





**Family Assistance Legislation  
Amendment (Extension of Time Limits)  
Act 2004**

**No. 33, 2004**

**An Act to extend time limits in relation to family  
tax benefit and child care benefit, and for related  
purposes**

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



---

## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2

### **Schedule 1—Extension of time limits relating to family tax benefit and child care benefit**

Part 1—Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999	3
Part 2—Amendment of the Income Tax Assessment Act 1997	5





# **Family Assistance Legislation Amendment (Extension of Time Limits) Act 2004**

**No. 33, 2004**

---

---

**An Act to extend time limits in relation to family  
tax benefit and child care benefit, and for related  
purposes**

*[Assented to 20 April 2004]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Family Assistance Legislation  
Amendment (Extension of Time Limits) Act 2004*.

## **2 Commencement**

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

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Extension of time limits relating to family tax benefit and child care benefit

### Part 1—Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999

#### 1 Paragraph 10(2)(b)

Omit “next income year”, substitute “2 income years immediately following that income year”.

#### 2 Subsection 28(3)

Repeal the subsection, substitute:

*Consequence where income tax returns are later lodged*

(3) If:

- (a) after the Secretary varies the determination under subsection (2), an assessment is made under the *Income Tax Assessment Act 1936* for the cancellation income year for everyone (the *taxpayers involved*):
  - (i) who was required to lodge an income tax return as mentioned in subparagraph (1)(b)(iii); and
  - (ii) in respect of whom an assessment had not been made before the determination was varied; and
- (b) the Secretary is satisfied that the claimant was eligible for an amount (the *recalculated amount*) of family tax benefit for the cancellation days;

the Secretary must again vary the determination so that it has the effect that, for the cancellation days, the claimant is entitled to be paid:

- (c) if income tax returns for the cancellation year for the taxpayers involved were lodged with the Commissioner of Taxation during the income year that began 2 years after the beginning of the cancellation income year—the recalculated amount; or

(d) in any other case—the lesser of:

- (i) the recalculated amount; and
- (ii) the amount that the claimant was entitled to be paid before the variation under subsection (2) was made.

### **3 Paragraph 49J(2)(b)**

Omit “following income year”, substitute “2 income years immediately following that income year”.

### **4 Paragraph 154A(3)(b)**

Omit “2 years”, substitute “3 years”.

### **5 Subsection 154A(4)**

Omit “2 years”, substitute “3 years”.

## **6 Application of this Part**

- (1) The amendment made by item 1 applies to a claim for payment of family tax benefit made either before or after the commencement of this Part, if the claim is for a past period that falls wholly within the income year beginning on 1 July 2001 or any later income year.
- (2) The amendment made by item 2 applies in respect of cancellation days occurring in the income year beginning on 1 July 2001 or any later income year.
- (3) The amendment made by item 3 applies to a claim for payment of child care benefit made either before or after the commencement of this Part, if the claim is for a past period that falls wholly within the income year beginning on 1 July 2001 or any later income year.
- (4) The amendment made by item 4 applies to a determination of taxable income made on or after 1 July 2003 (including after the commencement of this item).
- (5) The amendment made by item 5 applies to tax file numbers provided either before or after the commencement of this Part to the Commissioner in respect of the income year beginning on 1 July 2001 or any later income year.

## **Part 2—Amendment of the Income Tax Assessment Act 1997**

### **7 Paragraph 25-7(b)**

Before “you”, insert “if the claim is for a period in an income year other than the 2001-2002 income year—”.

### **8 At the end of section 25-7**

Add:

; and (c) if the claim is for a period in the 2001-2002 income year:

- (i) you lodge the claim in the 2002-2003 income year with an officer of the Australian Taxation Office (within the meaning of that Act) for determination by such an officer; or
- (ii) you lodge the claim in the 2003-2004 income year with an officer of the Commonwealth Services Delivery Agency (within the meaning of the *Commonwealth Services Delivery Agency Act 1997*) for determination by that officer.

### **9 Application**

The amendments made by this Part apply to fees or commission incurred, and in relation to advice provided, either before or after the commencement of this Part.

---

*[Minister's second reading speech made in—  
House of Representatives on 10 September 2003  
Senate on 17 September 2003]*

(137/03)

---

6      *Family Assistance Legislation Amendment (Extension of Time Limits) Act 2004*      No.  
33, 2004