

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

Presented and read a first time

*(Social Security)*

**SOCIAL SECURITY AMENDMENT BILL (NO. 2) 1993**

**TABLE OF PROVISIONS**

**PART 1—PRELIMINARY**

Section

1. Short title etc.
2. Commencement

**PART 2—INCREASED RATE OF PAYMENT FOR CERTAIN NEWSTART  
ALLOWEES**

3. Benefit Rate Calculator B
4. Indexed and adjusted amounts

**PART 3—FAMILY PAYMENT INCOME AND ASSETS TESTS TO APPLY  
TO STUDENT PARENTS**

5. Family Payment Rate Calculator
6. Consequential amendments

**PART 4—REDUCED INCOME CEILING AND ASSETS VALUE LIMIT FOR  
BASIC FAMILY PAYMENT**

7. Qualification for individual family payment
8. Family Payment Rate Calculator
9. Access to financial hardship rules—family payment
10. Indexed and adjusted amounts
11. CPI Indexation Table
12. Indexation of amounts

TABLE OF PROVISIONS—*continued*

Section

PART 5—LIMIT ARREARS OF FAMILY PAYMENT

- 13. General definitions
- 14. Insertion of new section:
  - 873A. Secretary may require recipient to give notice of change of address
- 15. Continuing effect of determination
- 16. Insertion of new section:
  - 881A. Suspension for failure to comply with section 873, 1304 or 1305 notice after being given a section 873A notice
- 17. Date of effect of adverse determination
- 18. Insertion of new section:
  - 1243A. Certain determinations not to be revived
- 19. Certain determinations not to be revived
- 20. Notice of decisions under this Act

SCHEDULE

CONSEQUENTIAL AMENDMENTS

1993

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## A BILL

FOR

### **An Act to amend the *Social Security Act 1991***

The Parliament of Australia enacts:

#### **PART 1—PRELIMINARY**

##### **Short title etc.**

5     **1.(1)** This Act may be cited as the *Social Security Amendment Act (No. 2) 1993*.

**(2)** In this Act, “**Principal Act**” means the *Social Security Act 1991*<sup>1</sup>.

##### **Commencement**

**2.(1)** Subject to subsections (2), (3), (4) and (5), this Act commences on the day on which it receives the Royal Assent.

10     **(2)** Part 3 and the Schedule commence on 1 January 1994, immediately after the commencement of Part 4 of the *Social Security Legislation Amendment Act (No. 2) 1993*.

**(3)** Part 4 commences on 1 January 1994, immediately after Part 3.

**(4)** Part 2 commences on 20 March 1994.

15     **(5)** Section 19 commences on the day on which the *Social Security Legislation Amendment Act 1993* receives the Royal Assent.

**PART 2—INCREASED RATE OF PAYMENT FOR CERTAIN  
NEWSTART ALLOWEES**

**Benefit Rate Calculator B**

3. The Rate Calculator in section 1068 of the Principal Act is amended:

(a) by omitting items 3 and 4 from Table B in point 1068-B1 and substituting the following items: 5

“

3.	Not member of couple and person: (a) receives job search allowance or sickness allowance; and (b) has turned 21 but has not turned 60	\$312.10	\$282.70
4.	Not member of couple and person: (a) receives job search allowance or sickness allowance; and (b) has turned 60; and (c) has not been receiving social security benefit continuously for at least 6 months	\$312.10	\$282.70
4A.	Not member of couple and person: (a) receives newstart allowance; and (b) has turned 21 but has not turned 60	\$312.10	\$282.70
4B.	Not member of couple and person: (a) receives newstart allowance; and (b) has turned 60; and (c) has not been receiving social security benefit continuously for at least 6 months	\$312.10	\$282.70

”;

(b) by adding after point 1068-B2 the following points in Module B:

“1068-B3. On 20 March 1994 the amounts specified in items 4A and 4B in column 3B of Table B in point 1068-B1 are increased by \$6.00. The increase is to be made after the indexation of the amounts on that day has occurred. 10

“1068-B4. The amounts in items 3, 4, 4A and 4B in columns 3A and 3B of Table B in point 1068-B1 are to be indexed on 20 September 1993 and 20 March 1994 under section 1192 as if Part 2 of the *Social Security Amendment Act (No. 2) 1993* had commenced on 1 September 1993.”. 15

**Indexed and adjusted amounts**

4. The Indexed and Adjusted Amounts Table in section 1190 of the Principal Act is amended by omitting from column 4 in item 2 “items 3, 4, 5, 7 and 9” and substituting “items 3, 4, 4A, 4B, 5, 7 and 9”. 20

**PART 3—FAMILY PAYMENT INCOME AND ASSETS TESTS  
TO APPLY TO STUDENT PARENTS**

**Family Payment Rate Calculator**

5. The Rate Calculator in section 1069 of the Principal Act is amended:

5 (a) by omitting point 1069-D4 and substituting the following point:

*Assets test not to apply to recipient of pension or benefit*

“1069-D4. Paragraph 1069-D2(c) does not apply to a person who is, or whose partner is, receiving a social security pension or benefit.”;

10 (b) by omitting paragraph 1069-D10(a);

(c) by omitting from the Note to point 1069-D10 “(a) or”;

(d) by omitting point 1069-H1 and substituting the following point:

*Persons to whom the income test applies*

15 “1069-H1. The income tests in Submodules 3 and 4 apply to a person unless the person, or the person’s partner, is receiving a social security pension or benefit or a service pension.”.

**Consequential amendments**

6. The Principal Act is amended as set out in the Schedule.

**PART 4—REDUCED INCOME CEILING AND ASSETS VALUE  
LIMIT FOR BASIC FAMILY PAYMENT**

**Qualification for individual family payment**

7. Section 838 of the Principal Act is amended:

25 (a) by omitting from paragraph (1)(d) “\$607,250” and substituting “\$550,000”;

(b) by adding at the end of Note 5 to subsection (1) the following:

“The first indexation is to take place on 1 January 1995 (see subsection 1192(4A)).”.

**Family Payment Rate Calculator**

8. The Rate Calculator in section 1069 of the Principal Act is amended:

30 (a) by omitting from column 1 of Table H in point 1069-H26 “\$64,938.00” and substituting “\$60,000.00”;

(b) by omitting from column 2 of Table H in point 1069-H26 “\$3,249.00” and substituting “\$3,000.00”;

(c) by omitting the Note to Table H in point 1069-H26 and substituting the following Note:

35 “Note: The amounts in the Table are indexed in line with CPI increases (see sections 1191 to 1194). The first indexation is to take place on 1 January 1995 (see subsection 1192(4A)).”.

**Access to financial hardship rules—family payment**

9. Section 1132A of the Principal Act is amended:

- (a) by omitting from subsection (3) “\$600,000” and substituting “\$550,000”;
- (b) by adding at the end of subsection (3) the following Note: 5

“Note: The amount in this subsection is indexed annually in line with CPI increases (see sections 1191 to 1994). The first indexation is to take place on 1 January 1995 (see subsection 1192(4A)).”.

**Indexed and adjusted amounts**

10. Section 1190 of the Principal Act is amended: 10

- (a) by omitting item 21 from the Indexed and Adjusted Amounts Table and substituting the following item:

“

21.	Income ceiling for base rate for family payment	FP base rate income ceiling	[Family Payment Rate Calculator—Module H—Table H—columns 1 and 2]
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”;

- (b) by inserting in column 4 of item 34A of the Indexed and Adjusted Amounts Table “[subsection 1132A(3)]” after “[paragraph 838(1)(d)]”. 15

**CPI Indexation Table**

11. Section 1191 of the Principal Act is amended by omitting from column 2 of item 15 of the CPI Indexation Table in subsection (1) “basic ceiling for the base rate of family payment” and substituting “FP base rate income ceiling”. 20

**Indexation of amounts**

12. Section 1192 of the Principal Act is amended:

- (a) by omitting from subsection (4) “, 15, 24A”;
- (b) by inserting after subsection (4) the following subsection:

“(4A) The first indexation of the amounts to which items 15 and 24A of the CPI Indexation Table in subsection 1191(1) relate is to take place on 1 January 1995.”. 25

**PART 5—LIMIT ARREARS OF FAMILY PAYMENT**

**General definitions**

13. Section 23 of the Principal Act is amended by adding at the end the following subsection: 30

*Notices that are taken to be given but are not received*

“(12) If:

(a) section 1302A of this Act applies to a notice of a decision under this Act; or

(b) sections 28A and 29 of the *Acts Interpretation Act 1901* apply to a notice under this Act;

section 1302A applies, or sections 28A and 29 apply, to the notice even if the Secretary is satisfied that the person did not actually receive the notice.

Note: An example of a circumstance that is likely to satisfy the Secretary that the person did not actually receive the notice is if the notice is sent back to the Department marked ‘return to sender’ or ‘not at this address’ or ‘whereabouts unknown’.”.

**Insertion of new section**

14. After section 873 of the Principal Act the following section is inserted in Division 8 of Part 2.17:

**Secretary may require recipient to give notice of change of address**

“873A.(1) The Secretary may give a recipient of family payment a notice that requires the recipient to inform the Department if the recipient has changed or changes his or her address.

“(2) A notice under subsection (1):

(a) must be in writing; and

(b) may be given personally or by post; and

(c) must specify how the recipient is to give the information to the Department; and

(d) must specify the period within which the recipient is to give the information to the Department; and

(e) must specify that the notice is a notice given under this Act.

“(3) The period specified under paragraph (2)(d) must end:

(a) at least 14 days after the day on which the recipient changes address; or

(b) at least 14 days after the day on which the notice is given;

whichever is the later.”.

**Continuing effect of determination**

15. Section 874 of the Principal Act is amended by omitting from paragraph (1)(d) “or 881” and substituting “, 881 or 881A”.

**Insertion of new section**

16. After section 881 of the Principal Act the following section is inserted:

**Suspension for failure to comply with section 873, 1304 or 1305 notice after being given a section 873A notice**

“881A.(1) If:

- (a) a recipient is given a notice under section 873A; and
- (b) the recipient is given a notice under section 873, 1304 or 1305; and 5
- (c) the recipient does not comply with the requirements set out in the section 873, 1304 or 1305 notice; and
- (d) the Secretary is satisfied that the recipient did not comply because the recipient changed his or her address;

the Secretary may determine that the family payment is to be suspended. 10

“(2) The Secretary may determine that the recipient’s family payment is to be suspended even if the Secretary is not satisfied that:

- (a) the recipient has ceased to be qualified for family payment; or
- (b) family payment has ceased to be payable to the recipient.

“(3) Subsection (1) does not limit the Secretary’s power to suspend the recipient’s family payment under section 881. 15

Note 1: This section will not apply if section 880 applies.

Note 2: For the date of effect of a determination under this section see section 889.”.

**Date of effect of adverse determination**

17. Section 889 of the Principal Act is amended: 20

- (a) by omitting from subsection (1) “or 881” and substituting “, 881 or 881A”;
- (b) by inserting in paragraph (4)(a) “, 873A” after “873”.

**Insertion of new section**

18. After section 1243 of the Principal Act the following section is inserted: 25

**Certain determinations not to be revived**

“1243A.(1) If:

- (a) the Secretary makes a determination (the ‘**first determination**’) that: 30
  - (i) a social security payment is granted or is payable to a person; or
  - (ii) a social security payment is payable at a particular rate to the person; and
- (b) the Secretary makes a determination (the ‘**second determination**’): 35
  - (i) to cancel the social security payment; or
  - (ii) to reduce the rate at which the social security payment is payable; and



- (c) notice of the second determination is given to the person; and
- (d) the person applies to the Secretary under section 1240 for review of the second determination; and
- (e) the application is made more than 13 weeks after the notice is given; and
- (f) a decision (the '**review decision**') is made by the Secretary, an authorised review officer, the Social Security Appeals Tribunal or the Administrative Appeals Tribunal; and
- (g) the review decision, or the effect of the review decision, is:
- (i) to set aside the second determination; or
- (ii) to affirm a decision setting aside the second determination;

the following provisions have effect:

- (h) the second determination does not become void from the time when it was made;
- (i) the mere setting aside of the second determination does not of itself revive the first determination.

“(2) In this section, a person is taken to have applied for review of a determination (the '**primary determination**') if:

- (a) the person applies for review of another determination or decision; and
- (b) an examination of the primary determination is necessary to resolve the issues raised by the review of that other determination or decision.

“(3) In this section, unless the contrary intention appears:

'**social security payment**' means:

- (a) a social security pension; or
- (b) a social security benefit; or
- (c) an allowance under this Act; or
- (d) a family payment; or
- (e) any other kind of payment under Chapter 2 of this Act; or
- (f) a pension, benefit or allowance under the 1947 Act.

Note 1: For the meaning of 'given' in relation to a notice of a decision see section 1302A.

Note 2: A notice is taken to have been given to a person even if the Secretary is satisfied that the person did not actually receive the notice (see subsection 23(12)).

Note 3: This section does not apply to a determination by the Secretary to suspend a social security payment. If the Secretary's determination to suspend a social security payment is set aside on review, the recipient is placed in the position that he or she would have occupied if the determination to suspend had not been made.

Note 4: If the Secretary or an authorised review officer decides that a person's social security payment is to resume, or resume at an increased rate, section 887 restricts the date from which the new determination can take effect. Section 1255 places a similar restriction on the Social Security Appeals Tribunal and section 43 of the *Administrative Appeals Tribunal Act 1975* places a similar restriction on the Administrative Appeals Tribunal.”.

**Certain determinations not to be revived**

**19.** Section 1243A of the Principal Act is amended by omitting subsection (3) but not the Notes to the subsection.

**Notice of decisions under this Act**

**20.** Section 1302A of the Principal Act is amended by adding at the end 5 of subsection (1) the following Note:

“Note 2: Notice of a decision is taken to have been given to a person even if the Secretary is satisfied that the person did not actually receive the notice (see subsection 23(12)).”.

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**SCHEDULE**

Section 6

**CONSEQUENTIAL AMENDMENTS**

**Section 842:**

Repeal the section, substitute:

**Family payment generally not payable before claim**

“842. Subject to sections 846 and 847, family payment is not payable to a person before the provisional commencement day (identified under section 843).”.

**Section 845A:**

Repeal.

**Subsections 887(8A) and (8B):**

Omit.

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**NOTE**

1. No. 46, 1991, as amended. For previous amendments, see Nos. 68, 69, 70, 73, 74, 115, 116, 141, 175, 194 and 208, 1991; Nos. 12, 69, 81, 94, 118, 133, 134, 138, 228, 229, 230 and 241, 1992; and Nos. 20, 24 and 00, 1993.