



Services Australia Governance Amendment Act 2020

No. 104, 2020

**An Act to amend the law relating to social services,
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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Services Australia Governance Amendment Act 2020

No. 104, 2020

An Act to amend the law relating to social services, and for related purposes

[Assented to 20 November 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Services Australia Governance Amendment Act 2020*.

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 |
| Provisions | 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. | 20 November 2020 |
| 2. Schedule 1 | 1 February 2020. | 1 February 2020 |
| 3. Schedule 2 | The day after this Act receives the Royal Assent. | 21 November 2020 |

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (definition of *Human Services Secretary*)

Omit “Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*”, substitute “Chief Executive Officer of Services Australia”.

2 Paragraph 57GM(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

3 Paragraph 57GO(3)(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

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

4 Subsection 3(1) (paragraph (b) of the definition of *head*)

Omit “Secretary of the Human Services Department”, substitute “Chief Executive Officer of Services Australia”.

5 Subsection 3(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

6 Subsection 3(1) (definition of *Human Services Minister*)

Repeal the definition.

7 Subsection 3(1) (subparagraph (a)(ii) of the definition of *protected information*)

Omit “or the Human Services Department”.

8 Subsection 3(1) (after paragraph (a) of the definition of *protected information*)

Insert:

(aaa) information about a person that:

- (i) was obtained by an officer under the family assistance law; and
- (ii) is or was held in the records of the Human Services Department within the meaning of this Act as in force at any time; or

9 Subsection 109C(2)

Repeal the subsection.

10 Subsection 221(3)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

11 Section 5 (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

12 Section 5 (definition of *Human Services Minister*)

Repeal the definition.

Business Services Wage Assessment Tool Payment Scheme Act 2015

13 Section 4 (definition of *Human Services Department*)

Omit “the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*”, substitute “Services Australia”.

Child Support (Assessment) Act 1989

14 Subsection 150AA(3) (paragraph (a) of the definition of *relevant information*)

Repeal the paragraph, substitute:

- (a) information about a person obtained from the records of:
 - (i) the Department; or
 - (ii) the Human Services Department within the meaning of this Act as in force at any time; or
 - (iii) the former Child Support Agency; or

Child Support (Registration and Collection) Act 1988

15 Subsection 4(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

16 Subsection 4(1) (definition of *Human Services Secretary*)

Omit “Secretary of the Human Services Department”, substitute “Chief Executive Officer of Services Australia”.

17 Subsection 16AA(3) (paragraph (a) of the definition of *relevant information*)

Repeal the paragraph, substitute:

- (a) information about a person obtained from the records of:
 - (i) the Department; or
 - (ii) the Human Services Department within the meaning of this Act as in force at any time; or
 - (iii) the former Child Support Agency; or

Data-matching Program (Assistance and Tax) Act 1990

18 Subsection 3(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

19 Subsection 3(1) (definition of *Human Services Minister*)

Repeal the definition.

Dental Benefits Act 2008

20 Section 4 (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

21 Section 4 (definition of *Human Services Minister*)

Repeal the definition.

Freedom of Information Act 1982

22 Subsection 4(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

23 Subsection 4(1) (definition of *Human Services Minister*)

Repeal the definition.

Human Services (Centrelink) Act 1997

24 Section 3 (definition of *Departmental employee*)

Omit “the Department”, substitute “Services Australia”.

25 Section 3 (definition of *Secretary*)

Omit “Secretary of the Department”, substitute “Chief Executive Officer of Services Australia”.

26 Paragraph 7(2)(a)

Omit “the Department”, substitute “Services Australia”.

27 Subsection 7A(1)

Omit “the Department”, substitute “Services Australia”.

28 Section 8B

Omit “of the Department”.

29 After subsection 38(3)

Insert:

- (3A) Subsection (1) applies in relation to the use or application of the protected name “Services Australia” only if the use or application is, or is likely to be mistaken to be, in connection with the operations of Services Australia as an executive agency or the provision of services by the Commonwealth.
- (3B) The prosecution bears the legal burden in relation to the matter in subsection (3A).

30 Subsection 38(4) (after paragraph (a) of the definition of *protected name*)

Insert:

- (aa) “Services Australia”;

31 Subsection 38(4) (after paragraph (a) of the definition of *protection time*)

Insert:

- (aa) in relation to the name “Services Australia”—the time immediately before the day the *Services Australia Governance Amendment Act 2020* receives the Royal Assent; or

Human Services (Medicare) Act 1973

32 Section 3 (definition of *Departmental employee*)

Repeal the definition (not including the note), substitute:

Departmental employee means:

- (a) unless paragraph (b) applies—an APS employee in Services Australia; or
- (b) if a Minister other than a Minister administering the *Human Services (Centrelink) Act 1997* administers this provision in relation to a matter—in relation to the matter, an APS employee in the Department that:

- (i) is administered by that other Minister; and
- (ii) deals with the matter.

33 Section 3 (definition of *Secretary*)

Omit “Secretary of the Department”, substitute “Chief Executive Officer of Services Australia”.

34 Paragraph 4(2)(a)

Omit “the Department”, substitute “Services Australia”.

35 Subsection 4A(1)

Omit “the Department”, substitute “Services Australia”.

36 Section 7A

Omit “of the Department”.

37 Paragraph 41C(2)(c)

Omit “the Department”, substitute “Services Australia”.

38 Paragraph 41CA(5)(b)

Omit “the Department”, substitute “Services Australia”.

My Health Records Act 2012

39 Section 5 (definition of *Human Services Department*)

Repeal the definition.

40 After paragraph 105(6)(b)

Insert:

- (ba) the Chief Executive Officer of Services Australia;

41 Paragraph 105(6)(c)

Omit “the Human Services Department,”.

National Redress Scheme for Institutional Child Sexual Abuse Act 2018

42 Section 6 (definition of *Human Services Department*)

Omit “the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*”, substitute “Services Australia”.

43 Section 67

Repeal the section, substitute:

67 Copy of a security notice to be given to the Operator

The Minister must give a copy of a security notice to the Operator.

44 Subsection 70(3)

Repeal the subsection, substitute:

- (3) The Minister must give a copy of a notice under subsection (1) to the Operator.

45 Subparagraph 92(2)(a)(ii)

Omit “or the Human Services Department”.

46 After paragraph 92(2)(a)

Insert:

- (aa) information about a person or an institution that:
- (i) was provided to, or obtained by, an officer of the scheme for the purposes of the scheme; and
 - (ii) is or was held in the records of the Human Services Department (within the meaning of this Act as in force at any time); or

47 Paragraph 92(2)(b)

After “(a)(ii)”, insert “or (aa)(ii)”.

Paid Parental Leave Act 2010

48 Section 6 (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

49 Section 6 (definition of *Human Services Minister*)

Repeal the definition.

50 Section 6 (definition of *Human Services Secretary*)

Omit “Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*”, substitute “Chief Executive Officer of Services Australia”.

51 Section 6 (paragraph (aa) of the definition of *protected information*)

Omit “or the Human Services Department”.

52 Section 6 (after paragraph (aa) of the definition of *protected information*)

Insert:

- (ab) information about a person that is or was held in the records of the Human Services Department within the meaning of this Act as in force at any time; or

53 Subsection 128(6)

After “paragraph”, insert “(aa), (ab),”.

54 Paragraph 278F(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

55 Paragraph 278H(3)(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

56 Subsection 151A(1) (table item 3)

Repeal the item, substitute:

- | | | |
|---|---|------------------------------------|
| 3 | The Chief Executive Officer of Services Australia | The purposes of Services Australia |
|---|---|------------------------------------|

Social Security Act 1991

57 Subsection 23(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

58 Subsection 23(1) (definition of *Human Services Minister*)

Repeal the definition.

59 Subsection 23(1) (definition of *Human Services Secretary*)

Omit “Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*”, substitute “Chief Executive Officer of Services Australia”.

60 Subsection 23(1) (subparagraph (a)(ii) of the definition of *protected information*)

Omit “or the Human Services Department”.

61 Subsection 23(1) (after paragraph (a) of the definition of *protected information*)

Insert:

- (aa) information about a person that:
 - (i) was obtained by an officer under the social security law; and
 - (ii) is or was held in the records of the Human Services Department within the meaning of this Act as in force at any time; or

62 Paragraph 38R(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

63 Paragraph 38T(3)(b)

Omit “Secretary of the Human Services Department”, substitute “Human Services Secretary”.

Student Assistance Act 1973

64 Subsection 3(1) (definition of *Human Services Department*)

Omit “the Department administered by the Human Services Minister”, substitute “Services Australia”.

65 Subsection 3(1) (definition of *Human Services Minister*)

Repeal the definition.

66 Application provision—offences

The amendments made by this Schedule apply in relation to an offence if the conduct constituting the offence occurs after the day the *Services Australia Governance Amendment Act 2020* receives the Royal Assent.

Schedule 2—Other amendments relating to Services Australia

Child Support (Registration and Collection) Act 1988

1 Subsections 10(2) to (4)

Repeal the subsections, substitute:

- (2) The Child Support Registrar is to be:
- (a) the Chief Executive Officer of Services Australia; or
 - (b) if that position ceases to exist—a person appointed as the Child Support Registrar by the Governor-General by written instrument.

Note: If the Child Support Registrar is appointed under paragraph (b), the Child Support Registrar may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

2 Section 10A

Repeal the section, substitute:

10A Acting Child Support Registrar

- (1) The acting Chief Executive Officer of Services Australia is to act as the Child Support Registrar:
- (a) during a vacancy in the position of Child Support Registrar (whether or not an appointment has previously been made to the position); or
 - (b) during any period, or during all periods, when the Child Support Registrar:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the position.

Note: For rules that apply to persons acting as the Child Support Registrar, see section 33A of the *Acts Interpretation Act 1901*.

- (2) However, if the position of Chief Executive Officer of Services Australia has ceased to exist, the Secretary may, in writing, appoint a person to act as the Child Support Registrar for the purposes of subsection (1).

Human Services (Centrelink) Act 1997

3 Subsections 7(2) to (4)

Repeal the subsections, substitute:

- (2) The Chief Executive Centrelink is to be:
- (a) the Chief Executive Officer of Services Australia; or
 - (b) if that position ceases to exist—a person appointed as the Chief Executive Centrelink by the Governor-General by written instrument.

Note: If the Chief Executive Centrelink is appointed under paragraph (b), the Chief Executive Centrelink may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

4 Section 7A

Repeal the section, substitute:

7A Acting Chief Executive Centrelink

- (1) The acting Chief Executive Officer of Services Australia is to act as the Chief Executive Centrelink:
- (a) during a vacancy in the position of Chief Executive Centrelink (whether or not an appointment has previously been made to the position); or
 - (b) during any period, or during all periods, when the Chief Executive Centrelink:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the position.

Note: For rules that apply to persons acting as the Chief Executive Centrelink, see section 33A of the *Acts Interpretation Act 1901*.

- (2) However, if the position of Chief Executive Officer of Services Australia has ceased to exist, the Secretary of the Department may, in writing, appoint a person to act as the Chief Executive Centrelink for the purposes of subsection (1).

5 Subsection 12(4)

After “that Act”, insert “or with the directions given by the person who delegated the function”.

6 Subsection 12(5)

Repeal the subsection, substitute:

- (5) In performing functions delegated to the Chief Executive Centrelink under another Act, the Chief Executive Centrelink, and any person to whom the function is subdelegated under subsection (3), must comply with any directions of the person who delegated the function.
- (6) In performing functions delegated or subdelegated under this section, the delegate or subdelegate must comply with any directions of the Chief Executive Centrelink.
- (7) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to a subdelegation in a corresponding way to the way in which they apply in relation to a delegation.

Human Services (Medicare) Act 1973

7 Subsections 4(2) to (4)

Repeal the subsections, substitute:

- (2) The Chief Executive Medicare is to be:
 - (a) the Chief Executive Officer of Services Australia; or
 - (b) if that position ceases to exist—a person appointed as the Chief Executive Medicare by the Governor-General by written instrument.

8 Section 4A

Repeal the section, substitute:

4A Acting Chief Executive Medicare

- (1) The acting Chief Executive Officer of Services Australia is to act as the Chief Executive Medicare:
 - (a) during a vacancy in the position of Chief Executive Medicare (whether or not an appointment has previously been made to the position); or
 - (b) during any period, or during all periods, when the Chief Executive Medicare:
 - (i) is absent from duty or from Australia; or

- (ii) is, for any reason, unable to perform the duties of the position.

Note: For rules that apply to persons acting as the Chief Executive Medicare, see section 33A of the *Acts Interpretation Act 1901*.

- (2) However, if the position of Chief Executive Officer of Services Australia has ceased to exist, the Secretary of the Department may, in writing, appoint a person to act as the Chief Executive Medicare for the purposes of subsection (1).

9 Subsection 8AC(4)

After “that Act”, insert “or with the directions given by the person who delegated the function”.

10 Subsection 8AC(5)

Repeal the subsection, substitute:

- (5) In performing functions delegated to the Chief Executive Medicare under another Act, the Chief Executive Medicare, and any person to whom the function is subdelegated under subsection (3), must comply with any directions of the person who delegated the function.
- (6) In performing functions delegated or subdelegated under this section, the delegate or subdelegate must comply with any directions of the Chief Executive Medicare.
- (7) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to a subdelegation in a corresponding way to the way in which they apply in relation to a delegation.

*[Minister's second reading speech made in—
House of Representatives on 13 May 2020
Senate on 9 November 2020]*

(64/20)

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