



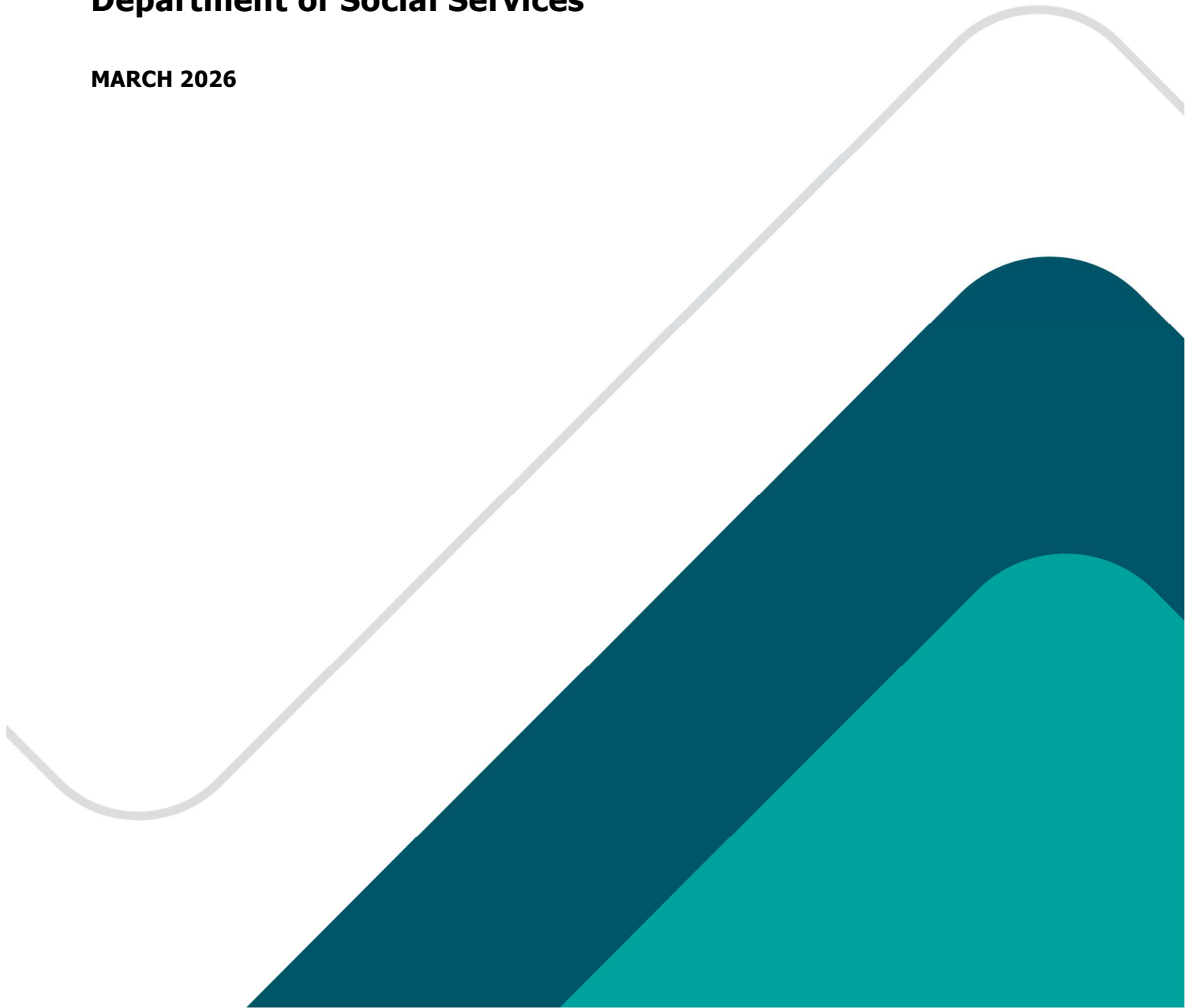
**Australian Government**  
**Department of Social Services**

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# **Submission to Community Affairs Legislation Committee Inquiry into the Social Security and Other Legislation Amendment (Technical Changes No.1) Bill 2026**

**Department of Social Services**

**MARCH 2026**



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## Introduction

The Social Security and Other Legislation Amendment (Technical Changes No. 1) Bill 2026 (the Bill) provides legal clarity for long established practices and policy intent across four key areas:

- clarifying the commencement date of child support periods when Services Australia receives information about a parent's income tax assessment;
- preventing a parent who provides less than 35% care of a child from being eligible to receive child support from a parent who provides the most care;
- allowing for urgent payments to be provided to eligible income support recipients outside the standard fortnightly cycle; and
- upholding existing arrangements for the assessment of employment income, particularly income earned by partners of income support recipients.

The Department of Social Services (the Department) welcomes the opportunity to make a submission to the Community Affairs Legislation Committee about the Bill, referred for inquiry on 5 March 2026.

This submission has been drafted to expand on the explanations and information about the measures in the Bill provided in the Explanatory Memorandum. The submission includes input from Services Australia.

## Key Points

The Bill contains three Schedules giving effect to the following measures:

- **Schedule 1** of the Bill amends the *Child Support (Assessment) Act 1989* to allow a child support period to start a month later than currently provided for in legislation if a new child support assessment is made after the 15th day of the month. Schedule 1 also amends the *Child Support (Assessment) Act 1989* to ensure parents with less than 35% care of a child are not entitled to receive child support, in line with the long established principle that parents who do not have significant costs of providing direct care of the children do not receive child support from the parent who has the most significant direct costs of care.
- **Schedule 2** of the Bill amends the *Social Security Act 1991* and *Social Security (Administration) Act 1999* to confirm the legislative basis for making urgent payments to income support recipients in exceptional and unforeseen circumstances.
- **Schedule 3** of the Bill amends the *Social Security Act 1991* to clarify how employment income attribution rules apply to the employment income of a social security recipient's partner, for the purposes of income testing that recipient.



## Schedule 1 – Child Support periods and less than 35% care

Schedule 1 of the Bill contains technical amendments to the *Child Support (Assessment) Act 1989*.

Part 1 of Schedule 1 clarifies the commencement date of child support periods when Services Australia receives a new tax assessment for a parent.

Part 2 amends the *Child Support (Assessment) Act 1989* to rectify the unintended consequence of past amendments with respect to parents who have less than 35% care of a child.

The amendments will ensure the long-standing policy intent, that a parent with less than 35% care is not entitled to receive child support payments, applies to all child support formulas consistently.

For both parts, decisions which have been made in accordance with the amended legislation before commencement will be validated.

### Part 1 – Child support periods

#### Current arrangements

Under the *Child Support (Assessment) Act 1989*, Services Australia is required to assess child support payable by a parent by issuing child support assessments for a child support period.

The first child support period for a child support case generally starts from the day the child support application was made (or the date from which a child support agreement is accepted by Services Australia) and continues for a maximum period of 15 months. Most commonly, a new child support period commences when a tax assessment of a parent's income is made.

As soon as practicable after the tax assessment is made, Services Australia must assess the rate of child support payable for days in a child support period starting on the first day of the next calendar month (after the calendar month in which the Registrar makes the assessment).

Under current legislation, each administrative assessment is required to commence on the first day of the next calendar month.

Where tax assessments are available to Services Australia in the second half of a calendar month, it has been a long-standing administrative practice for Services Australia to make the first day of the child support period for the new assessment the first day of the month after.

That is, a tax assessment received on 20 September would generally result in the Registrar issuing a new assessment shortly after receipt, but for a child support period commencing on 1 November, rather than 1 October. This practice was adopted to give parents sufficient notice to adjust to their new assessment, while not unduly delaying the making of a new assessment.



## Proposed changes

The provisions in Part 1 will provide a legislative basis for a new assessment to line up with existing administrative practice – that is to commence a month later than currently provided for if the assessment is made after the 15th day of a month. In the example above, a tax assessment received and assessed by 20 September will take effect on 1 November.

The provisions will also validate previous decisions and reviewed decisions after the commencement of the law.

## Part 2 – Less than 35% care

### Current arrangements

A long-standing principle on which the child support formulas (*Child Support (Assessment) Act 1989* Part 5) are based is that a parent or carer who has less than 35% care of a child should not be assessed as being entitled to receive child support for that child. This is because they do not bear a sufficient burden of the direct costs of care to warrant receiving child support from the other parent.

Under current legislation, there are two anomalous instances in the *Child Support (Assessment) Act 1989* (out of six formulas), which may operate to entitle a person with less than 35% care to child support.

The first situation may arise where a child is cared for by both parents as well as an ineligible third-party carer (ITPC). An ITPC is a third party who is not a parent, provides some care for a child, but does not meet other criteria for the non-parent carer formulas to apply. As the care provided by the ITPC may reduce the combined care of the child provided by the two parents to below 100% this can result in neither parent having more than 65% care. For such cases, legislation currently does not prevent child support being payable to a parent with less than 35% care by the other parent.

The second situation arises due to amendments made by the *Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018* which took effect on 1 July 2018.

Due to changes to the dates from which a new care percentage would take effect for each parent, whenever the Services Australia becomes aware of a care change more than 28 days after the event and the new care percentages would cause the responsible person's cost percentage to change.

In such cases:

- For the parent whose care has decreased, the old care percentage is revoked on the day before the change of care day, while the new care percentage takes effect from the change of care day.
- For the parent with increased care, the old care percentage is revoked from the day before the Registrar is notified or becomes aware of the change, and the increased care percentage takes effect only from the day of notification.



The 2018 amendments were made so that no party could benefit from delaying a care change notification. However, the amendments created an unintended scenario, where there is a difference between a parent's actual physical care and assessed care, such that during the 'gap period', (between the date of the care change and the date of notification) the assessed percentages of care for the parents add up to less than 100%, with one parent having less than 35% care and the other parent being assessed with less than 65% assessed care.

In this scenario, a parent who has increased physical care above 65% could be assessed as having less than 65% care during the gap period. This, in turn, could allow the other parent to be technically eligible for child support, despite having less than 35% care, because the legislation only prevents parents with greater than 65% assessed care from being liable to pay child support to the other parent.

## Proposed changes

The items in Part 2 of Schedule 1 retrospectively amend the legislation to bring about the intended result, to ensure in every case where a child support assessment was calculated under Formula 1 or Formula 3, including the ITPC and gap period cases – the parent with less than 35% care will not be regarded as being, or having been, entitled to receive child support from the other parent.

The amendments will ensure the policy intention for parents and third parties with less than 35% care to be treated consistently across all six child support formulas for all situations.

The amendments will also apply to all relevant decisions (retrospectively), including decisions made on review, after commencement.

## Schedule 2 – Urgent Payments

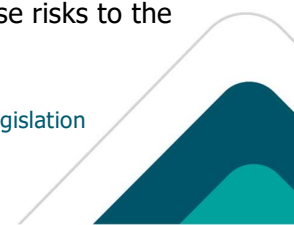
Schedule 2 of the Bill amends the *Social Security Act 1991* and the *Social Security (Administration) Act 1999* to provide legislative certainty for the administration of urgent payments, so social security recipients experiencing financial difficulties in exceptional and unforeseen circumstances can continue to access the support they need.

Urgent payments are an established avenue of financial support for vulnerable people who are experiencing financial difficulties and exceptional and unforeseen circumstances.

An urgent payment is a portion of a person's accrued entitlement delivered part way through an instalment period, with the remainder paid on the recipient's usual payment delivery day. An urgent payment is not an additional payment but enables a person to receive a portion of their usual fortnightly entitlement early.

In 2024-25, approximately 440,000 social security recipients were granted around one million urgent payments. Approximately 45% of urgent payments were made to a person who identified as Aboriginal and/or Torres Strait Islander. Around 16% of urgent payments were to a person living in a remote area and approximately 57% of urgent payments were made to women.

Without urgent payments, people may experience hardship due to the removal of an established avenue of financial support. This would likely result in customer frustration and increase risks to the safety of Services Australia staff.



Urgent payment interactions undertaken by phone or in person have a higher potential to generate customer frustration that may escalate into aggressive behaviour. Risks to recipients and their families could range from food insecurity or an inability to pay an unexpected bill, to the inability to travel to funerals.

## Proposed changes

The Bill provides legislative certainty for the administration of urgent payments, so that social security recipients experiencing financial difficulties in exceptional and unforeseen circumstances can continue to access the support they need.

In addition, the Bill provides clarity on rules for accessing and approving urgent payments.

There are currently a number of rules around how many urgent payments a person can receive from Services Australia.

The Bill provides for people to be able to access up to one urgent payment per day, if needed.

This will enable increased levels of self-service and automated decision-making, reducing the need for people to contact Services Australia by phone or in person and reducing identified risks to the safety of Services Australia staff.

People will no longer be required to prove they are in severe financial hardship. Urgent payments are not paid in addition to a person's regular entitlement. They are an early payment of entitlement that has already been accrued by the person. Asking a person who is experiencing an exceptional and unforeseen circumstance to prove they are in severe financial hardship to receive money they are already entitled to is not practical or necessary.

## Safeguards for vulnerable recipients

The Bill will create safeguards to ensure urgent payments will not cause the person further financial stress and people still have enough funds on their usual payment delivery day to cover their regular expenses. If a person needs more help, staff-assisted channels will remain available for people to request an urgent payment.

People can currently request an urgent payment of between \$20 and \$200. This limit will remain.

Recipients will be limited to accessing one urgent payment per day, between \$20 and \$200 per payment, and up to 50% of their daily accrued entitlement.

The calculation for making an urgent payment will also account for a person's scheduled deductions (e.g. utilities or rent paid through Centrepay), and any urgent payments already made in the entitlement period. This new calculation means people still have enough funds on their usual payment delivery day to cover their regular expenses.

Additionally, in instances where a person has accessed ten urgent payments in a 90-day period, they will need to contact Services Australia to discuss their circumstances before being granted any further urgent payments.



They will be offered personalised support such as referrals to a social worker, financial counselling or alternative assistance, as well as other options to help manage their payment such as Centrepay and weekly payments. If the person chooses not to contact Services Australia, they will need to wait for the 90-day period to finish before accessing further urgent payments.

People on weekly payment arrangements will not be eligible for urgent payments to reduce the risk of a person receiving a small amount on their usual payment delivery day. As weekly payments and urgent payments are voluntary arrangements, people will have a choice about how to manage their income support payment and can choose the arrangement that works best for them.

If a person needs more than \$200, they can access subsequent urgent payments on the following day if they have enough accrued funds available. Urgent payments are just one avenue of immediate financial support available for income support recipients. People can also access emergency relief, No Interest Loan Scheme (NILS) loans, an Advance Payment or other payments such as Crisis Payment to assist them.

## Schedule 3- Employment income attribution rules

Schedule 3 of the Bill amends the *Social Security Act 1991* to clarify the longstanding operation of employment income attribution provisions, which support the determination of a person's rate of social security payment.

The intended operation of the employment attribution provisions is to apply to all relevant employment income – including partner employment income of social security recipients – when determining a recipient's rate of payment.

This ensures social security payments are proportionate to a recipient's means and circumstances, and the social security system is targeted to need.

The amendments in this Bill clarify how partner employment income is assessed and will uphold existing arrangements. They do not have bearing on the existence of the partner income test, which is a long-standing feature of the social security system to support the targeting of assistance.

### Current arrangements

For the purposes of income testing a social security recipient, Services Australia attributes any employment income that a recipient (or their partner) receives consistent with the intended operation of these provisions.

In late 2025, a lack of clarity was identified in these provisions in the context of an Administrative Review Tribunal case, in relation to the assessment of employment income received by a social security recipient's partner.

It is the long-standing policy intent that these provisions apply to all employment income, including from a recipient's partner.



## Proposed changes

This is a technical amendment to ensure there is a clear legislative basis that removes any ambiguity in the existing provisions.

The amendments clarify that the partner employment income of a social security recipient is attributed under the employment income attribution provisions of the *Social Security Act 1991*. Consistent with the policy intent, in addition to clarifying the application of these provisions to partner employment income, the amendments will also clarify that the provisions apply at any time employment income is being assessed for the purposes of working out a rate of pension or benefit.

Without this clarification, a possible perverse outcome is that a recipient's employment income and their partner's employment income may need to be assessed using different methods.

Clarifying the legislative basis for the assessment of partner employment income will remove ambiguity and avoid such unintended consequences.

## Financial Impact

The changes in the Bill will have no financial impact on the Australian Government. Costs, such as system changes, will be managed through existing departmental funds.

## Implementation

Schedule 1 will commence the day after Royal Assent.

Schedule 2 will commence on a single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day the Act receives the Royal Assent, they commence on the day after the end of that period. This timeframe is necessary to facilitate the implementation of system changes, staff training and customer guidance material by Services Australia.

Schedule 3 will commence the day after the Act receives Royal Assent.

## Summary

The Department considers that the Bill, if passed, will enable the Department to better and more fairly administer and implement the policies of the Government that benefit and support separated parents, and recipients of social security payments – particularly vulnerable recipients in need of urgent social security payments. The Bill provides legislative certainty and more consistent outcomes for separated parents and social security recipients.

The Department thanks the Committee for its consideration of this submission.

