



**Social Security and Family Assistance
Legislation Amendment (Weekly
Payments) Act 2010**

No. 45, 2010

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

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

Contents

| | | |
|---|-------------------|-----------|
| 1 | Short title..... | 1 |
| 2 | Commencement..... | 2 |
| 3 | Schedule(s)..... | 2 |
| Schedule 1—Weekly payments | | 3 |
| Part 1—Family assistance | | 3 |
| Division 1—Family tax benefit | | 3 |
| <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> | | 3 |
| Division 2—Baby bonus: main amendment | | 4 |
| <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> | | 4 |
| Division 3—Baby bonus: related provisions | | 8 |
| <i>A New Tax System (Family Assistance) Act 1999</i> | | 8 |
| Part 2—Social security | | 11 |
| Division 1—Main amendment | | 11 |
| <i>Social Security (Administration) Act 1999</i> | | 11 |
| Division 2—Consequential amendments | | 12 |
| <i>Social Security Act 1991</i> | | 12 |
| <i>Social Security (Administration) Act 1999</i> | | 13 |
| Schedule 2—Technical corrections | | 14 |
| <i>Social Security (Administration) Act 1999</i> | | 14 |
| Schedule 3—Family assistance participation requirement | | 15 |
| <i>Family Assistance Legislation Amendment (Participation Requirement) Act 2009</i> | | 15 |



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No. 45, 2010

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

[Assented to 14 April 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Family Assistance
Legislation Amendment (Weekly Payments) 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 this Act receives the Royal Assent. | 14 April 2010 |
| 2. Schedules 1 and 2 | The day this Act receives the Royal Assent. | 14 April 2010 |
| 3. Schedule 3 | Immediately after the commencement of Schedule 1 to the <i>Family Assistance Legislation Amendment (Participation Requirement) Act 2009</i> . | 1 January 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.

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—Weekly payments

Part 1—Family assistance

Division 1—Family tax benefit

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

1 Subsection 22(1)

After “under this Subdivision”, insert “(except subsection 23(3B))”.

2 Subsection 23(2) (paragraphs (a) and (b) of the definition of *instalment period*)

Repeal the paragraphs, substitute:

- (a) the period of 14 days beginning on the day the Secretary considers appropriate in relation to the claimant, or class of claimants in which the claimant is included, and each successive period of 14 days; or
- (b) if the claimant:
 - (i) is included in a class of persons specified under subsection (3A); and
 - (ii) is the subject of a determination in force under subsection (3B);the period of 7 days beginning on the day the Secretary considers appropriate, and each successive period of 7 days.

3 After subsection 23(3)

Insert:

Persons who may have 7-day instalment periods

- (3A) The Minister may by legislative instrument specify a class of persons any of whom the Secretary may determine to have 7-day instalment periods.

Schedule 1 Weekly payments

Part 1 Family assistance

- (3B) The Secretary may determine that a claimant who is a member of a class of persons specified under subsection (3A) has instalment periods of 7 days.
- (3C) The Secretary must revoke a determination made under subsection (3B) if he or she is satisfied that the claimant is no longer a member of a class of persons specified under subsection (3A).
- (3D) Subsection (3C) does not limit the operation of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to subsection (3B) of this section.

4 At the end of section 25

Add:

- (3) If, after the Secretary determines under subsection 23(3B) that a claimant has instalment periods of 7 days:
- (a) anything happens that causes the claimant to cease to be a member of a class of persons specified under subsection 23(3A); or
 - (b) the claimant becomes aware that anything is likely to happen that will have that effect;
- the claimant must, in the manner set out in a written notice given to the claimant under section 25A, as soon as practicable after the claimant becomes aware that the thing has happened or is likely to happen, notify the Secretary that it has happened or is likely to happen.
- (4) If a thing that is described in both subsections (1) and (3) happens or is likely to happen, subsection (1) applies in relation to the thing but subsection (3) does not.

Division 2—Baby bonus: main amendment

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

5 Section 47

Repeal the section, substitute:

47 Payment of baby bonus

Payment over 13 fortnightly instalment periods

- (1) The Secretary must, after each of the first 13 fortnightly instalment periods ending after he or she determines the claimant is entitled to be paid baby bonus, pay the claimant $\frac{1}{13}$ of the amount of baby bonus the claimant is entitled to.

Note: Section 47AB provides for rounding of the amounts of payments.

Payment over 26 weekly instalment periods

- (2) However, if the Secretary:
- (a) determines that the claimant has a weekly instalment period; and
 - (b) makes that determination before the end of what would, apart from that determination, be the end of the claimant's first fortnightly instalment period ending after the making of the determination that the claimant is entitled to be paid baby bonus;

the Secretary must, after each of the first 26 weekly instalment periods ending after the determination of entitlement is made, pay the claimant $\frac{1}{26}$ of the amount of baby bonus the claimant is entitled to.

Note: Section 47AB provides for rounding of the amounts of payments.

Alternative payment arrangements in certain cases

- (3) The Secretary may direct that the whole or a part of an amount that is to be paid for the purposes of subsection (1) or (2) is to be paid in a way different from that provided for by that subsection if:
- (a) the claimant is entitled to be paid baby bonus because of eligibility under subsection 36(2), (3) or (5) of the Family Assistance Act and the child dies before the claimant is paid all of the amounts under subsection (1) or (2) of this section; or
 - (b) the claimant is entitled to be paid baby bonus because of eligibility under subsection 36(4) of the Family Assistance Act; or
 - (c) the Secretary makes a determination under paragraph 37(3)(b) of the Family Assistance Act; or

Schedule 1 Weekly payments

Part 1 Family assistance

- (d) after a payment is made to the claimant under subsection (1) of this section, the Secretary determines that the claimant has a weekly instalment period; or
- (e) after a payment is made to the claimant under subsection (2) of this section, the Secretary revokes a determination that the claimant has a weekly instalment period.

Payment to bank account

- (4) The Secretary must make a payment under subsection (1), (2) or (3) at such time as the Secretary considers appropriate and to the credit of a bank account nominated and maintained by the claimant.

Payment not to bank account

- (5) However, the Secretary may direct that the whole or a part of an amount that is to be paid under subsection (1), (2) or (3) is to be paid in a way other than by payment to the credit of a bank account nominated and maintained by the claimant.

Early payment

- (6) If the Secretary is satisfied that an amount that would, apart from this subsection, be paid under subsection (1), (2) or (3) on a particular day cannot reasonably be paid on that day, the Secretary may direct that the amount be paid on an earlier day.

Effect of directions

- (7) If the Secretary gives a direction under this section about the payment of an amount, the amount is to be paid in accordance with the direction, despite any other subsection of this section.

Persons who may have weekly instalment periods

- (8) The Minister may by legislative instrument specify a class of persons any of whom the Secretary may determine to have weekly instalment periods.
- (9) The Secretary may determine that a claimant who is a member of a class of persons specified under subsection (8) has weekly instalment periods.

- (10) The Secretary must revoke a determination made under subsection (9) if he or she is satisfied that the claimant is no longer a member of a class of persons specified under subsection (8).
- (11) Subsection (10) does not limit the operation of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to subsection (9) of this section.

Secretary may change beginning of instalment periods

- (12) The Secretary may change, for the purposes of subsections (1) and (2), the day on which successive instalment periods are to begin in relation to a claimant or class of claimants. If the Secretary does so, the last instalment period before the first day on which the new instalment periods are to begin is shortened so that it ends immediately before that day.

Definitions

- (13) In this section:

fortnightly instalment period means, subject to subsection (12):

- (a) the period of 14 days beginning on the day the Secretary considers appropriate in relation to the claimant, or class of claimants in which the claimant is included; and
- (b) each successive period of 14 days.

instalment period means a fortnightly instalment period or a weekly instalment period.

weekly instalment period means, subject to subsection (12):

- (a) the period of 7 days beginning on the day the Secretary considers appropriate in relation to the claimant, or class of claimants in which the claimant is included; and
- (b) each successive period of 7 days.

47AA Payment of maternity immunisation allowance

- (1) If the claimant is entitled to be paid maternity immunisation allowance, the Secretary must pay it to the claimant, at such time as the Secretary considers appropriate and to the credit of a bank account nominated and maintained by the claimant.

Note: Section 47AB provides for rounding of the amounts of payments.

Schedule 1 Weekly payments

Part 1 Family assistance

Alternative payment arrangements

- (2) The Secretary may direct that the whole or a part of an amount that is to be paid for the purposes of subsection (1) is to be paid in a way different from that provided for by that subsection. If the Secretary gives the direction, the amount is to be paid in accordance with the direction (despite that subsection).

47AB Other rules about payments of baby bonus and maternity immunisation allowance

Rounding of payments

- (1) If an amount to be paid under section 47 or 47AA is not a whole number of cents, it must be rounded to the nearest cent (rounding 0.5 cents upwards).

Relationship of sections 47 and 47AA with other provisions

- (2) Sections 47 and 47AA are subject to Part 4, Division 3 of Part 8B and sections 225 and 226.

Division 3—Baby bonus: related provisions

A New Tax System (Family Assistance) Act 1999

6 Subparagraph 38(c)(ii)

Omit “47(1AA)”, substitute “47(1), (2) or (3)”.

7 Application provision

- (1) Sections 47 and 47AB of the *A New Tax System (Family Assistance) (Administration) Act 1999* as amended by this Schedule apply in relation to claimants who have been determined before, on or after the commencement of this Schedule to be entitled to be paid baby bonus.
- (2) Sections 47AA and 47AB of the *A New Tax System (Family Assistance) (Administration) Act 1999* as amended by this Schedule apply in relation to claimants who have been determined before, on or after the commencement of this Schedule to be entitled to be paid maternity immunisation allowance.

8 Transitional provisions

- (1) The Secretary may give a direction under subsection 47(3) of the *A New Tax System (Family Assistance) (Administration) Act 1999*, as amended by this Schedule, in relation to a claimant who:
- (a) has been determined before the commencement of this Schedule to be entitled to be paid baby bonus; and
 - (b) has been determined under subsection 47(9) of that Act (as amended by this Schedule) to have weekly instalment periods.
- (2) Subparagraph 38(c)(ii) of the *A New Tax System (Family Assistance) Act 1999* applies on and after the commencement of this Part as if a reference in that subparagraph to subsection 47(1), (2) or (3) of the *A New Tax System (Family Assistance) (Administration) Act 1999* included a reference to:
- (a) subsection 47(1AA) or (4A) of that Act as in force immediately before that commencement; and
 - (b) subsection 47(1A), (2), (3) or (5) of that Act as in force immediately before 1 January 2009.
- (3) A direction that is described in column 1 of an item of the table and was in force immediately before the commencement of this Part has effect on and after that commencement as if it were a direction described in column 2 of the item that had been given at that commencement.

Transitional provision for directions

| Item | Column 1 Direction under section 47 of the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> as in force immediately before commencement | Column 2 Direction under the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> as amended by this Part |
|------|---|---|
| 1 | Direction under subsection 47(1AB) | Direction under subsection 47(5) |
| 2 | Direction under subsection 47(4A), so far as it relates to amounts or timing of payments | Direction under subsection 47(3) |
| 3 | Direction under subsection 47(4A), so far as it relates to the making of a payment by means other than paying to the credit of a bank account | Direction under subsection 47(5) |

Schedule 1 Weekly payments

Part 1 Family assistance

| Transitional provision for directions | | |
|--|--|--|
| Item | Column 1 | Column 2 |
| | Direction under section 47 of the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> as in force immediately before commencement | Direction under the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> as amended by this Part |
| | nominated and maintained by the claimant | |
| 4 | Direction under subsection 47(5) | Direction under subsection 47AA(2) |
| 5 | Direction under subsection 47(6) | Direction under subsection 47(6) |

Part 2—Social security

Division 1—Main amendment

Social Security (Administration) Act 1999

9 After subsection 43(3)

Insert:

Weekly payments of a social security periodic payment

- (3A) The Secretary may determine that a person is to be paid the total amount of the social security periodic payment relating to an instalment period of 14 days determined under subsection (1) in 2 payments (the *part payments*) if the person is a member of a class specified under subsection (3B).
- (3B) The Minister may by legislative instrument specify a class of persons for the purposes of subsection (3A).
- (3C) The first of the part payments:
- (a) is not to exceed the total of the amounts of the social security periodic payment (calculated by reference to the daily rate of payment applicable to each day, subject to subsections (4) and (5A)) payable to the person for days that:
 - (i) are days on which the social security periodic payment was payable to the person; and
 - (ii) are included in the first 7 days of the instalment period; and
 - (b) is to be paid at a time determined by the Secretary that is after the first 7 days of the instalment period.
- (3D) The other of the part payments:
- (a) is the excess of the amount that is to be paid to a person as the instalment of the social security periodic payment in relation to the instalment period (see subsection (3)) over the first of the part payments; and
 - (b) is to be paid at a time determined by the Secretary that is after the end of the instalment period.

Schedule 1 Weekly payments

Part 2 Social security

(3E) If the person is, or is to be, paid the total amount of the social security periodic payment relating to the instalment period in part payments, then it is taken for the purposes of the social security law that:

- (a) a single instalment of the social security periodic payment is, or is to be, paid in relation to the period; and
- (b) that instalment is, or is to be, paid when the last of the part payments is, or is to be, made; and
- (c) that instalment is equal to the total of the part payments.

Note: The total of the part payments equals the amount worked out under subsection (3) (as affected by subsection (4), if relevant) as the amount to be paid to the person as the instalment of the social security periodic payment in relation to the instalment period.

(3F) However, the following provisions of this Act (about deductions from instalments) apply as if each of the part payments were a separate instalment:

- (a) section 61;
- (b) Division 5 of Part 3B;
- (c) subsection 238(2).

Minimum daily rate

Note 1: The following heading to subsection 43(1) is inserted “*Payment in arrears in relation to periods*”.

Note 2: The following heading to subsection 43(2) is inserted “*Timing of payments of instalments*”.

Note 3: The following heading to subsection 43(3) is inserted “*Total instalment relating to a period*”.

Note 4: The following heading to subsection 43(5A) is inserted “*No reduction of portion of quarterly pension supplement relating to a day*”.

Note 5: The following heading to subsection 43(6) is inserted “*Instalment periods*”.

Division 2—Consequential amendments

Social Security Act 1991

10 Subsection 23(1) (at the end of the definition of *payday*)

Add:

Note: Subsection 43(3E) of the Administration Act affects when an instalment is, or would normally be, paid to a person if the Secretary has determined under subsection 43(3A) of that Act that the person is

to be paid the total amount of a social security periodic payment relating to an instalment period in 2 payments.

Social Security (Administration) Act 1999

11 Subsection 54(1) (at the end of the definition of *instalment*)

Add:

Note: Subsection 43(3E) affects what is an instalment of a social security periodic payment if the Secretary has determined under subsection 43(3A) that a person is to be paid the total amount of a social security periodic payment relating to an instalment period in 2 payments.

Schedule 2—Technical corrections

Social Security (Administration) Act 1999

1 Paragraphs 43(4)(c) and (5A)(a)

After “subsection 1061VA(1)”, insert “of the 1991 Act”.

Note: This clarifies cross-references.

2 Subsection 43(5A)

After “subsection 1210(3)” (wherever occurring), insert “of the 1991 Act”.

Note: This clarifies cross-references.

Schedule 3—Family assistance participation requirement

Family Assistance Legislation Amendment (Participation Requirement) Act 2009

1 Subitem 13(2) of Schedule 1

Omit “1 May 2010”, substitute “1 July 2010”.

2 Subitem 14(1) of Schedule 1

Omit “1 May 2010”, substitute “1 July 2010”.

3 Subitem 14(3) of Schedule 1

Omit “30 April 2010”, substitute “30 June 2010”.

*[Minister’s second reading speech made in—
House of Representatives on 10 February 2010
Senate on 15 March 2010]*