



**Families, Housing, Community Services
and Indigenous Affairs and Other
Legislation Amendment (Miscellaneous
Measures) Act 2010**

No. 33, 2010

**An Act to make amendments relating to the Social
Security Appeals Tribunal and technical
amendments, 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. 33, 2010

**An Act to make amendments relating to the Social
Security Appeals Tribunal and technical
amendments, and for related purposes**

[Assented to 13 April 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	13 April 2010
2. Schedule 1	The day after this Act receives the Royal Assent.	14 April 2010
3. Schedule 2	The day on which this Act receives the Royal Assent.	13 April 2010
4. Schedule 3, items 1 to 3	The day on which this Act receives the Royal Assent.	13 April 2010
5. Schedule 3, items 4 and 5	Immediately after the time specified in the <i>Native Title Amendment (Technical Amendments) Act 2007</i> for the commencement of item 9 of Schedule 2 to that Act.	21 July 2007
6. Schedule 3, items 6 and 7	The day on which this Act receives the Royal Assent.	13 April 2010

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

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

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to the Social Security Appeals Tribunal

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

1 Subdivision B of Division 3 of Part 5 (heading)

Repeal the heading, substitute:

Subdivision B—Submissions from parties other than agency heads

2 Before section 123

Insert:

122A Subdivision does not apply in relation to agency heads

This Subdivision does not apply in relation to a party to a review of a decision who is the head of an agency.

3 Subsection 123(1)

Repeal the subsection.

Note: The heading to section 123 is altered by omitting “**by parties other than agency heads**”.

4 Subsection 123(2)

Omit “the party”, substitute “a party to a review of a decision”.

5 Section 124

Repeal the section.

6 Subsection 125(1)

Omit “those parties that may make oral submissions”, substitute “the parties”.

7 Subsection 125(4)

Omit “(other than the head of an agency)”.

8 Subsection 126(1)

Repeal the subsection.

9 Subsection 126(2)

Omit “If the party”, substitute “If a party to a review of a decision”.

10 After section 126

Insert:

Subdivision BA—Submissions from agency heads

126A Submissions from agency heads

- (1) The head of an agency that is a party to a review of a decision may make written submissions to the SSAT.

Agency head may request permission to make oral submissions etc.

- (2) The head of the agency may, by writing, request the Executive Director for permission to make:
- (a) oral submissions to the SSAT; or
 - (b) both oral and written submissions to the SSAT.

The request must explain how such submissions would assist the SSAT.

- (3) The Executive Director may, by writing, grant the request if, in the opinion of the Executive Director having regard to the objective laid down by section 110, such submissions would assist the SSAT.

SSAT may order agency head to make oral submissions etc.

- (4) The Executive Director may order the head of the agency to make:
- (a) oral submissions to the SSAT; or
 - (b) both oral and written submissions to the SSAT;

if, in the opinion of the Executive Director having regard to the objective laid down by section 110, such submissions would assist the SSAT.

Oral submissions by telephone etc.

- (5) For the purposes of subsections (3) and (4), the Executive Director may determine that oral submissions to the SSAT by the head of the agency are to be made by telephone or by means of other electronic communications equipment.
- (6) Subsection (5) does not limit subsection (3) or (4).

11 Before section 127

Insert:

Subdivision BB—Other evidence provisions

12 Before subsection 141(1)

Insert:

SSAT affirms decisions

- (1A) If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 113(1)(a), the SSAT must:
 - (a) prepare a written statement (the *initial statement*) that sets out the decision of the SSAT on the review; and
 - (b) give each party to the review a copy of the initial statement within 14 days after making the decision; and
 - (c) within 14 days after making the decision, either:
 - (i) give reasons for the decision orally to each party to the review and explain that the party may make a written request for a statement under subparagraph (ii) within 14 days after the copy of the initial statement is given to the party; or
 - (ii) give each party to the review a written statement (whether or not as part of the initial statement) that sets out the reasons for the decision, sets out the findings on any material questions of fact and refers to evidence or other material on which the findings of fact are based; and
 - (d) return to the Secretary any document that the Secretary has provided to the SSAT in connection with the review; and
 - (e) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact are based.
-

(1B) If the SSAT does not give a written statement to a party under subparagraph (1A)(c)(ii), the party may, within 14 days after the copy of the initial statement is given to the party, make a written request of the SSAT for such a statement.

(1C) The SSAT must comply with a request under subsection (1B) within 14 days after the day on which it receives the request.

13 Subsection 141(1)

Omit “When the SSAT makes its decision on a review,”, substitute “If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 113(1)(b) or (c),”.

Note 1: The following heading to subsection 141(1) is inserted “*SSAT varies decisions or sets decisions aside*”.

Note 2: The following heading to subsection 141(2) is inserted “*Notice of further review right*”.

14 Application

The amendments made by items 1 to 13 apply in relation to applications for review made on or after the commencement of those items.

Social Security (Administration) Act 1999

15 Subdivision B of Division 4 of Part 4 (heading)

Repeal the heading, substitute:

Subdivision B—Submissions from parties other than Secretary

16 Before section 161

Insert:

160A Subdivision does not apply in relation to Secretary

This Subdivision does not apply in relation to a party to a review of a decision who is the Secretary.

17 Subsections 161(2) and (7)

Repeal the subsections.

18 Subsection 162(5)

Repeal the subsection.

19 After section 163

Insert:

Subdivision BA—Submissions from Secretary

163A Submissions from Secretary

- (1) The Secretary may make written submissions to the SSAT.

Secretary may request permission to make oral submissions etc.

- (2) The Secretary may, by writing, request the Executive Director for permission to make:

- (a) oral submissions to the SSAT; or
(b) both oral and written submissions to the SSAT.

The request must explain how such submissions would assist the SSAT.

- (3) The Executive Director may, by writing, grant the request if, in the opinion of the Executive Director having regard to the objective laid down by section 141, such submissions would assist the SSAT.

SSAT may order Secretary to make oral submissions etc.

- (4) The Executive Director may order the Secretary to make:

- (a) oral submissions to the SSAT; or
(b) both oral and written submissions to the SSAT;

if, in the opinion of the Executive Director having regard to the objective laid down by section 141, such submissions would assist the SSAT.

Oral submissions by telephone etc.

- (5) For the purposes of subsections (3) and (4), the Executive Director may determine that oral submissions to the SSAT by the Secretary are to be made by telephone or by means of other electronic communications equipment.

- (6) Subsection (5) does not limit subsection (3) or (4).

20 Before section 164

Insert:

Subdivision BB—Other evidence provisions

21 Before subsection 177(1)

Insert:

SSAT affirms decisions

- (1A) If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 149(1)(a), the SSAT must:
- (a) prepare a written statement (the *initial statement*) that sets out the decision of the SSAT on the review; and
 - (b) give each party to the review a copy of the initial statement within 14 days after making the decision; and
 - (c) within 14 days after making the decision, either:
 - (i) give reasons for the decision orally to each party to the review and explain that the party may make a written request for a statement under subparagraph (ii) within 14 days after the copy of the initial statement is given to the party; or
 - (ii) give each party to the review a written statement (whether or not as part of the initial statement) that sets out the reasons for the decision, sets out the findings on any material questions of fact and refers to evidence or other material on which the findings of fact are based; and
 - (d) return to the Secretary any document that the Secretary has provided to the SSAT in connection with the review; and
 - (e) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact are based.
- (1B) If the SSAT does not give a written statement to a party under subparagraph (1A)(c)(ii), the party may, within 14 days after the copy of the initial statement is given to the party, make a written request of the SSAT for such a statement.
- (1C) The SSAT must comply with a request under subsection (1B) within 14 days after the day on which it receives the request.

22 Subsection 177(1)

Omit “When the SSAT makes its decision on a review,”, substitute “If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 149(1)(b) or (c),”.

Note 1: The following heading to subsection 177(1) is inserted “*SSAT varies decisions or sets decisions aside*”.

Note 2: The following heading to subsection 177(2) is inserted “*Notice of further review right*”.

23 Subclause 4(2) of Schedule 3

Repeal the subclause, substitute:

- (2) The period specified under subclause (1) must not exceed 5 years.

24 Application

- (1) The amendments made by items 15 to 22 apply in relation to applications for review made on or after the commencement of those items.
- (2) The amendment made by item 23 applies in relation to appointments made on or after the commencement of that item.

Schedule 2—Technical amendments removing references to benefits that no longer exist

Income Tax Assessment Act 1936

1 At the end of subparagraph 102AC(2)(c)(i)

Add “or”.

2 Subparagraph 102AC(2)(c)(iii)

Repeal the subparagraph.

3 Subsection 159J(6) (at the end of paragraph (a) of the definition of *invalid relative*)

Add “or”.

4 Subsection 159J(6) (paragraph (b) of the definition of *invalid relative*)

Repeal the paragraph.

5 Subsection 159L(6)

Repeal the subsection.

Safety, Rehabilitation and Compensation Act 1988

6 Subsection 37(6)

Repeal the subsection.

Social Security Act 1991

7 Subsection 9(1) (definition of *pensioner couple*)

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

8 Subsection 23(1) (paragraph (ga) of the definition of *social security pension*)

Repeal the paragraph.

9 Subsection 147(1)

Omit “(1)”.

10 Paragraph 147(1)(b)

Repeal the paragraph, substitute:

- (b) has a partner who is receiving an age pension or disability support pension.

11 Subsection 186(1)

Omit “(1)”.

12 Paragraph 186(1)(d)

Omit “, disability wage supplement or rehabilitation allowance”.

13 Section 573A (table item 6)

Repeal the item.

14 Division 2 of Part 2.13A (heading)

Repeal the heading, substitute:

Division 2—Recipients of disability support pension

15 Subparagraph 771HA(1)(c)(i)

Omit “rehabilitation allowance,”.

16 Paragraphs 771NU(1)(e) and (3)(e)

Omit “rehabilitation allowance,”.

17 Subsection 771NX(1) (method statement, step 4, note)

Omit “rehabilitation allowance,”.

18 Subsection 771NX(6)

Omit “rehabilitation allowance,”.

19 Paragraph 1061PJ(2)(g)

Omit “benefit;”, substitute “benefit.”.

20 Paragraph 1061PJ(2)(h)

Repeal the paragraph.

21 Paragraph 1064(1)(b)

Omit “or disability wage supplement”.

Note: The heading to section 1064 is altered by omitting “**and of disability wage supplement**”.

22 Subsection 1064(2)

Omit “or to a person’s disability wage supplement”.

23 Subparagraphs 1064(5)(b)(vi), (6)(b)(iv) and (7)(b)(vi)

Repeal the subparagraphs.

Note 1: The heading to section 1065 is altered by omitting “**and of disability wage supplement**”.

Note 2: The heading to section 1066B is altered by omitting “**and of disability wage supplement**”.

24 Subparagraph 1067F(1)(d)(ix)

Repeal the subparagraph.

25 Point 1067G-H2

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

26 Paragraph 1067G-H27(b)

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

27 Section 1067G (Module L) (table item 10)

Repeal the item.

28 Subparagraph 1067K(1)(d)(viii)

Repeal the subparagraph.

29 Point 1067L-D2

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

30 Paragraph 1067L-D26(b)

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

31 Point 1068-G2

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

32 Paragraph 1068-G10(b)

Omit “, income support supplement or a rehabilitation allowance”, substitute “or income support supplement”.

33 Subparagraph 1133(1)(a)(vi)

Omit “allowance; or”, substitute “allowance; and”.

34 Subparagraph 1133(1)(a)(viii)

Repeal the subparagraph.

35 Subparagraph 1133(2)(a)(iv)

Omit “payment; or”, substitute “payment; and”.

36 Subparagraph 1133(2)(a)(vii)

Repeal the subparagraph.

37 Paragraph 1133(2)(b)

Omit “or allowance”.

38 Paragraph 1184L(2)(b)

Omit “or the disability wage supplement”.

39 Paragraph 1184L(2)(c)

Omit “or disability wage supplement”.

Veterans’ Entitlements Act 1986

40 Subsection 5E(1) (definition of *partnered (partner getting pension)*) (note)

Repeal the note.

41 Subsection 5E(5) (note)

Repeal the note.

42 Subsection 5F(1) (paragraph (i) of the definition of *child*)

Repeal the paragraph.

43 Subparagraph 5H(8)(w)(viii)

Repeal the subparagraph.

44 Section 36C (note)

Repeal the note, substitute:

Note: *Social security benefit* includes newstart allowance.

45 Section 37C (note)

Repeal the note, substitute:

Note: *Social security benefit* includes newstart allowance.

46 Subsection 38C(1) (note)

Repeal the note, substitute:

Note: *Social security benefit* includes newstart allowance.

47 Subparagraph 58N(a)(iv)

Omit “(other than a rehabilitation allowance)”.

48 Point SCH6-C5 of Schedule 6 (note 1)

Repeal the note.

49 Point SCH6-C5 of Schedule 6 (note 3)

Omit “Note 3”, substitute “Note”.

Schedule 3—Other technical amendments

Aboriginal and Torres Strait Islander Act 2005

1 Schedule 1

Repeal the Schedule.

2 Schedule 2 (note to Schedule heading)

Repeal the note, substitute:

Note: See section 143E.

3 Schedule 2A (note to Schedule heading)

Repeal the note, substitute:

Note: See section 143E.

Native Title Amendment (Technical Amendments) Act 2007

4 Item 9 of Schedule 2

Omit “203FB,”, substitute “203FB”.

5 Item 9 of Schedule 2

Omit “203FBA, 203FBB,”, substitute “, 203FBA, 203FBB”.

Social Security Act 1991

6 Point 1068-G1 (method statement, step 7)

Omit “1068-H12”, substitute “1068-G12”.

Social Security (Administration) Act 1999

7 Subdivision D of Division 1 of Part 3 (heading)

Repeal the heading.

*[Minister's second reading speech made in—
House of Representatives on 25 November 2008
Senate on 5 February 2009]*

(225/08)
