



Social Security Amendment (Flexible Participation Requirements for Principal Carers) Bill 2010

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Social Security Amendment (Flexible Participation Requirements for Principal Carers) Bill 2010

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Links: The [links](#) to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bills page, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Social Security Amendment (Flexible Participation Requirements for Principal Carers) Bill 2010 (the Bill) is to amend the *Social Security Act 1991* (the Act), so as to change the participation requirements for principal carers who receive income support, allowing them to more effectively balance parenting responsibilities with participation requirements.

Background

Participation Requirements for Principal Carers

In July 2006, participation requirements were introduced for people who were receiving income support payments and were parents or carers for children. They were termed Principal Carers and certain aspects of their entitlements and obligations were modified to recognise the impact of their caring role.¹

Principal carers can be eligible for Parenting Payment, Newstart Allowance, Youth Allowance (for jobseekers) or Special Benefit. They are generally subject to a part-time participation requirement once their youngest child reaches the age of six years. Principal carers can satisfy those requirements by:

- looking for suitable part-time paid work of at least 15 hours per week

1. For more detail on the 2006 Welfare to Work reforms see D Daniels and P Yeend, *Employment and Workplace Relations Amendment (Welfare to Work and Other Measures) Bill 2005*, Bills digest, no. 70, 2005-06, Parliamentary Library, Canberra, 2005, viewed 7 May 2010, <http://www.aph.gov.au/Library/pubs/bd/2005-06/06bd070.pdf>

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- participating in approved activities including voluntary work, study, training and self employment
- involvement in the Job Network, or
- working part-time for between 15 and 25 hours per week.

However, principal carers have access to a range of exemptions from those participation requirements where specific situations apply. Automatic exemptions apply where the principal carer is:

- an active registered foster carer
- home schooling their child
- providing distance education for their child
- caring for four or more children, or
- caring for a related child (not their child) in accordance with a family law order.

Other exemptions are available on a case by case basis in situations where the principal carer is unable to undertake 15 hours of paid work per week, which include:

- caring for a child with a disability
- being a kinship carer
- being subject to domestic violence
- undergoing high stress from a recent relationship breakdown
- the death of an immediate family member
- providing full-time care for a temporarily ill or injured child, or
- caring for a frail aged or disabled adult family member.²

Participation Review Taskforce Report

In June 2008, the Government commissioned a review of the participation rules for parents and mature age job seekers in response to feedback that some of the requirements were unduly onerous and added no value to income support recipients' job search efforts. The Participation Review Taskforce (the Taskforce) reported to the Government in August 2008 and its report was made public at the time of the 2009 Budget in May 2009. In its report, the Taskforce recommended that the operation of participation requirements for

2. *Guide to the Social Security Law*, version 1.164, 3 May 2010, p. 3.5.1.260. viewed 7 May 2010, http://www.facs.gov.au/guides_acts/ssg/ssguide-3/ssguide-3.5/ssguide-3.5.1/ssguide-3.5.1.260.html

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parents be fine tuned.³ These recommendations were agreed to by the Government and will be implemented from 1 July 2010. The full list of changes was set out in the Budget press release from the Minister for Employment Participation, Brendan O'Connor, as follows:

The Government will adopt the Taskforce's recommendations including:

- Allowing principal carer parents to meet participation requirements by combining part-time study, voluntary work with vocational value and part-time paid work.
- Supporting principal carer parents wanting to start their own business to participate in self-employment programs such as the New Enterprise Incentive Scheme on a part-time basis.
- Confirming that principal carer parents will be exempt from part-time participation requirements during the fortnight that includes the Christmas and New Year public holidays, recognising child care is very difficult to obtain.
- Introducing a new 12 month exemption for grandparents and other relatives who are entering into kinship care arrangements recognised through a court order or case plan.
- Improving the arrangements for foster carers so they have a more reasonable period of exemption from activity requirements between foster care placements.
- Extending the current 'large family' exemption of four children up to age 16 to include older children if they are still living at home and enrolled in school, and extending current distance education and home-schooling exemptions to when the youngest child completes school.
- Improving the ability of parents experiencing domestic violence to obtain exemptions from participation requirements and allowing greater discretion for exemptions to be extended beyond the existing 16 weeks.
- Allowing principal carer parents who work during school term more flexible arrangements over the long school holidays, if they are temporarily not employed but are likely to resume employment once the school term re-commences.

Other recommendations that will be implemented include making more information available to parents about exemptions and allowing more practical reporting for carers and parents on their earnings and participation efforts to Centrelink via the internet or telephone.⁴

The Bill implements the recommended changes that require legislative amendments. Other recommendations can be implemented administratively or by legislative instrument.

3. *Participation Review Taskforce Report*, Australian Government, 31 August 2008, viewed 10 May 2010,

<http://www.deewr.gov.au/Employment/Documents/ParticipationTaskforceReport.pdf>

4. B O'Connor (Minister for Employment Participation), *Improved participation requirements for parents and carers*, media release, 12 May 2009, viewed 10 May 2010,

http://www.deewr.gov.au/Ministers/OConnor/Media/Releases/Pages/Article_090512_181921.aspx

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Financial implications

The measures will cost \$26.8 million over the four years 2009-10 to 2012-13.⁵

Main provisions

Schedule 1 of the Bill sets out amendments proposed in relation to participation requirement exemptions to principal carers receiving the following types of income support payments:

- Newstart Allowance
- Parenting Payment
- Youth Allowance, or
- Special Benefits,

who have school-aged children and who must otherwise report at least 15 hours of approved activities to Centrelink each week.

The Schedule deals with participation requirement exemptions that would apply in relation to those recipients who:

- experience domestic violence
- care for four or more children
- home school and distance educate their child
- provide kinship care for children who are relatives, through a care plan prepared or accepted by the State or Territory Government, and
- provide emergency or respite foster care.

Changes to definitions

Item 3 inserts **new sections 5F and 5G** into the Act, which set out the definitions of ‘main supporter’ and ‘secondary pupil child’.

In general, if a person is the main supporter of a ‘secondary pupil child’, that person is regarded as the ‘main supporter’ of that child (**proposed subsection 5G(1)**). However, in determining whether a person is the main supporter of a secondary pupil child, existing subsections 5(18)–(22) and 5(24) would apply as they currently do in determining whether someone is the principal carer for a child (**proposed subsection 5G(2)**).

5. Explanatory Memorandum, Social Security Amendment (Flexible Participation Requirements for Principal Carers) Bill 2010, p. 2.

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Proposed section 5F defines ‘secondary pupil child’. The definition excludes the situation where the ‘secondary pupil child’ is actually the partner of a person.

These definitions contribute to extending certain participation requirement exemptions available to people who receive the above-mentioned income support payments. Currently, for example, parents who home school or distance educate their children may only receive a participation requirement exemption until their youngest child turns 16 years of age. This amendment extends the availability of the exemption until that child finishes high school.⁶

Domestic violence exemptions

Item 4 substitutes existing **paragraph 502C(2)(a)** of the Act, so as to allow a Parenting Payment recipient to claim a participation requirement exemption due to domestic violence without having to leave the relationship. Existing paragraph 502C(2)(a) requires the person to have left the relationship, which gave rise to the domestic violence, before they could claim the exemption.

Items 7, 13 and 19 propose similar amendments in relation to recipients of the Youth Allowance, Newstart Allowance and Special Benefit.

Exemptions relating to caring for four or more school-aged children; providing home school or distance education; and kinship care arrangements

Item 6 substitutes existing **subsection 502D(3A)** of the Act with new **subsections 502D(3A)–(3C)**. Section 502D relates to determinations made by the Secretary that a participation requirement exemption applies to a person in particular circumstances.

Proposed subsection 502D(3A) provides that the Secretary must make such a determination if he or she is satisfied that the person is the principal carer of one or more children, including being the main supporter of one or more secondary pupil child.⁷

Proposed subsection 5D(3B) provides that the Secretary must make such a determination if satisfied that the person is the main supporter of one or more secondary pupil children and is also either the home or distance educator of one or more of those children.

The Explanatory Memorandum states:

Paragraphs 502D(3)(b) and (c) of the Social Security Act provide an exemption to a person who is receiving Parenting Payment where the Secretary is satisfied the person is the principal carer of one or more children, and:

6. Explanatory Memorandum, op. cit., p. 1.

7. As to the meanings of ‘principal carer’, see *Social Security Act 1991* subsections 5(15)–(24).

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- the person is a home educator of that child, or one or more of those children;
or
- the person is a distance educator of that child, or one or more of those children.

These exemptions are maintained.

New subsection 502D(3B) will extend the participation exemptions contained in paragraphs 502D(3)(b) and (c) to a person who is the main supporter of one or more secondary pupil children.⁸

Proposed subsection 502D(3C) provides that the Secretary must also make a determination if satisfied that:

- the person is a principal carer of one or more children
- the person is a relative other than a parent of a child (*kin child*), and
- the person is complying with a written order, prepared or accepted by a State or Territory authority, that the kin child lives with the person.

Items 9, 15 and 21 propose similar amendments in relation to recipients of the Youth Allowance, Newstart Allowance and Special Benefit.

Exemptions relating to providing emergency or respite foster care

Items 9, 15 and 21 also propose to amend sections 542FA, 602C and 731DB in the Act, by **inserting new subsections 542FA(3B), 602C(3B) and 731DB(3B)** respectively. These proposed subsections require the Secretary to make a determination that a participation requirement exemption applies to a person if satisfied that the person:

- is not the principal carer of one or more children
- is a registered and active foster carer, and
- provides emergency or respite foster care.⁹

This amendment extends the participation requirement exemption from the current situation where the person must be a principal carer in order for the exemption to apply (existing subsection 502D(3)). Note, however, that the current exemption for principal carers is being maintained.

Items 10–12, 16–18 and 22–24 propose similar amendments in relation to recipients of the Youth Allowance, Newstart Allowance and Special Benefit.

8. Explanatory Memorandum, op. cit., pp. 5–6.

9. As to the meaning of ‘registered and active foster carer’, see *Social Security Act 1991* section 5B.

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