection.

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

Omit “6-month period beginning on”, substitute “current education period for”.

17 Paragraph 35UD(1)(b)

Repeal the paragraph, substitute:

- (b) on a day in the current education period for the bonus test day:
 - (i) participated, or will participate, for the first time in a course of primary education; or
 - (ii) undertook, or will undertake, for the first time any eligible activity within the meaning of subsection 35UB(4);

18 Paragraph 35UD(2)(a)

Omit “individual”, substitute “eligible individual”.

19 Paragraph 35UD(2)(b)

Repeal the paragraph, substitute:

- (b) on at least one day in the previous education period for the bonus test day:
 - (i) undertook full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*); or

- (ii) undertook an eligible activity within the meaning of subsection 35UA(6);

20 Paragraph 35UD(3)(b)

Repeal the paragraph, substitute:

- (b) on at least one day in the previous education period for the bonus test day:
 - (i) participated in a course of primary education; or
 - (ii) 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; or
 - (iii) undertook an eligible activity within the meaning of subsection 35UA(6);

21 Subsection 35UD(4) (heading)

Repeal the heading, substitute:

Disability support pension, carer payment or parenting payment

22 Paragraph 35UD(4)(a)

Omit “individual”, substitute “eligible individual”.

23 Paragraph 35UD(4)(b)

Repeal the paragraph, substitute:

- (b) on at least one day in the previous education period for the bonus test day:
 - (i) participated in a course of primary education; or
 - (ii) satisfied the secondary study test within the meaning of section 35UI; or
 - (iii) undertook an eligible activity within the meaning of subsection 35UA(6);

24 After subsection 35UD(4)

Insert:

Special benefit

- (4A) If an individual (the *eligible individual*) is eligible under subsection 35UA(4A) for schoolkids bonus on a bonus test day, each other individual who is covered by paragraphs 35UA(4A)(c), (d) and (e) in relation to the eligible individual for the bonus test day and who:
- (a) on at least one day in the previous education period for the bonus test day:
 - (i) participated in a course of primary education; or
 - (ii) satisfied the secondary study test within the meaning of section 35UI; or
 - (iii) undertook an eligible activity within the meaning of subsection 35UA(6); or
 - (b) on a day in the current education period for the bonus test day:
 - (i) participated, or will participate, for the first time in a course of primary education; or
 - (ii) undertook, or will undertake, for the first time any eligible activity within the meaning of subsection 35UA(6);
- is an *eligible child* in relation to the eligible individual for the bonus test day.

25 Paragraphs 35UD(5)(a) and (b)

Repeal the paragraphs, substitute:

- (a) on at least one day in the previous education period for the bonus test day, undertook primary or secondary education; or
- (b) on at least one day during the current education period for the bonus test day, undertook, or will undertake, for the first time primary education;

26 Subparagraph 35UE(1)(d)(i)

Omit “has turned 16 but”.

27 Paragraphs 35UE(1)(e) and (f)

Repeal the paragraphs, substitute:

- (e) on the bonus test day:

- (i) the individual is 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 is undertaking an eligible activity (see subsection (6)); and
- (f) on at least one day in the previous education period for the bonus test day:
- (i) the individual undertook 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 undertook an eligible activity (see subsection (6)); and

28 Subparagraph 35UE(2)(c)(i)

Omit “has turned 16 but”.

29 After subparagraph 35UE(2)(c)(i)

Insert:

- (ia) if the individual is aged under 16 on the bonus test day—has, under the ABSTUDY scheme, independent status; and

30 Paragraphs 35UE(2)(d) and (e)

Repeal the paragraphs, substitute:

- (d) on the bonus test day:
 - (i) the individual is participating in a course of primary education; or
 - (ii) the individual is undertaking 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; or
 - (iii) the individual is undertaking an eligible activity (see subsection (6)); and
- (e) on at least one day in the previous education period for the bonus test day:
 - (i) the individual participated in a course of primary education; or
 - (ii) the individual 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; or
- (iii) the individual undertook an eligible activity (see subsection (6)); and

31 Subsection 35UE(3) (heading)

Repeal the heading, substitute:

Disability support pension, carer payment, parenting payment or special benefit

32 Paragraph 35UE(3)(a)

After “1991”, insert “, of carer payment under Part 2.5 of that Act, of parenting payment under Part 2.10 of that Act or of special benefit under Part 2.15 of that Act”.

33 Paragraph 35UE(3)(b)

Repeal the paragraph.

34 Paragraph 35UE(3)(c)

Repeal the paragraph, substitute:

- (c) the instalment referred to in paragraph (a) was in respect of a period that included the bonus test day; and

35 Paragraph 35UE(3)(d)

Omit “instalments referred to in paragraphs (a) and (b) were”, substitute “instalment referred to in paragraph (a) was”.

36 Subparagraph 35UE(3)(e)(i)

Omit “has turned 16 but”.

37 Paragraphs 35UE(3)(f) and (g)

Repeal the paragraphs, substitute:

- (f) on the bonus test day:
- (i) the individual is participating in a course of primary education; or
 - (ii) the individual satisfies the secondary study test within the meaning of section 35UI; or

- (iii) the individual is undertaking an eligible activity (see subsection (6)); and
- (g) on at least one day in the previous education period for the bonus test day:
 - (i) the individual participated 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 undertook an eligible activity (see subsection (6)); and

38 Paragraph 35UE(3)(h)

Omit “disability support pension and the pensioner education supplement are both”, substitute “the pension, payment or benefit referred to in paragraph (a) is”.

39 Subparagraph 35UE(4)(a)(i)

Omit “, 3.6”.

40 Subparagraph 35UE(4)(a)(ii)

Omit “, 3.4 or 3.6”, substitute “or 3.4”.

41 Paragraphs 35UE(4)(d) and (e)

Repeal the paragraphs, substitute:

- (d) on the bonus test day, the individual is undertaking secondary education; and
- (e) on at least one day in the previous education period for the bonus test day, the individual undertook secondary education; and

42 Subsection 35UE(5) (heading)

Repeal the heading.

43 Subparagraph 35UE(5)(c)(i)

Omit “has turned 16 but”.

44 Paragraphs 35UE(5)(d) and (e)

Repeal the paragraphs, substitute:

- (d) on the bonus test day, the eligible individual is undertaking secondary education; and
- (e) on at least one day in the previous education period for the bonus test day, the eligible individual undertook secondary education; and

45 Paragraph 35UE(5)(g)

Repeal the paragraph, substitute:

- (g) the allowance was paid:
 - (i) to the eligible individual as a student; or
 - (ii) to another individual as an appropriate person (within the meaning of the scheme referred to in subparagraph (a)(i) or (ii)) for the eligible individual.

46 At the end of section 35UE

Add:

Eligible activity

- (6) For the purposes of this section, *eligible activity* means study, education or an activity of a kind prescribed in a legislative instrument made by the Minister for the purposes of this subsection.

47 Subsection 35UF(3)

Repeal the subsection, substitute:

- (3) The Minister must not determine that an individual is eligible under this section for schoolkids bonus on a bonus test day unless the individual was undertaking primary or secondary education (within the meaning of the instrument) on at least one day in 2012.

48 Subsection 35UH(2)

Omit “relation that”, substitute “relation to that”.

49 At the end of Subdivision C of Division 1A of Part 3

Add:

35UI Secondary study test

- (1) This section sets out when an individual satisfies the secondary study test on a day (the *relevant day*) that:
 - (a) is a bonus test day; or
 - (b) is in the current education period for a bonus test day; or
 - (c) is in the previous education period for a bonus test day.
- (2) The individual *satisfies the secondary study test* on the relevant day if, on that day, the individual is undertaking full-time study in respect of a secondary course (within the meaning of subsection 543A(2AB) of the *Social Security Act 1991*).
- (3) If the following apply:
 - (a) an instalment of pensioner education supplement under Part 2.24A of the *Social Security Act 1991*, or under the scheme known as the ABSTUDY scheme, has been paid in respect of the individual in respect of a period that included the bonus test day;
 - (b) the supplement is payable to the individual in respect of the bonus test day;

the individual *satisfies the secondary study test* on the relevant day if, on that day, the individual is undertaking 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.

50 Subsection 65B(1)

Omit “or (4)” (wherever occurring), substitute “, (4) or (4A)”.

51 Subsection 65B(2)

Omit “(the *current bonus test day*)”.

52 Paragraph 65B(2)(a)

Omit “most recent”.

53 Subparagraph 65B(2)(a)(ii)

Omit “or (4)”, substitute “, (4), (4A) or (4B)”.

54 Subparagraph 65B(2)(a)(ii)

Omit “current”.

55 Paragraph 65B(2)(b)

Omit “most recent”.

56 Subsection 65B(4)

Repeal the subsection, substitute:

- (4) For an eligible child under subsection 35UD(1), this subsection applies to the eligible child for the bonus test day if, at any time before the end of the second income year after the income year in which the bonus test day occurs, the Secretary is notified, or otherwise becomes aware, that:
- (a) the eligible child:
 - (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) the eligible child:
 - (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.

Note: For *eligible activity*, see subsection (7).

- (4A) For an eligible child under subsection 35UD(2), this subsection applies to the eligible child for the bonus test day if, at any time before the end of the period of 13 weeks beginning on the bonus test day, the Secretary is notified, or otherwise becomes aware, that:
- (a) the eligible child:
 - (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) the eligible child:
- (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.

Note: For *eligible activity*, see subsection (7).

- (4B) For an eligible child under subsection 35UD(4) or (4A), this subsection applies to the eligible child for the bonus test day if, at any time before the end of the period of 13 weeks beginning on the bonus test day, the Secretary is notified, or otherwise becomes aware, that:

- (a) the eligible child:
- (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
- (b) the eligible child:
- (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.

Note: For *eligible activity*, see subsection (7).

57 Paragraph 65C(2)(a)

Omit “most recent”.

58 Subparagraph 65C(2)(a)(ii)

Omit “scheme”, substitute “Scheme”.

59 Section 65E

Repeal the section, substitute:

65E Amount of schoolkids bonus—individuals eligible under subsection 35UE(1), (2) or (3)

- (1) If an individual is eligible under subsection 35UE(1), (2) or (3) for schoolkids bonus on a bonus test day, the amount of schoolkids bonus for the individual for the bonus test day is:
 - (a) if the individual was aged under 16 on the bonus test day:
 - (i) the primary school amount; or
 - (ii) if subsection (2) or (3) applies to the individual for the bonus test day—the secondary school amount; and
 - (b) if the individual was aged 16 or over on the bonus test day—the secondary school amount.
- (2) This subsection applies to an individual for the bonus test day if:
 - (a) an amount was applicable under this section in relation to the most recent bonus test day for the individual; and
 - (b) the amount was the secondary school amount.
- (3) This subsection applies to an individual for the bonus test day if, at any time before the end of the period of 13 weeks beginning on the bonus test day, 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(2) for schoolkids bonus on the bonus test day—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
- (c) 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
- (d) 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.

Eligible activity

- (4) For the purposes of this section, *eligible activity* means study, education or an activity of a kind prescribed in a legislative instrument made by the Minister for the purposes of this subsection.

65EA Amount of schoolkids bonus—individuals eligible under subsection 35UE(4) or (5)

The amount of schoolkids bonus for an individual who is eligible under subsection 35UE(4) or (5) for schoolkids bonus on a bonus test day is the secondary school amount.

65EB Amount of schoolkids bonus—individuals eligible under section 35UF

- (1) Subject to this section, the amount of schoolkids bonus for an individual who is eligible under section 35UF for schoolkids bonus on a bonus test day is the secondary school amount.
- (2) The instrument made under section 35UF may make provision for the amount worked out under subsection (1) of this section for that day to be varied in the circumstances specified in the instrument.
- (3) If the instrument made under section 35UF provides for the amount worked out under subsection (1) of this section for a bonus test day to be varied, the amount applicable for that day is the amount as varied.

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

60 At the end of section 221

Add:

- (5) The Secretary may delegate to an APS employee in the Department administered by the Minister administering the *Veterans' Entitlements Act 1986* all or any of the powers of the Secretary under the family assistance law that relate to the schoolkids bonus, to the extent that eligibility for that bonus is because of a payment of an education allowance under:
 - (a) the Veterans' Children Education Scheme; or
 - (b) the Military Rehabilitation and Compensation Act Education and Training Scheme.

Note: The expression *APS employee* is defined in section 2B of the *Acts Interpretation Act 1901*.

Social Security Act 1991

61 After paragraph 8(8)(jab)

Insert:

Schedule 5 Schoolkids bonus
Part 6 Regulations

(jaba) a payment under the scheme determined under Part 2 of Schedule 1 to the *Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012*;

Schedule 6—Other amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 84G(5)

Repeal the subsection, substitute:

Daily rate

- (5) The daily rate of single income family supplement is the annual rate divided by 365 and rounded up to the nearest cent.

2 Subsection 108(1A) (heading)

Repeal the heading, substitute:

Other cases

3 Paragraph 108(1A)(c)

Repeal the paragraph.

4 Application provision—item 3

The amendment made by item 3 applies in relation to working out whether individuals are entitled to further payments of clean energy advance on or after the day that item commences.

5 At the end of clause 4 of Schedule 4

Add:

- (3) This clause does not apply to the following amounts:
- (a) FTB clean energy child amount;
 - (b) Clean energy supplement (Part B);
 - (c) ACO clean energy supplement.

Note: See clause 7 for how to index those amounts.

6 At the end of Part 2 of Schedule 4

Add:

7 Indexation of certain clean energy amounts

- (1) This clause applies to the following amounts:
 - (a) FTB clean energy child amount;
 - (b) Clean energy supplement (Part B);
 - (c) ACO clean energy supplement.
- (2) If an amount to which this clause applies is to be indexed under this Part on an indexation day, this Act has effect as if the indexed amount were substituted for that amount on that day.
- (3) This is how to work out the indexed amount for an amount to which this clause applies that is to be indexed under this Part on an indexation day (the *current indexation day*):

Method statement

- Step 1. Work out the current figure for the amount immediately before 1 July 2014.
- Step 2. Multiply that current figure, in turn, by the indexation factor (worked out under clause 5) for the amount on each indexation day, for the amount, starting on 1 July 2014 and up to and including the current indexation day: the result is the *provisional indexed amount*.
- Step 3. Use clause 6 to round off the provisional indexed amount: the result is the indexed amount.

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

7 Paragraph 224(1)(f)

Omit “know”, substitute “known”.

Social Security Act 1991

8 Subparagraph 96(1)(b)(i)

Omit “and”, substitute “but”.

9 Subparagraph 96(1)(b)(ii)

Omit “not more”, substitute “less”.

*[Minister’s second reading speech made in—
House of Representatives on 12 September 2012
Senate on 11 October 2012]*

(152/12)
