



# **Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012**

**No. 98, 2012**

**An Act to amend the *Social Security Act 1991* and  
other legislation, 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. 98, 2012**

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**An Act to amend the *Social Security Act 1991* and  
other legislation, and for related purposes**

[Assented to 29 June 2012]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Social Security and Other Legislation  
Amendment (2012 Budget and Other Measures) Act 2012*.

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*Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012*

*No. 98, 2012 1*

## Schedule 1 Excluded income

### 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>Provision(s)</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.	29 June 2012
2. Schedule 1	1 July 2012.	1 July 2012
3. Schedule 2, Part 1	1 January 2013.	1 January 2013
4. Schedule 2, item 74	Immediately after the commencement of item 18 of Schedule 4 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	1 July 2013
5. Schedule 2, items 75 to 79	Immediately after the commencement of Division 1 of Part 2 of Schedule 4 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	20 March 2013
6. Schedule 2, items 80 and 81	Immediately after the commencement of Division 2 of Part 2 of Schedule 1 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	1 January 2014
7. Schedule 2, items 82 to 84	Immediately after the commencement of Division 1 of Part 2 of Schedule 1 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	20 March 2013
8. Schedule 2, items 85 to 87	Immediately after the commencement of Part 2 of Schedule 3 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	20 March 2013
9. Schedule 2, Part 3	1 January 2013.	1 January 2013

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
10. Schedule 3	1 January 2013.	1 January 2013
11. Schedules 4 and 5	1 July 2012.	1 July 2012
12. Schedule 6	1 January 2013.	1 January 2013
13. Schedule 7	The day after this Act receives the Royal Assent.	30 June 2012

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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 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—Excluded income

### *Social Security Act 1991*

#### **1 Paragraph 8(8)(zaa)**

Omit “, where the amount is received during the financial year beginning on 1 July 2009, 1 July 2010 or 1 July 2011”.

#### **2 Paragraph 8(8)(zab)**

Omit “, where the use occurs during the financial year beginning on 1 July 2009, 1 July 2010 or 1 July 2011”.

### *Veterans’ Entitlements Act 1986*

#### **3 Paragraph 5H(8)(zea)**

Omit “, where the amount is received during the financial year beginning on 1 July 2009, 1 July 2010 or 1 July 2011”.

#### **4 Paragraph 5H(8)(zeb)**

Omit “, where the use occurs during the financial year beginning on 1 July 2009, 1 July 2010 or 1 July 2011”.



## **Schedule 2—Adjustments to portability and other periods**

### **Part 1—Amendments commencing on 1 January 2013**

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

##### **1 Subparagraph 21(1A)(b)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

##### **2 Paragraphs 24(2)(a) and (b) and (3)(c)**

Omit “13 weeks”, substitute “6 weeks”.

##### **3 Paragraphs 24(5)(a) and (b) and (6)(d)**

Omit “13 weeks”, substitute “6 weeks”.

##### **4 Subsections 42(1A), 44(1A) and 45(1A)**

Repeal the subsections, substitute:

*When individual satisfies this subsection*

(1A) An individual satisfies this subsection if:

(a) the individual is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; and

(b) either:

(i) the individual is in Australia; or

(ii) the individual is temporarily absent from Australia for a period not exceeding 6 weeks and the absence is an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

##### **5 Subparagraph 57G(2)(b)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

##### **6 Paragraph 62(2)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**7 Paragraph 62(3)(d)**

Omit “13 weeks”, substitute “6 weeks”.

**8 Paragraphs 63(2)(b) and (c)**

Omit “13 weeks”, substitute “6 weeks”.

**9 Paragraph 63(3A)(c)**

Omit “13 weeks”, substitute “6 weeks”.

**10 Paragraphs 63AA(1)(b) and (c)**

Omit “13 weeks”, substitute “6 weeks”.

**11 Paragraph 63AA(3)(c)**

Omit “13 weeks”, substitute “6 weeks”.

**12 Section 63A (heading)**

Repeal the heading, substitute:

**63A Secretary may extend 6 week period of absence from Australia**

**13 Subsections 63A(1), (3) and (4)**

Omit “13 week”, substitute “6 week”.

***Farm Household Support Act 1992***

**14 Paragraphs 8G(3)(b) and 8H(4)(b)**

Omit “13 weeks”, substitute “6 weeks”.

***Military Rehabilitation and Compensation Act 2004***

**15 Subsections 424A(2), 424B(2) and 424C(2)**

Omit “13 weeks”, substitute “6 weeks”.

***Paid Parental Leave Act 2010***

**16 Subsection 45(2)**

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Repeal the subsection, substitute:

*When a person satisfies this subsection*

- (2) A person satisfies this subsection if:
- (a) the person is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the Social Security Act; and
  - (b) either:
    - (i) the person is in Australia; or
    - (ii) the person is temporarily absent from Australia for not more than 6 weeks and the absence is an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

**17 Paragraphs 46(2)(a) and (b) and (3)(d)**

Omit “13 weeks”, substitute “6 weeks”.

***Social Security Act 1991***

**18 Subsection 5(21)**

Omit “13 weeks” (wherever occurring), substitute “6 weeks”.

**19 Subsection 5(23)**

Omit “13 weeks” (wherever occurring), substitute “6 weeks”.

**20 Paragraph 5(24)(c)**

Omit “13 weeks”, substitute “6 weeks”.

**21 Subsection 5G(2) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**22 Paragraphs 914(3)(b) and 914A(4)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**23 Paragraph 916F(b)**

Omit “39 weeks”, substitute “46 weeks”.

**24 Paragraph 1061PN(1)(b)**

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Omit “13 weeks”, substitute “6 weeks”.

**25 Paragraphs 1061PN(2)(a) and (b)**

Omit “13 weeks”, substitute “6 weeks”.

**26 Subparagraph 1061Q(4A)(a)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**27 Paragraphs 1061S(3A)(a), 1061SA(5)(a) and 1061SB(2)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**28 Subparagraph 1061T(1)(c)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**29 Subsection 1061ZA(3) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**30 Subsection 1061ZA(4) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**31 Subsection 1061ZB(2) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**32 Subsection 1061ZC(2) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**33 Subsection 1061ZC(4) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**34 Subsection 1061ZD(4) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**35 Subsection 1061ZD(6) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**36 Subsection 1061ZE(4) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**37 Subsection 1061ZE(6) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**38 Subsection 1061ZEA(3) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**39 Subsection 1061ZEA(5) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**40 Subsection 1061ZEB(3) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**41 Subsection 1061ZG(1) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**42 Subsection 1061ZN(1) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**43 Subsection 1061ZO(2) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**44 Subsection 1061ZO(3) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**45 Subsection 1061ZO(4) (note)**

Omit “13 weeks”, substitute “6 weeks”.

**46 Subsection 1061ZUB(2)**

Omit “13 weeks”, substitute “6 weeks”.

**47 Paragraph 1061ZUB(3)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**48 Paragraph 1061ZUC(1)(c)**

Omit “13 weeks”, substitute “6 weeks”.

**49 Paragraph 1064-BA2(b)**

Omit “13 weeks”, substitute “6 weeks”.

**50 Point 1064-BA5 (heading)**

Repeal the heading, substitute:

*Persons absent from Australia for more than 6 weeks*

**51 Paragraph 1065-BA2(b)**

Omit “13 weeks”, substitute “6 weeks”.

**52 Point 1065-BA5 (heading)**

Repeal the heading, substitute:

*Persons absent from Australia for more than 6 weeks*

**53 Paragraph 1066-BA2(b)**

Omit “13 weeks”, substitute “6 weeks”.

**54 Point 1066-BA5 (heading)**

Repeal the heading, substitute:

*Persons absent from Australia for more than 6 weeks*

**55 Paragraph 1067L-BA1(b)**

Omit “13 weeks”, substitute “6 weeks”.

**56 Paragraph 1068-BA1(b)**

Omit “13 weeks”, substitute “6 weeks”.

**57 Paragraph 1068A-BA2(b)**

Omit “13 weeks”, substitute “6 weeks”.

**58 Paragraph 1068B-DA1(b)**

Omit “13 weeks”, substitute “6 weeks”.

**59 Section 1217 (table)**

Omit “13 weeks” (wherever occurring), substitute “6 weeks”.

**60 Subsection 1218AA(3)**

Omit “13 weeks”, substitute “6 weeks”.

**61 Subsection 1218(3)**

Omit “13 weeks”, substitute “6 weeks”.

**62 Paragraph 1218B(1)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**63 Subclause 146(4) of Schedule 1A (notes 4 and 5)**

Omit “13 weeks”, substitute “6 weeks”.

**64 Subparagraphs 147(1)(c)(ii), (2)(c)(ii), (3)(b)(ii) and (4)(b)(ii) of Schedule 1A**

Omit “13 weeks”, substitute “6 weeks”.

*Social Security (Administration) Act 1999*

**65 Paragraphs 32(2)(c) and (d)**

Omit “13 weeks” (wherever occurring), substitute “6 weeks”.

*Veterans’ Entitlements Act 1986*

**66 Subparagraphs 58A(7)(b)(ii) and 60(1)(b)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**67 Paragraph 61A(3)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**68 Subparagraph 118P(2)(c)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**69 Subparagraphs 118V(1)(e)(ii), (1A)(d)(ii), (2)(e)(ii) and (3)(e)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**70 Subclause 30(4) of Schedule 5 (notes 4 and 5)**

Omit “13 weeks”, substitute “6 weeks”.

**71 Subparagraphs 31(1)(c)(ii), (2)(c)(ii), (3)(b)(ii) and (4)(b)(ii) of Schedule 5**

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Omit “13 weeks”, substitute “6 weeks”.

**72 Paragraph SCH6-BA2(b) of Schedule 6**

Omit “13 weeks”, substitute “6 weeks”.

**73 Point SCH6-BA5 of Schedule 6 (heading)**

Repeal the heading, substitute:

*Persons absent from Australia for more than 6 weeks*



## **Part 2—Clean energy amendments**

### ***Military Rehabilitation and Compensation Act 2004***

#### **74 Subparagraph 83A(1)(c)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

#### **75 Subparagraphs 209A(1)(c)(ii) and 238A(1)(c)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

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

#### **76 Subparagraph 1061UB(c)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

#### **77 Paragraph 1064-C1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **78 Paragraph 1065-C1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **79 Paragraph 1066-C1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **80 Paragraphs 1066A-BA1(b), 1066B-BA1(b) and 1067G-BA1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **81 Paragraph 1067L-BB1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **82 Paragraph 1068-C1(b)**

Omit “13 weeks”, substitute “6 weeks”.

#### **83 Paragraph 1068A-BB1(b)**

Omit “13 weeks”, substitute “6 weeks”.

**84 Paragraph 1068B-DB1(b)**

Omit “13 weeks”, substitute “6 weeks”.

***Veterans’ Entitlements Act 1986***

**85 Subparagraphs 62A(1)(d)(ii) and 62B(1)(d)(ii)**

Omit “13 weeks”, substitute “6 weeks”.

**86 Paragraph 118PB(2)(b)**

Omit “13 weeks”, substitute “6 weeks”.

**87 Paragraph SCH6-BB1(b) of Schedule 6**

Omit “13 weeks”, substitute “6 weeks”.

## **Part 3—Application provisions**

### **88 Application provisions**

- (1) Subject to subitems (2) to (6), the amendments made by this Schedule apply in relation to periods of absence from Australia starting on or after 1 January 2013.
- (2) The amendments made by items 2, 9, 11 and 20 apply in relation to children coming to Australia on or after 1 January 2013, whether the absence from Australia started before, on or after that date.
- (3) The amendments made by items 3, 7, 17, 25, 48 and 61 apply in relation to individuals returning to Australia on or after 1 January 2013, whether the absence from Australia started before, on or after that date.
- (4) The amendment made by item 19 applies in relation to children born outside Australia on or after 1 January 2013.
- (5) The amendment made by item 23 applies in relation to working out whether a person is qualified for a low income supplement for the 2013-14 income year and later income years.
- (6) The amendment made by item 60 applies in relation to qualifying circumstances that cease to exist on or after 1 January 2013.

## Schedule 3—Age/study rules for children for family assistance payments

### Part 1—Main amendments

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

##### **1 Subsection 22(4) (heading)**

Repeal the heading, substitute:

*Individual aged 18-19*

##### **2 Paragraph 22(4)(a)**

Repeal the paragraph, substitute:

- (a) the individual is aged 18 or is aged 19 and the calendar year in which the individual turned 19 has not ended; and

##### **3 Paragraph 22(4)(d)**

Repeal the paragraph, substitute:

- (d) the individual is a senior secondary school child.

##### **4 Subsection 22(6)**

Repeal the subsection.

##### **5 Paragraphs 31(3)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) if the child had turned 18 and was a senior secondary school child when the child died—any day on which the Secretary is satisfied the child would not have been a senior secondary school child if the child had not died; or
- (b) if the child had not turned 18 and was a senior secondary school child when the child died—any day on which the child would have been aged 18, and on which the Secretary is satisfied the child would not have been a senior secondary school child, if the child had not died; or

- (c) if the child was not a senior secondary school child when the child died—any day on which the child would have been aged 18 if the child had not died.

## **6 Subparagraphs 34(1)(a)(ii) and (iii)**

Repeal the subparagraphs, substitute:

- (ii) has turned 16 but is aged under 18 and satisfies or is exempt from the FTB activity test; or
- (iii) has turned 18 and is a senior secondary school child; and

## **7 Subsections 35A(1) and (2)**

Omit “, (4) or (6)” (wherever occurring), substitute “or (4)”.

## **8 Paragraphs 35B(1)(a) and (2)(b)**

Omit “, (4) or (6)”, substitute “or (4)”.

## **9 Paragraphs 65(2)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) where the child had turned 18 and was a senior secondary school child when the child died—the Secretary is satisfied the child would not have been a senior secondary school child on that day if the child had not died; or
- (b) where the child had not turned 18 and was a senior secondary school child when the child died—the child would have been aged 18, and the Secretary is satisfied the child would not have been a senior secondary school child, on that day if the child had not died; or
- (c) where the child was not a senior secondary school child when the child died—the child would have been aged 18 on that day if the child had not died.

## **10 Clause 7 of Schedule 1 (table item 5)**

Repeal the item.

## **11 Subclause 26(2) of Schedule 1**

Repeal the subclause, substitute:

- (2) The *FTB child rate* for the purpose of subclause (1) is \$1,416.20.

**12 Subclause 45(2) of Schedule 1**

Omit “for an FTB child who had not turned 18”.

**13 Clause 2 of Schedule 4 (table item 6)**

Omit “—all amounts”.

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

**14 Paragraph 35A(1)(c)**

Omit “for an FTB child who had not turned 18”.

***Family Assistance and Other Legislation Amendment Act  
2011***

**15 Item 6 of Schedule 1 (heading)**

Repeal the heading, substitute:

**6 Application provision**

**16 Subitems 6(2), (3) and (4) of Schedule 1**

Repeal the subitems.

**17 Application provisions**

- (1) The amendments made by items 1 to 12 and 14 to 16 apply for the purposes of working out eligibility for family tax benefit, and how much family tax benefit is payable, for a day that is on or after 1 January 2013.
  - (2) The amendments made by items 1 to 4 and 7 and 8 also apply for the purposes of working out eligibility for single income family supplement, and how much single income family supplement is payable, for a day that is on or after 1 January 2013.
  - (3) The amendments made by items 1 to 4 and 7 and 8 also apply for the purposes of working out eligibility for child care benefit, and how much child care benefit is payable, in respect of care provided to a child by an approved child care service or a registered carer on or after 1 January 2013.
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- (4) Subitem (1) applies, in relation to the amendments made by items 5 and 9, whether the child died before, on or after 1 January 2013.
- (5) The amendment made by item 13 applies in relation to the indexation day that is 1 July 2013 and all later indexation days.

## **Part 2—Clean energy consequential amendments**

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

#### **18 Subclause 38AA(1) of Schedule 1 (table item 5)**

Repeal the item.

#### **19 Subclause 38AF(1) of Schedule 1**

Repeal the subclause, substitute:

- (1) The amount of the clean energy supplement (Part A) to be added in working out an individual's Method 2 base rate under clause 25 is the sum of the FTB clean energy child amounts, worked out under subclause (2) of this clause and clause 38AG, for each FTB child of the individual.

#### **20 Subclause 38AF(2) of Schedule 1**

Omit "in relation to an item in the table in subclause (1)", substitute "for an FTB child of the individual".

#### **21 Subclause 38AF(2) of Schedule 1 (method statement, step 1)**

Repeal the step, substitute:

Step 1. Work out the amount applicable on 1 July 2013 under subclause 26(2).
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#### **22 Clause 2 of Schedule 4 (table item 8B)**

Omit "subclause 38AF(2)—all FTB clean energy child amounts", substitute "subclause 38AF(2)—the FTB clean energy child amount".

#### **23 Application provisions**

- (1) The amendments made by items 18 to 21 apply in relation to the 2013-14 income year and later income years.



- (2) The amendment made by item 22 applies in relation to the indexation day that is 1 July 2014 and all later indexation days.

***Clean Energy (Household Assistance Amendments) Act 2011***

**24 Item 35 of Schedule 2**

Repeal the item.

## **Part 3—Single income family supplement consequential amendments**

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

#### **25 Paragraphs 57GE(3)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) if the child had turned 18 and was a senior secondary school child when the child died—any day on which the Secretary is satisfied the child would not have been a senior secondary school child if the child had not died; or
- (b) if the child had not turned 18 and was a senior secondary school child when the child died—any day on which the child would have been aged 18, and on which the Secretary is satisfied the child would not have been a senior secondary school child, if the child had not died; or
- (c) if the child was not a senior secondary school child when the child died—any day on which the child would have been aged 18 if the child had not died.

#### **26 Application provision**

The amendment made by item 25 applies for the purposes of working out whether an individual is eligible for single income family supplement for a day that is on or after 1 January 2013 (whether the child died before, on or after 1 January 2013).

## **Schedule 4—Family tax benefit and reasonable maintenance action**

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

#### **1 Subsection 3(1) (definition of *capitalised maintenance income*)**

Omit “or 20C”, substitute “, 20C or 20D”.

#### **2 Subsection 3(1) (after subparagraph (a)(ii) of the definition of *maintenance income*)**

Insert:

- (ia) if clause 20D of Schedule 1 applies (deemed receipt for administrative assessments privately collected)—the amount worked out under that clause;

#### **3 Clause 10 of Schedule 1 (heading)**

Repeal the heading, substitute:

#### **10 Effect of certain maintenance rights**

#### **4 Clause 10 of Schedule 1**

Before “The FTB child rate”, insert “(1)”.

#### **5 At the end of clause 10 of Schedule 1**

Add:

- (2) Subclause (1) does not apply to maintenance that is:
  - (a) a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and
  - (b) not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*).

#### **6 Subclause 20C(3) of Schedule 1**

After “or (4)”, insert “or 20D(2)”.

#### **7 After clause 20C of Schedule 1**

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Insert:

**20D Working out amounts of child maintenance for administrative assessments privately collected**

- (1) This clause applies if, during a period in an income year:
  - (a) an individual is entitled to receive an amount of child maintenance for an FTB child of the individual under a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and
  - (b) the liability is not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*); and
  - (c) the child maintenance is not maintenance to which clause 20B applies; and
  - (d) the Secretary considers that it is reasonable for the individual to take action to obtain the amount.

*Individual taken to have received full entitlement*

- (2) For the purposes of this Act, the individual is taken to have received, for the period in the income year, the amount of child maintenance for the child that the individual is entitled to receive under the liability, disregarding so much of that amount as is attributable to the individual receiving disability expenses maintenance.

**8 Clause 38AD of Schedule 1 (heading)**

Repeal the heading, substitute:

**38AD Effect of certain maintenance rights**

**9 Clause 38AD of Schedule 1**

Before “The FTB clean energy”, insert “(1)”.

**10 At the end of clause 38AD of Schedule 1**

Add:

- (2) Subclause (1) does not apply to maintenance that is:

- (a) a liability under an administrative assessment (within the meaning of the *Child Support (Assessment) Act 1989*); and
- (b) not an enforceable maintenance liability (within the meaning of the *Child Support (Registration and Collection) Act 1988*).

## **11 Application provision**

The amendments made by items 1 to 7 apply in relation to working out an individual's Part A rate of family tax benefit for a day that occurs on or after 1 July 2012.

## Schedule 5—Percentage of care for children

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

#### **1 Subsection 23(2)**

Omit “The”, substitute “Subject to subsection (4A), the”.

#### **2 After subsection 23(4)**

Insert:

*When subsection (2) does not apply*

- (4A) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may determine that subsection (2) does not apply in relation to the child and the adult.

#### **3 Subsection 23(5) (paragraph (b) of the definition of *qualifying period*)**

Repeal the paragraph, substitute:

(b) either:

- (i) after 14 weeks pass since the child ceased to be in the adult’s care; or
- (ii) if the Secretary specifies, under subsection (5A), a day that is earlier than the last day in that 14-week period—the end of that earlier day;

#### **4 After subsection 23(5)**

Insert:

*Shorter qualifying period*

- (5A) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may specify a day for the purposes of subparagraph (b)(ii) of the definition of *qualifying period* in subsection (5).

#### **5 Before subsection 35C(2)**

Insert:

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*2 percentages of care in relation to the adult*

**6 Subsection 35C(2)**

Omit “The”, substitute “Subject to subsection (5), the”.

**7 At the end of section 35C**

Add:

*Single percentage of care in relation to the adult*

- (5) If the Secretary is satisfied that special circumstances exist in relation to the child, the Secretary may determine, under section 35A or 35B, a single percentage of care in relation to the adult.
- (6) The single percentage of care is to be:
  - (a) if section 35A applies in relation to the adult—0%; or
  - (b) if section 35B applies in relation to the adult—a percentage that corresponds with the actual care of the child that the Secretary is satisfied that the adult would have during the care period if the action referred to in paragraph (1)(c) were not to succeed.

**8 Before subsection 35L(1)**

Insert:

*2 percentages of care*

**9 At the end of paragraph 35L(1)(b)**

Add “and”.

**10 After paragraph 35L(1)(b)**

Insert:

- (ba) in accordance with subsection 35C(2) or 35D(2), 2 percentages of care are determined in relation to the individual;

**11 Subsection 35L(3)**

Omit “The”, substitute “Subject to subsection (5), the”.

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## **12 At the end of section 35L**

Add:

- (5) If the Secretary is satisfied that special circumstances exist in relation to the child, the day specified by the Secretary under subparagraph (2)(b)(i) may be a day that is earlier than the last day referred to in subsection (3).

*Single percentage of care*

- (6) If:
- (a) a determination of an individual's percentage of care for a child is made under section 35A or 35B; and
  - (b) section 35C applied in relation to the individual; and
  - (c) in accordance with subsection 35C(5), a single percentage of care is determined in relation to the individual;
- the percentage of care applies on and from the application day unless a revocation of the determination under Subdivision E of this Division takes effect.

## **13 Application provisions**

- (1) The amendments made by items 1 to 4 apply in relation to events referred to in paragraph 23(1)(b) of the *A New Tax System (Family Assistance) Act 1999* that occur on or after the commencement of those items.
- (2) The amendments made by items 5 to 12 apply in relation to care periods beginning on or after the commencement of those items (whether the care arrangement came into existence before, on or after that commencement).

## ***Child Support (Assessment) Act 1989***

### **14 Before subsection 51(2)**

Insert:

*2 percentages of care in relation to the responsible person*

### **15 Subsection 51(2)**

Omit "The", substitute "Subject to subsection (5), the".

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**16 At the end of section 51**

Add:

*Single percentage of care in relation to the responsible person*

- (5) If the Registrar is satisfied that special circumstances exist in relation to the child, the Registrar may determine, under section 49 or 50, a single percentage of care in relation to the responsible person.
- (6) The single percentage of care is to be:
  - (a) for a determination under section 49—0%; or
  - (b) for a determination under section 50—a percentage that corresponds with the actual care of the child that the Registrar is satisfied that the responsible person would be likely to have during the care period if the action referred to in paragraph (1)(d) were not to succeed.

**17 Before subsection 54C(1)**

Insert:

*2 percentages of care*

**18 At the end of paragraph 54C(1)(b)**

Add “and”.

**19 After paragraph 54C(1)(b)**

Insert:

- (ba) in accordance with subsection 51(2) or 52(2), 2 percentages of care are determined in relation to the responsible person;

**20 Subsection 54C(3)**

Omit “The”, substitute “Subject to subsection (5), the”.

**21 At the end of section 54C**

Add:

- (5) If the Registrar is satisfied that special circumstances exist in relation to the child, the day specified by the Registrar under

subparagraph (2)(b)(i) may be a day that is earlier than the last day referred to in subsection (3).

*Single percentage of care*

(6) If:

- (a) a determination of a responsible person's percentage of care for a child is made under section 49 or 50; and
- (b) section 51 applied in relation to the responsible person; and
- (c) in accordance with subsection 51(5), a single percentage of care is determined in relation to the responsible person;

the percentage of care applies to each day in a child support period on and from the application day unless a revocation of the determination under Subdivision C of this Division takes effect.

## **22 Application provision**

The amendments made by items 14 to 21 apply in relation to care periods beginning on or after the commencement of those items (whether the care arrangement came into existence before, on or after that commencement).

## **Schedule 6—Low income supplement**

### **Part 1—Amendments**

#### ***Clean Energy (Household Assistance Amendments) Act 2011***

##### **1 Paragraph 10(1)(b) of Schedule 6**

Omit “916B(a)(iii)”, substitute “916B(1)(a)(iii)”.

##### **2 At the end of item 10 of Schedule 6**

Add:

- (3) This item does not apply to a person if item 12 or 13 of Schedule 6 to the *Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012* applies in relation to the person.

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

##### **3 Section 916B**

Before “A person”, insert “(1)”.

##### **4 Subparagraph 916B(a)(ii)**

Omit “in section 916D”, substitute “under subsection 916D(1) or (1A)”.

##### **5 At the end of section 916B**

Add:

- (2) Despite subsection (1), a person is not qualified for a low income supplement for an income year if:
- (a) the person is a member of a couple when the person makes a claim for the supplement; and
  - (b) the person’s partner has received a low income supplement for the income year; and
  - (c) the person satisfies the excluded payment requirement under subsection 916D(1A) for the previous income year.
- (3) Despite subsection (1), a person is not qualified for a low income supplement for an income year if:

- (a) the person is a member of a couple when the person makes a claim for the supplement; and
  - (b) the person's partner has made a claim for the supplement for the income year; and
  - (c) all of the following apply:
    - (i) the person satisfies the excluded payment requirement under subsection 916D(1A) for the previous income year;
    - (ii) the person's partner satisfies the excluded payment requirement under subsection 916D(1) for the previous income year;
    - (iii) the person's partner is qualified for the supplement for the income year.
- (4) Despite subsection (1), a person is not qualified for a low income supplement for an income year if:
- (a) the person is a member of a couple when the person makes a claim for the supplement; and
  - (b) the person's partner has made a claim for the supplement for the income year; and
  - (c) all of the following apply:
    - (i) the person and the person's partner satisfy the excluded payment requirement under subsection 916D(1A) for the previous income year;
    - (ii) the person's partner is qualified for the supplement for the income year;
    - (iii) the Secretary determines, for the purposes of this subparagraph, that the person's partner is to receive the supplement for the income year.

## **6 Subsection 916D(1)**

After "payment requirement", insert "under this subsection".

## **7 After subsection 916D(1)**

Insert:

- (1A) A person satisfies the excluded payment requirement under this subsection for an income year if:
    - (a) there were at least 92 days during the year in respect of which relevant clean energy payments, other than payments
-

mentioned in paragraph (5)(b) or (c), were not paid to the person; and

- (b) there were at least 39 weeks during the income year for which the person had an FTB child; and
- (c) there were at least 13 weeks during the year for which the person did not receive any of the payments set out in subsection (3).

### **8 Subsection 916E(1)**

Omit “A person satisfies the tax requirement for an income year”, substitute “If a person satisfies the excluded payment requirement under subsection 916D(1) for an income year, the person satisfies the tax requirement for the income year”.

### **9 After subsection 916E(1)**

Insert:

- (1A) If a person satisfies the excluded payment requirement under subsection 916D(1A) for an income year and the person is not, at the claim time (within the meaning of subsection 916C(7)), a member of a couple, the person satisfies the tax requirement for the income year if the person’s accepted taxable income for the income year is:
  - (a) less than \$18,000; or
  - (b) \$18,000 or more, but less than the person’s LIS threshold amount for the income year.
- (1B) If a person satisfies the excluded payment requirement under subsection 916D(1A) for an income year and the person is, at the claim time (within the meaning of subsection 916C(7)), a member of a couple, the person satisfies the tax requirement for the income year if:
  - (a) the person’s accepted taxable income for the income year is:
    - (i) less than \$18,000; or
    - (ii) \$18,000 or more, but less than the person’s LIS threshold amount for the income year; and
  - (b) the person’s partner’s accepted taxable income for the income year is:
    - (i) less than \$18,000; or

**Schedule 6** Low income supplement  
**Part 1** Amendments

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- (ii) \$18,000 or more, but less than the person's partner's LIS threshold amount for the income year.

## **Part 2—Application and transitional provisions**

### **10 Definitions**

In this Part:

*accepted taxable income* has the same meaning as in subsection 916E(2) of the *Social Security Act 1991*.

*claim time* has the same meaning as in subsection 916C(7) of the *Social Security Act 1991*.

### **11 Application provision**

The amendments made by this Schedule apply in relation to claims for low income supplement made on or after 1 January 2013.

### **12 Transitional provisions for certain claims made in the 2012-13 income year—not a member of a couple**

(1) If a person:

- (a) makes a claim for low income supplement for the 2012-13 income year; and
- (b) satisfies the excluded payment requirement under subsection 916D(1A) of the *Social Security Act 1991*, as inserted by this Schedule, for the previous income year; and
- (c) is not, at the claim time, a member of a couple;

then:

- (d) subsection 916E(1A) of the *Social Security Act 1991* does not apply in relation to the claim; and
- (e) the person is taken to satisfy the tax requirement referred to in subparagraph 916B(1)(a)(iii) of that Act for the 2011-12 income year if the person satisfies subitem (2).

(2) A person satisfies this subitem if:

- (a) the person has an accepted taxable income for the 2011-12 income year; and
- (b) the amount of income tax owed by the person for that year, as worked out under subsection 4-10(3) of the *Income Tax Assessment Act 1997* by reference to the person's accepted taxable income, is less than \$300.

**13 Transitional provisions for certain claims made in the 2012-13 income year—member of a couple**

- (1) If a person:
- (a) makes a claim for low income supplement for the 2012-13 income year; and
  - (b) satisfies the excluded payment requirement under subsection 916D(1A) of the *Social Security Act 1991*, as inserted by this Schedule, for the previous income year; and
  - (c) is, at the claim time, a member of a couple;
- then:
- (d) subsection 916E(1B) of the *Social Security Act 1991* does not apply in relation to the claim; and
  - (e) the person is taken to satisfy the tax requirement referred to in subparagraph 916B(1)(a)(iii) of that Act for the 2011-12 income year if the person and the person's partner satisfy subitem (2).
- (2) A person satisfies this subitem if:
- (a) the person has an accepted taxable income for the 2011-12 income year; and
  - (b) the amount of income tax owed by the person for that year, as worked out under subsection 4-10(3) of the *Income Tax Assessment Act 1997* by reference to the person's accepted taxable income, is less than \$300.



## **Schedule 7—Other amendments**

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

**1 Subsection 3(1) (paragraph (b) of the definition of *regular care child*)**

Omit “a child”, substitute “an individual”.

**2 Subsection 42(2) (heading)**

Repeal the heading, substitute:

*Secretary may determine that individual is a regular care child*

**3 Subsection 42(2)**

Omit “a child”, substitute “an individual”.

**4 Subsection 42(2)**

Omit “an individual”, substitute “another individual”.

**5 Subsection 42(2)**

Omit “the individual”, substitute “the other individual”.

**6 Subsection 44(3) (heading)**

Repeal the heading, substitute:

*Secretary may determine that individual is a regular care child*

**7 Subsection 44(3)**

Omit “a child”, substitute “an individual”.

**8 Subsection 44(3)**

Omit “an individual”, substitute “another individual”.

**9 Subsection 44(3)**

Omit “the individual”, substitute “the other individual”.

**10 Subsection 45(3) (heading)**

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Repeal the heading, substitute:

*Secretary may determine that individual is a regular care child*

**11 Subsection 45(3)**

Omit “a child”, substitute “an individual”.

**12 Subsection 45(3)**

Omit “an individual”, substitute “another individual”.

**13 Subsection 45(3)**

Omit “the individual”, substitute “the other individual”.

**14 Application provision**

The amendments made by items 1 to 13 apply in relation to determinations made by the Secretary on or after the commencement of those items.

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

**15 Paragraph 47(2A)(b)**

Omit “\$846.15”, substitute “\$846.20”.

***Child Support (Assessment) Act 1989***

**16 After section 12**

Insert:

**12A Use of computer programs to make decisions**

- (1) The Secretary of the Department of which the Registrar is an employee may arrange for the use, under the Registrar’s control, of computer programs for any purposes for which the Registrar may make decisions under this Act.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Registrar.

***Child Support (Registration and Collection) Act 1988***

**17 After section 4**

Insert:

**4A Use of computer programs to make decisions**

- (1) The Secretary of the Department of which the Registrar is an employee may arrange for the use, under the Registrar's control, of computer programs for any purposes for which the Registrar may make decisions under this Act.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Registrar.

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*[Minister's second reading speech made in—  
House of Representatives on 24 May 2012  
Senate on 18 June 2012]*

(98/12)

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*Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012*

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