





# **Social Services Legislation Amendment (Miscellaneous Measures) Act 2016**

**No. 46, 2016**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**An Act to amend the law relating to family  
assistance and social security, and for related  
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*[Assented to 5 May 2016]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Social Services Legislation  
Amendment (Miscellaneous Measures) Act 2016*.

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*No. 46, 2016      Social Services Legislation Amendment (Miscellaneous Measures) Act      1*  
*2016*

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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.	5 May 2016
2. Schedules 1 to 3	The day after this Act receives the Royal Assent.	6 May 2016
3. Schedule 4	The 28th day after this Act receives the Royal Assent.	2 June 2016
4. Schedules 5 to 9	The day after this Act receives the Royal Assent.	6 May 2016

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## **Schedule 2—Family tax benefit**

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

#### **1 Paragraph 14A(1)(c)**

Repeal the paragraph, substitute:

- (c) one or more of subsections (2) to (3A) apply;

#### **2 After subsection 14A(3)**

Insert:

(3A) This subsection applies if:

- (a) the claimant, or any other individual whose adjusted taxable income is relevant in working out the claimant's entitlement to, or rate of, family tax benefit for the past period, is not required to lodge an income tax return for the past period income year; and
- (b) the claimant does not notify the Secretary of the amount of the claimant's adjusted taxable income for the past period income year before the end of:
  - (i) the first income year after the past period income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the claimant from making that notification before the end of that first income year.

#### **3 Subsection 14A(4)**

Omit "or (3)(c)(ii)", substitute " , (3)(c)(ii) or (3A)(b)(ii)".

#### **4 Paragraph 32J(2)(a)**

Repeal the paragraph, substitute:

- (a) the time after the end of the relevant income year when the first individual notifies the Secretary of the amount of the first individual's adjusted taxable income for the relevant

income year, so long as that notification occurs before the end of:

- (i) the first income year after the relevant income year; or
- (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the first individual from making that notification before the end of that first income year;

**5 At the end of paragraph 32J(2)(b)**

Add “, so long as the Secretary becomes so satisfied before the end of the first income year after the relevant income year”.

**6 At the end of section 32J**

Add:

- (3) The further period under subparagraph (2)(a)(ii) must end no later than the end of the second income year after the relevant income year.

**7 Paragraph 32M(2)(a)**

Repeal the paragraph, substitute:

- (a) the time after the end of the relevant income year when the first individual notifies the Secretary of the amount of the first individual’s adjusted taxable income for the relevant income year, so long as that notification occurs before the end of:
  - (i) the first income year after the relevant income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the first individual from making that notification before the end of that first income year;

**8 At the end of paragraph 32M(2)(b)**

Add “, so long as the Secretary becomes so satisfied before the end of the first income year after the relevant income year”.

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**9 At the end of section 32M**

Add:

- (3) The further period under subparagraph (2)(a)(ii) must end no later than the end of the second income year after the relevant income year.

**10 Paragraph 32N(2)(a)**

Repeal the paragraph, substitute:

- (a) the time after the end of the relevant income year when the first individual notifies the Secretary of information that is sufficient to work out the first individual's annualised amount of maintenance income for the relevant income year, so long as that notification occurs before the end of:
- (i) the first income year after the relevant income year; or
  - (ii) such further period (if any) as the Secretary allows, if the Secretary is satisfied that there are special circumstances that prevented the first individual from making that notification before the end of that first income year;

**11 At the end of paragraph 32N(2)(b)**

Add “, so long as the Secretary becomes so satisfied before the end of the first income year after the relevant income year”.

**12 At the end of section 32N**

Add:

- (3) The further period under subparagraph (2)(a)(ii) must end no later than the end of the second income year after the relevant income year.

**13 Subsection 107(1)**

Omit “subsections (3)”, substitute “subsections (1A)”.

**14 Paragraph 107(1)(a)**

After “section 105”, insert “(including because of the operation of section 105A)”.

### 15 After subsection 107(1)

Insert:

- (1A) Subsection (1) does not limit the date of effect of a review decision, in respect of an original decision that relates to the payment to a person of family tax benefit by instalment, if the review was undertaken under section 105 because of the operation of section 105A.

### 16 Subsection 107(3)

Repeal the subsection, substitute:

- (3) Subsection (2) does not limit the date of effect of a review decision, in respect of an original decision that relates to the payment to a person of child care benefit by fee reduction, if the review was undertaken because the Commissioner of Taxation had made an assessment of the taxable income for a particular income year of each person:
- (a) whose taxable income is relevant in determining the first-mentioned person's CCB %; and
  - (b) who was required to lodge an income tax return in respect of that year;
- on the basis of the return lodged by each such person in accordance with subsection (3AA).

### 17 After subsection 109E(2)

Insert:

- (2A) Subsection (1) does not limit the date of effect of a decision by the Secretary or by an authorised review officer on an application by a person under section 109A for review of the original decision if:
- (a) as a result of the original decision, the person was entitled to be paid family tax benefit by instalment at a particular rate in respect of a period (the *same-rate benefit period*) that consists of, or is included in, a particular income year (the *relevant income year*); and
  - (b) either:
    - (i) if the same-rate benefit period to which the original decision relates is the only same-rate benefit period for

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the person for the relevant income year—the person satisfies the FTB reconciliation conditions for the same-rate benefit period; or

- (ii) if the same-rate benefit period to which the original decision relates is one of 2 or more same-rate benefit periods for the person for the relevant income year—the person satisfies the FTB reconciliation conditions for each of those same-rate benefit periods.

Note: To work out when the person satisfied the FTB reconciliation conditions, see section 32B.

### **18 Paragraph 109E(3)(a)**

Repeal the paragraph.

### **19 Subsection 109E(3A)**

Omit “paragraph (3)(a) or”.

### **20 Paragraph 109E(4)(a)**

Omit “paragraph (3)(a) or (b)”, substitute “paragraph (3)(b)”.

### **21 Application provisions**

- (1) The amendments made by items 1 to 3 apply in relation to a claim made on or after the commencement of this Schedule, where the past period falls in the income year in which this Schedule commences or in a later income year.
- (2) The amendments made by items 4 to 12 apply in relation to a decision referred to in subsection 32A(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* made before, on or after the commencement of this Schedule, where the same-rate benefit period consists of, or is included in, the income year in which this Schedule commences or in a later income year.
- (3) The amendments made by items 13 to 20 apply in relation to a review decision made on or after the commencement of this Schedule, where the original decision related to the payment of family tax benefit by instalment for a same-rate benefit period that consists of, or is included in, the income year in which this Schedule commences or in a later income year.

## Schedule 3—Study requirements for social security payments

### *Social Security Act 1991*

#### **1 At the end of subsection 541B(1)**

Add:

Note: Only one course of education can be considered in deciding if a person satisfies the undertaking full-time study requirement: see section 541C.

#### **2 After section 541B**

Insert:

##### **541C One course of education**

- (1) Whether subparagraph 541B(1)(a)(i) or (ii) and paragraphs 541B(1)(b), (c) and (d) are satisfied in relation to a person is to be determined in relation to only one course of education.
- (2) Whether a person satisfies the Secretary of the person's intention mentioned in subparagraph 541B(1)(a)(iii) and whether paragraphs 541B(1)(b), (c) and (d) are satisfied in relation to the person is to be determined in relation to only one course of education.

Note 1: The effect of this section is that 2 or more courses of education for a person cannot be aggregated to satisfy the undertaking full-time study requirement.

Note 2: The one course of education may be a combined course: see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

#### **3 At the end of section 569A**

Add:

Note: Only one course of education can be considered in deciding if a person satisfies the undertaking qualifying study requirement: see section 569AA.

#### **4 After section 569A**

Insert:

##### **569AA One course of education**

- (1) Whether subparagraph 569A(a)(i) or (ii) and paragraphs 569A(b), (c) and (d) are satisfied in relation to a person is to be determined in relation to only one course of education.
- (2) Whether a person satisfies the Secretary of the person's intention mentioned in subparagraph 569A(a)(iii) and whether paragraphs 569A(b), (c) and (d) are satisfied in relation to the person is to be determined in relation to only one course of education.

Note 1: The effect of this section is that 2 or more courses of education for a person cannot be aggregated to satisfy the undertaking qualifying study requirement.

Note 2: The one course of education may be a combined course: see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

#### **5 Application provision**

The amendments made by this Schedule apply in relation to working out if a person is qualified for a youth allowance, or an austudy payment, in respect of days occurring on or after the commencement of this Schedule (whether or not the person first qualified for that allowance or payment before that commencement).

## Schedule 4—New apprentices

### *Social Security Act 1991*

#### **1 Subsection 23(1) (definition of *new apprentice*)**

Repeal the definition, substitute:

*new apprentice* means a person who satisfies the requirements determined in an instrument under subsection (7).

#### **2 Before subsection 23(8)**

Insert:

*New apprentice*

- (7) The Minister may, by legislative instrument, determine requirements for the purposes of the definition of *new apprentice* in subsection (1).

#### **3 Application provision**

The amendments made by this Schedule apply in relation to working out if a person is qualified for a youth allowance, or an austudy payment, in respect of days occurring on or after the commencement of this Schedule (whether or not the person first qualified for that allowance or payment before that commencement).

## **Schedule 5—Austudy payment assets test**

### *Social Security Act 1991*

#### **1 Section 573A**

Before “A person”, insert “(1)”.

#### **2 Section 573A**

Omit “or has received”.

#### **3 Section 573A (table item 4A)**

Omit “or subsection 236(5)”.

#### **4 At the end of section 573A**

Add:

- (2) A person is also excluded from the application of the austudy payment assets test if the person’s partner has received a lump sum mentioned in subsection 236(5) of the Military Rehabilitation and Compensation Act.

#### **5 Application provision**

The amendments made by this Schedule apply in relation to working out if an austudy payment is payable to a person in respect of days occurring on or after the commencement of this Schedule (whether or not the person first qualified for that payment before that commencement).

## Schedule 6—Clarifying indexation of pharmaceutical allowance

### *Social Security Act 1991*

#### **1 Section 1190 (cell at table item 49A, column 3)**

Repeal the cell, substitute:

Pension PA “partnered” (item 5)  
rate

#### **2 Section 1190 (cell at table item 49A, column 4)**

Repeal the cell, substitute:

[Pension Rate Calculator D—  
point 1066A-D8—Table—  
column 3—item 5]

[Pension Rate Calculator E—  
point 1066B-D8—Table—  
column 3—item 5]

#### **3 Section 1190 (cell at table item 49B, column 3)**

Repeal the cell, substitute:

Benefit PA “Partnered (partner  
getting service pension)” rate

#### **4 Section 1190 (cell at table item 49B, column 4)**

Repeal the cell, substitute:

[Benefit Rate Calculator B—point  
1068-D10—Table—column 3—  
item 6]

[Benefit PP (Partnered) Rate  
Calculator—point 1068B-E8—  
Table—column 3—item 4]

#### **5 Section 1190 (cell at table item 49E, column 3)**

Repeal the cell, substitute:

PA (YA/AP) single rate

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**6 Section 1190 (cell at table item 49F, column 3)**

Repeal the cell, substitute:

PA (YA/AP) partnered (item 49F)  
rate

**7 Section 1190 (cell at table item 49G, column 3)**

Repeal the cell, substitute:

PA (YA/AP) (item 49G) rate

**8 Section 1190 (cell at table item 49H, column 3)**

Repeal the cell, substitute:

PA (YA/AP) (item 49H) rate

**9 Section 1190 (cell at table item 49J, column 3)**

Repeal the cell, substitute:

PA (YA/AP) (item 49J) rate

**10 Subsection 1191(1) (cell at table item 31, column 2)**

Repeal the cell, substitute:

Benefit PA “partnered” (item 2)  
rate

**11 Subsection 1191(1) (cell at table item 32, column 2)**

Repeal the cell, substitute:

Benefit PA “Partnered (partner  
getting service pension)” rate

**12 Subsection 1191(1) (cell at table item 33A, column 2)**

Repeal the cell, substitute:

PA (YA/AP) partnered (item 49F)  
rate  
PA (YA/AP) (item 49H) rate

**13 Section 1206A**

Repeal the section, substitute:

### 1206A Adjustment of certain pharmaceutical allowance rates

- (1) This Act has effect as if, on 1 January each year, there were substituted for:

- (a) the Pension PA “partnered” (item 2) rate; and
- (b) the Pension PA “partnered” (item 5) rate;

the amount worked out by using the formula:

Benefit PA “partnered” (item 2) rate  $\times$  26

where:

**Benefit PA “partnered” (item 2) rate** is the current figure, as at that 1 January, for the Benefit PA “partnered” (item 2) rate.

Note 1: For **current figure** see subsection 20(1).

Note 2: The Benefit PA “partnered” (item 2) rate is indexed on each 1 January (see the CPI Indexation Table in section 1191—item 31).

- (2) This Act has effect as if, on 1 January each year, there were substituted for:

- (a) the Pension PA “single” rate; and
- (b) the Pension PA “illness separated or respite care” rate; and
- (c) the Pension PA “partnered” (item 6) rate;

the amount worked out by using the formula:

Benefit PA “partnered” (item 2) rate  $\times$  52

where:

**Benefit PA “partnered” (item 2) rate** is the current figure, as at that 1 January, for the Benefit PA “partnered” (item 2) rate.

Note 1: The formula reflects the Benefit PA “partnered” (item 2) rate being multiplied by 26 to convert to a yearly amount and then being multiplied by 2 to convert from “partnered” to “single rate”.

Note 2: For **current figure** see subsection 20(1).

Note 3: The Benefit PA “partnered” (item 2) rate is indexed on each 1 January (see the CPI Indexation Table in section 1191—item 31).

- (3) This Act has effect as if, on 1 January each year, there were substituted for:

- (a) the Benefit PA “single” rate; and

- (b) the Benefit PA “partnered” (item 7) rate; and
  - (c) the Benefit PA “illness separated or respite care” rate;
- the amount worked out by using the formula:

Benefit PA “partnered” (item 2) rate  $\times$  2

where:

**Benefit PA “partnered” (item 2) rate** is the current figure, as at that 1 January, for the Benefit PA “partnered” (item 2) rate.

Note 1: For **current figure** see subsection 20(1).

Note 2: The Benefit PA “partnered” (item 2) rate is indexed on each 1 January (see the CPI Indexation Table in section 1191—item 31).

- (4) This Act has effect as if, on 1 January each year, there were substituted for:

- (a) the PA (YA/AP) single rate; and
  - (b) the PA (YA/AP) (item 49G) rate; and
  - (c) the PA (YA/AP) (item 49J) rate;
- the amount worked out by using the formula:

PA (YA/AP) partnered (item 49F) rate  $\times$  2

where:

**PA (YA/AP) partnered (item 49F) rate** means the current figure, as at that 1 January, for the PA (YA/AP) partnered (item 49F) rate.

Note 1: For **current figure** see subsection 20(1).

Note 2: The PA (YA/AP) partnered (item 49F) rate is indexed on each 1 January (see the CPI Indexation Table in section 1191—item 33A).

## Schedule 7—Health care card income test

### *Social Security Act 1991*

#### **1 After point 1071A-2**

Insert:

##### *Working out allowable income*

1071A-2A For the purposes of step 2 of the method statement in point 1071A-1 or 1071A-2:

- (a) disregard steps 1A, 2 and 3 of the method statement in point 1068-A1; and
- (b) the amount at step 1B of the method statement in point 1068-A1 is taken to be the amount applicable under item 5 of the table in point 1068-C3.

#### **2 Application provision**

The amendment made by this Schedule applies in relation to working out if a person is qualified for a health care card on a day on or after the commencement of this Schedule (whether or not the person held such a card immediately before that commencement).

## Schedule 8—Delegation

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

#### **1 Subsection 221(2)**

Repeal the subsection.

#### **2 Application provision**

The amendment made by this Schedule applies in relation to delegations made on or after the commencement of this Schedule.

## Schedule 9—Technical amendments

### *Social Security Act 1991*

#### **1 Paragraph 8(8)(z) (note)**

Omit “point 1067L-D15”, substitute “point 1067L-D17”.

#### **2 Paragraph 8(8)(z) (note)**

Omit “the Parenting Allowance Rate Calculator”, substitute “Benefit PP (Partnered) Rate Calculator”.

#### **3 Paragraph 8(8)(z) (note)**

Omit “, 1067L-D15”, substitute “, 1067L-D17”.

#### **4 Paragraph 8(8)(z) (note)**

Omit “1068A-D6”, substitute “1068B-D5”.

#### **5 Clause 49 of Schedule 1A**

Repeal the clause.

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*[Minister’s second reading speech made in—  
House of Representatives on 2 December 2015  
Senate on 4 May 2016]*

(232/15)

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