





# **Social Security Legislation Amendment (Debit Card Trial) Act 2015**

**No. 144, 2015**

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

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



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# **Social Security Legislation Amendment (Debit Card Trial) Act 2015**

**No. 144, 2015**

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

*[Assented to 12 November 2015]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Social Security Legislation Amendment (Debit Card Trial) Act 2015*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 November 2015
2. Schedule 1	The day after this Act receives the Royal Assent.	13 November 2015

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Trial of cashless welfare arrangements**

### **Part 1—Main amendments**

#### *Social Security (Administration) Act 1999*

##### **1 After Part 3C**

Insert:

### **Part 3D—Trial of cashless welfare arrangements**

#### **Division 1—Introduction**

##### **124PB Simplified outline**

This Part provides for the trial of cashless welfare arrangements. Recipients of certain welfare payments are subject to the trial.

During the trial, certain welfare payments will be divided into restricted and unrestricted portions, with recipients being unable to spend the restricted portions of such payments on alcohol or gambling. The amount of each portion may be varied if a community body gives a direction to the Secretary reflecting an agreement between the community body and the recipient.

Other recipients of certain welfare payments may voluntarily opt in to these cashless welfare arrangements.

##### **124PC Objects**

The objects of this Part are to trial cashless welfare arrangements so as to:

- (a) reduce the amount of certain restrictable payments available to be spent on alcoholic beverages, gambling and illegal drugs; and
- (b) determine whether such a reduction decreases violence or harm in trial areas; and

- (c) determine whether such arrangements are more effective when community bodies are involved; and
- (d) encourage socially responsible behaviour.

### 124PD Definitions

- (1) In this Part:

**community body** means a body authorised in an instrument made under section 124PE.

**restrictable payment:**

- (a) in relation to a trial participant, means:
  - (i) a trigger payment; or
  - (ii) a clean energy advance under the Family Assistance Act; or
  - (iii) family tax benefit under the Family Assistance Act; or
  - (iv) family tax benefit advance under the Family Assistance Administration Act; or
  - (v) baby bonus under the Family Assistance Act; or
  - (vi) schoolkids bonus under the Family Assistance Act; or
  - (vii) stillborn baby payment under the Family Assistance Act; or
  - (viii) carer allowance; or
  - (ix) carer supplement; or
  - (x) child disability assistance; or
  - (xi) double orphan pension; or
  - (xii) income support bonus; or
  - (xiii) mobility allowance; or
  - (xiv) pensioner education supplement; or
  - (xv) a social security bereavement payment (other than a social security bereavement payment in relation to an age pension under Division 9 of Part 2.2 of the 1991 Act, a mature age allowance under Part 2.12B of the 1991 Act or a special needs pension under Division 10 of Part 2.16 of the 1991 Act); or
  - (xvi) a clean energy advance under the 1991 Act; or
  - (xvii) an advance payment under Part 2.22 of the 1991 Act; or

- (xviii) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
  - (xix) a mobility allowance advance under section 1045 of the 1991 Act; or
  - (xx) quarterly energy supplement under the 1991 Act; or
  - (xxi) telephone allowance under Part 2.25 of the 1991 Act; or
  - (xxii) utilities allowance under Part 2.25A of the 1991 Act; or
  - (xxiii) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
- (b) in relation to a voluntary participant, means:
- (i) a payment of a kind listed in paragraph (a); or
  - (ii) an age pension; or
  - (iii) a social security bereavement payment in relation to an age pension under Division 9 of Part 2.2 of the 1991 Act.

**restricted portion**, in relation to a restrictable payment, has the meaning given by section 124PJ.

**trial area** means an area specified in a legislative instrument made under subsection (2).

**trial participant**: see subsection 124PG(2).

**trigger payment** means:

- (a) a social security benefit (other than a mature age allowance under Part 2.12B of the 1991 Act); or
- (b) a social security pension of the following kinds:
  - (i) a carer payment;
  - (ii) a bereavement allowance, so long as the recipient has not yet reached pension age;
  - (iii) a disability support pension;
  - (iv) a pension PP (single);
  - (v) a widow B pension;
  - (vi) a wife pension; or
- (c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance.

*unrestricted portion*, in relation to a restrictable payment, has the meaning given by section 124PJ.

*voluntary participant*: see subsection 124PH(3).

*welfare restricted bank account* means a bank account of a kind determined by a legislative instrument made under section 124PP.

- (2) The Minister may, by legislative instrument, specify an area for the purposes of the definition of *trial area*.

### **124PE Community body**

The Minister may, by legislative instrument, authorise a body, whether incorporated or unincorporated, as a *community body* if the body provides, or intends to provide, services relating to the care, protection, welfare or safety of adults, children or families.

## **Division 2—Persons subject to cashless welfare arrangements**

### **Subdivision A—Trial of cashless welfare arrangements**

#### **124PF Trial of cashless welfare arrangements**

- (1) Cashless welfare arrangements are to be trialled during the period:
- (a) beginning on 1 February 2016; and
  - (b) ending on 30 June 2018.
- (2) The trial is to occur in up to 3 discrete trial areas.
- (3) The trial is to include no more than 10,000 trial participants.

#### **124PG Trial participants**

- (1) The Minister may, by legislative instrument, determine whether a particular trigger payment is to apply:
- (a) both:
    - (i) in respect of a particular class of person; and
    - (ii) in relation to a particular trial area; or
  - (b) in relation to a particular trial area.

- (2) A person is a *trial participant* if:
- (a) all of the following apply:
    - (i) a legislative instrument made under subsection (1) determines that a particular trigger payment applies in respect of a particular class of person and in relation to a particular trial area;
    - (ii) a person falls within the particular class of person specified in the legislative instrument;
    - (iii) the person's usual place of residence was, is or becomes within the particular trial area specified in the legislative instrument; or
  - (b) all of the following apply:
    - (i) a legislative instrument made under subsection (1) determines that a particular trigger payment applies in relation to a particular trial area;
    - (ii) the person receives the particular trigger payment;
    - (iii) the person's usual place of residence was, is or becomes within the particular trial area.
- (3) To avoid doubt, for the purposes of subsection (2):
- (a) if a person's usual place of residence is within a particular trial area, the person is a *trial participant* on and after the day that the legislative instrument takes effect in relation to the particular trial area; and
  - (b) if a person's usual place of residence becomes within the particular trial area, the person is a *trial participant* on and after the day that the person's usual place of residence is within the particular trial area.

## **Subdivision B—Voluntary participation in cashless welfare arrangements**

### **124PH Voluntary participants**

- (1) A person may notify the Secretary, orally or in writing, that the person wishes to be subject to cashless welfare arrangements if:
- (a) the person receives a restrictable payment of a kind mentioned in paragraph (b) of the definition of that expression; and

## Schedule 1 Trial of cashless welfare arrangements

### Part 1 Main amendments

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- (b) the person's usual place of residence is within a trial area;  
and
  - (c) the person is not otherwise a trial participant.
- (2) A person may withdraw the notification at any time.
- (3) Until a person withdraws his or her notification, the person is a **voluntary participant**, unless:
- (a) a legislative instrument made under section 124PI applies in relation to the person; or
  - (b) the Secretary determines that the person is not to be subject to cashless welfare arrangements under subsection (4).
- (4) The Secretary may determine that a person who is a voluntary participant is not to be subject to cashless welfare arrangements. If the Secretary makes such a determination, the Secretary must notify the person, in writing, accordingly.

#### **124PI Minister may determine that persons may not be voluntary participants**

The Minister may, by legislative instrument, determine that a particular class of person may not be a voluntary participant.

### **Division 3—Cashless welfare arrangement rules**

#### **Subdivision A—Splitting and payment of restrictable payments**

##### **124PJ Restrictable payment to be split into restricted and unrestricted portions**

- (1) If an instalment of a restrictable payment is payable to a trial participant or voluntary participant:
- (a) 80% of the gross amount of the payment is restricted (the **restricted portion**); and
  - (b) 20% of the gross amount of the payment is unrestricted (the **unrestricted portion**).
- (2) If a restrictable payment is payable to a trial participant or voluntary participant otherwise than by instalments, 100% of the gross amount of the payment is restricted.

- (3) The Minister may, by legislative instrument, vary the percentage amounts in paragraphs (1)(a) and (b) and subsection (2).
- (4) The Minister may, by legislative instrument, determine whether the varied percentage amounts are to apply:
  - (a) both:
    - (i) in respect of a particular class of person; and
    - (ii) in relation to a particular trial area; or
  - (b) in relation to a particular trial area.
- (5) This section is subject to section 124PK.

**124PK Secretary must comply with directions given by a community body**

- (1) A community body may give the Secretary a written direction to vary the percentage amounts in paragraphs 124PJ(1)(a) and (b) that apply in respect of restrictable payments made to a trial participant or voluntary participant after the direction is given.

Note: Paragraphs 124PJ(1)(a) and (b) set out the percentage amounts for splitting a restrictable payment into a restricted portion and an unrestricted portion, respectively.
- (2) A written direction relating to a trial participant or voluntary participant:
  - (a) must reflect an agreement between the community body and the trial participant or voluntary participant; and
  - (b) may only be changed by the community body with the agreement of the trial participant or voluntary participant; and
  - (c) must be revoked by the community body if there is no longer agreement between the body and the trial participant or voluntary participant; and
  - (d) ceases to have effect on and after the day that the community body stops being authorised as a community body.
- (3) The percentage amounts specified in the written direction:
  - (a) must total 100%; and
  - (b) may:
    - (i) for the restricted portion of a restrictable payment, be a percentage in the range of 50% to 80%; and

- (ii) for the unrestricted portion of a restrictable payment, be a percentage in the range of 20% to 50%.
- (4) The written direction overrides any legislative instrument made under subsection 124PJ(3) or (4).
- (5) The Secretary must comply with the written direction.

**124PL Payment of restricted portion of restrictable payment**

- (1) This section applies if a restrictable payment is payable to a trial participant or voluntary participant.
- (2) The Secretary must pay the balance of the restricted portion of the restrictable payment to the credit of a welfare restricted bank account maintained by the trial participant or voluntary participant.
- (3) In this section:

***balance of the restricted portion of the restrictable payment*** means, if a deduction is made from, or an amount is set off against, the restrictable payment under:

- (a) section 61, 61A or 238 of this Act; or
- (b) section 1231 of the 1991 Act; or
- (c) section 84, 84A, 92, 92A, 225, 226, 227 or 228A of the Family Assistance Administration Act;

so much of the restricted portion of the restrictable payment as remains after the deduction is made or the set-off occurs, as the case may be.

**Subdivision B—Recipient’s use of restrictable payments etc.**

**124PM Recipient’s use of funds from restrictable payments**

A person who receives a restrictable payment:

- (a) may use the restricted portion of the payment, as paid under subsection 124PL(2), to purchase goods or services, other than alcoholic beverages or gambling; and
- (b) may use the unrestricted portion of the payment, as paid to the person, at the person’s discretion.

## **Division 4—Information**

### **124PN Disclosure of information to the Secretary—financial institution**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory, an officer or employee of a financial institution may give the Secretary information about a person if:
  - (a) the person is a trial participant or voluntary participant; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed as mentioned in subsection (1), the Secretary may disclose information about the person to an officer or employee of the financial institution for the purposes of the performance of the duties, or the exercise of the powers, of the officer or employee.

### **124PO Disclosure of information to the Secretary—community body**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory, a member, officer or employee of a community body may give the Secretary information about a person if:
  - (a) the person is a trial participant or voluntary participant; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed as mentioned in subsection (1), the Secretary may disclose information about the person to a member, officer or employee of the community body for the purposes of the performance of the functions and duties, or the exercise of the powers, of the member, officer or employee.

## **Division 5—Miscellaneous**

### **124PP Welfare restricted bank accounts**

- (1) For the purposes of this Part, the Secretary may, by legislative instrument, determine a kind of bank account to be maintained by a trial participant or voluntary participant for the receipt of restrictable payments.

- (2) A legislative instrument determining a kind of bank account may also prescribe terms and conditions relating to the establishment, ongoing maintenance and closure of the bank account so determined.

**124PQ Exceptions to Part IV of the *Competition and Consumer Act 2010***

- (1) For the purposes of subsection 51(1) of the *Competition and Consumer Act 2010*, the declining of a transaction by a financial institution is specified and specifically authorised if the transaction would involve:
- (a) money in a welfare restricted bank account; and
  - (b) a business of a kind specified in a legislative instrument made under subsection (2).
- (2) The Secretary may, by legislative instrument, declare a kind of business, whether by reference to merchant category codes, terminal identification codes, card accepted identification codes or otherwise, in relation to which transactions involving money in a welfare restricted bank account may be declined by a financial institution.
- (3) To avoid doubt, for the purposes of this section, it does not matter whether money in a welfare restricted bank account represents the restricted portion or unrestricted portion of a restrictable payment.

**124PR This Part has effect despite other provisions etc.**

This Part has effect despite anything in:

- (a) any other provision of this Act; or
- (b) the 1991 Act; or
- (c) the Family Assistance Act; or
- (d) the Family Assistance Administration Act.

## **Part 2—Other amendments**

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

#### **2 Paragraph 66(2)(g)**

Omit “Part 3B”, substitute “Parts 3B and 3D”.

#### **3 After section 228**

Insert:

#### **228A Payment of other deductions on request**

- (1) This section applies if a person asks the Secretary:
  - (a) to make deductions from an instalment of an amount, or from an amount, payable to the person under this Act (other than child care benefit); and
  - (b) to pay the amounts deducted to a business or organisation nominated by the person.
- (2) The Secretary may make the deductions requested by the person, and if the Secretary does so, the Secretary must pay the amounts deducted to the business or organisation nominated by the person.

### ***Social Security Act 1991***

#### **4 Subsection 1061EK(1)**

Omit “Part 3B”, substitute “Parts 3B and 3D”.

#### **5 Paragraph 1222(1)(ba)**

Omit “Part 3B”, substitute “Parts 3B and 3D”.

#### **6 Subsection 1222(2) (table item 20)**

Omit “Part 3B”, substitute “Parts 3B and 3D”.

#### **7 Paragraph 1230(1)(a)**

After “Part 3B”, insert “or 3D”.

**8 Subsections 1230C(1) and (2)**

After “Part 3B”, insert “or 3D”.

**9 Paragraph 1234A(1)(a)**

After “Part 3B”, insert “or 3D”.

**10 Subsection 1237AB(1)**

After “Part 3B”, insert “or 3D”.

***Social Security (Administration) Act 1999***

**11 Paragraph 60(2)(aa)**

Omit “Part 3B”, substitute “Parts 3B and 3D”.

**12 Section 61**

Repeal the section, substitute:

**61 Deduction at request of recipient—payments to Commissioner of Taxation**

- (1) This section applies if a person asks the Secretary:
  - (a) to make deductions from instalments of a social security payment payable to the person; and
  - (b) to pay the amounts deducted to the Commissioner of Taxation.
- (2) The Secretary may make the deductions requested by the person, and if the Secretary does so, the Secretary must pay the amounts deducted to the Commissioner of Taxation.

**61A Deduction at request of recipient—other payments**

- (1) This section applies if a person asks the Secretary:
  - (a) to make deductions from instalments of a social security payment payable to the person; and
  - (b) to pay the amounts deducted to a business or organisation nominated by the person.

- (2) The Secretary may make the deductions requested by the person, and if the Secretary does so, the Secretary must pay the amounts deducted to the business or organisation nominated by the person.

### **13 After section 70A**

Insert:

#### **70B Person who is subject to cashless welfare arrangements etc.**

##### *Scope*

- (1) This section applies to a person if:
- (a) the person is a trial participant (within the meaning of Part 3D) for the purposes of cashless welfare arrangements; or
  - (b) the person is a voluntary participant (within the meaning of that Part) for the purposes of cashless welfare arrangements.

##### *Requirement*

- (2) The Secretary may give the person a notice that requires the person to do either or both of the following:
- (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3D in relation to the person.
- (3) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might affect the operation, or prospective operation, of Part 3D in relation to the person.

### **14 Section 123TC**

Repeal the following definitions:

- (a) definition of *alcoholic beverage*;
- (b) definition of *gambling*;
- (c) definition of *goods*;

- (d) definition of *service*;
- (e) definition of *social security bereavement payment*.

### 15 At the end of subsection 123UC(1)

Add:

- ; and (h) at the test time, the person is not:
  - (i) a trial participant (within the meaning of Part 3D) for the purposes of cashless welfare arrangements; or
  - (ii) a voluntary participant (within the meaning of that Part) for the purposes of cashless welfare arrangements.

### 16 After paragraph 195(1)(cb)

Insert:

- (cc) to facilitate the administration of Part 3D (about cashless welfare arrangements);

### 17 Subsection 202(8) (note)

Repeal the note.

### 18 At the end of section 202

Add:

#### *Welfare restricted bank accounts*

- (9) If protected information relates to the establishment or ongoing maintenance of a welfare restricted bank account (within the meaning of section 124PD), a person may do any of the following:
  - (a) obtain the information;
  - (b) make a record of the information;
  - (c) disclose the information to a financial institution;
  - (d) otherwise use the information.

Note: In addition to the requirements of this section, information disclosed under this section must be dealt with in accordance with the Australian Privacy Principles.

### 19 Subclause 1(1) of Schedule 1

Insert:

*alcoholic beverage* means a beverage that contains more than 1.15% by volume of ethyl alcohol.

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**gambling** means a service provided to a person in the capacity of a customer of a gambling service (within the meaning of the *Interactive Gambling Act 2001*).

**goods** has the same meaning as in the *Competition and Consumer Act 2010*.

**service** has the same meaning as in the *Competition and Consumer Act 2010*.

**social security bereavement payment** means a payment under any of the following provisions of the 1991 Act:

- (a) Division 9 of Part 2.2;
- (b) Division 10 of Part 2.3;
- (c) Subdivision B of Division 9 of Part 2.4;
- (d) Subdivision B or D of Division 9 of Part 2.5;
- (e) Division 9 of Part 2.7;
- (f) Division 9 of Part 2.8;
- (g) Subdivision B or C of Division 9 of Part 2.10;
- (h) Subdivision A of Division 10 of Part 2.11;
- (i) Division 10 of Part 2.11A;
- (j) Subdivision AA of Division 9 of Part 2.12;
- (k) Subdivision C of Division 11 of Part 2.12B;
- (l) Division 9 of Part 2.14;
- (m) Division 9 of Part 2.15;
- (n) Subdivision C of Division 9 of Part 2.15A;
- (o) Division 10 of Part 2.16;
- (p) Subdivision C of Division 10 of Part 2.19;
- (q) Subdivision B of Division 10 of Part 2.20.

## **20 After subclause 1(1) of Schedule 1**

Insert:

- (1A) For the purpose of the definition of **alcoholic beverage**, the volume of ethyl alcohol in a beverage is to be measured at 20°C and is to be calculated on the basis that the specific gravity of ethyl alcohol is 0.79067 (at 20°C in a vacuum).

***Stronger Futures in the Northern Territory Act 2012***

**21 After paragraph 52(1)(d)**

Insert:

- (da) cashless welfare arrangements under Part 3D of the *Social Security (Administration) Act 1999* (including requirements relating to amounts restricted under that Part);

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[Minister's second reading speech made in—  
House of Representatives on 19 August 2015  
Senate on 16 September 2015]

(142/15)

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