

2008-2009-2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2010

(Employment and Workplace Relations)

**A Bill for an Act to amend the social security law,
and for related purposes**

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1 **A Bill for an Act to amend the social security law,**
2 **and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Social Security Amendment (Flexible*
6 *Participation Requirements for Principal Carers) Act 2010.*

7 **2 Commencement**

8 This Act commences on 1 July 2010.

9 **3 Schedule(s)**

10 Each Act that is specified in a Schedule to this Act is amended or
11 repealed as set out in the applicable items in the Schedule

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2
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concerned, and any other item in a Schedule to this Act has effect according to its terms.

1 **Schedule 1—Amendment of the Social**
2 **Security Act 1991**
3

4 **1 Subsection 5(1)**

5 Insert:

6 *main supporter* of a secondary pupil child has the meaning given
7 by section 5G.

8 **2 Subsection 5(1)**

9 Insert:

10 *secondary pupil child* has the meaning given by section 5F.

11 **3 After section 5E**

12 Insert:

13 **5F Secondary pupil child**

14 A person is a *secondary pupil child* of another person at a time in a
15 financial year if:

16 (a) at the time, the person:

17 (i) has turned 16 but has not turned 19; and

18 (ii) has not completed the final year of secondary school or
19 an equivalent level of education; and

20 (iii) is undertaking secondary education or a course of study
21 or instruction that is determined under section 5D of the
22 *Student Assistance Act 1973* to be a secondary course;
23 and

24 (b) the person's income in the financial year will not be more
25 than \$6,403; and

26 (c) at the time, the person:

27 (i) lives with the other person; and

28 (ii) is wholly or substantially dependent on the other person;
29 and

30 (d) if the person is a member of a couple, the other person is not
31 the person's partner; and

32 (e) the other person is claiming or receiving any of the following
33 at the time:

- 1 (i) parenting payment;
2 (ii) youth allowance;
3 (iii) newstart allowance;
4 (iv) special benefit.

5 Note: The amount in paragraph (b) is indexed annually in line with CPI
6 increases (see sections 1191 to 1194).

7 **5G Main supporter of secondary pupil child**

8 (1) If someone is a secondary pupil child of a person, the person is the
9 *main supporter* of the secondary pupil child, subject to
10 subsection (2).

11 (2) Subsections 5(18) to (22) (inclusive) and subsection 5(24) apply
12 for the purposes of determining whether a person is the main
13 supporter of a secondary pupil child in the same way as they apply
14 for the purposes of determining whether a person is the principal
15 carer of a child.

16 Note: Subsections 5(18) to (20D) (inclusive) are about identifying the one
17 person who is the principal carer of a child. Subsections 5(21), (22)
18 and (24) prevent a person from being the principal carer of a child
19 who has left Australia and has been absent from Australia for more
20 than 13 weeks.

21 **4 Paragraph 502C(2)(a)**

22 Repeal the paragraph, substitute:

- 23 (a) the person was subjected to domestic violence in the 26
24 weeks before the making of the determination; or

25 **5 Paragraph 502C(5)(b)**

26 Omit “in connection with the particular cessation referred to in
27 subparagraph (2)(a)(i)”, substitute “in relation to the person on or after
28 1 July 2010”.

29 **6 Subsection 502D(3A)**

30 Repeal the subsection, substitute:

- 31 (3A) The Secretary must make a determination under this section in
32 relation to the person if the Secretary is satisfied that:
33 (a) the person is the principal carer of a child; and
34 (b) the person is one or both of the following:
-

- 1 (i) the principal carer of one or more other children;
- 2 (ii) the main supporter of one or more secondary pupil
- 3 children; and
- 4 (c) there are 4 or more of the children of whom the person is the
- 5 principal carer or main supporter.

6 Note 1: For *principal carer* see subsections 5(15) to (24).

7 Note 2: For *main supporter* see section 5G.

8 Note 3: For *secondary pupil child* see section 5F.

9 (3B) The Secretary must make a determination under this section in
10 relation to the person if the Secretary is satisfied that:

- 11 (a) the person is the main supporter of one or more secondary
- 12 pupil children; and
- 13 (b) the person is a home educator or distance educator of one or
- 14 more of those children.

15 Note 1: For *main supporter* see section 5G.

16 Note 2: For *secondary pupil child* see section 5F.

17 Note 3: For *home educator* see section 5C.

18 Note 4: For *distance educator* see section 5D.

19 (3C) The Secretary must make a determination under this section in
20 relation to the person if the Secretary is satisfied that:

- 21 (a) the person is the principal carer of one or more children; and
- 22 (b) the person is a relative (other than a parent) of a child (the
- 23 *kin child*); and
- 24 (c) there is a document that:
 - 25 (i) provides for the kin child to live with the person for the
 - 26 care and wellbeing of the kin child; and
 - 27 (ii) is prepared or accepted by an authority of a State or
 - 28 Territory that has responsibility for the wellbeing of
 - 29 children; and
- 30 (d) the person is acting in accordance with the document.

31 Note 1: For *principal carer* see subsections 5(15) to (24).

32 Note 2: For *relative (other than a parent)* see section 5E.

33 **7 Subparagraphs 542F(2)(a)(ii), (iii) and (iv)**

34 Repeal the subparagraphs, substitute:

- 1 (ii) was subjected to domestic violence in the 26 weeks
2 before the making of the determination; or

3 **8 Paragraph 542F(5)(b)**

- 4 Omit “in connection with the particular cessation referred to in
5 subparagraph (2)(a)(ii)”, substitute “in relation to the person on or after
6 1 July 2010”.

7 **9 Subsection 542FA(3A)**

- 8 Repeal the subsection, substitute:

- 9 (3A) The Secretary must make a determination under this section in
10 relation to the person if the Secretary is satisfied that:
11 (a) the person is the principal carer of a child; and
12 (b) the person is one or both of the following:
13 (i) the principal carer of one or more other children;
14 (ii) the main supporter of one or more secondary pupil
15 children; and
16 (c) there are 4 or more of the children of whom the person is the
17 principal carer or main supporter.

18 Note 1: For *principal carer* see subsections 5(15) to (24).

19 Note 2: For *main supporter* see section 5G.

20 Note 3: For *secondary pupil child* see section 5F.

- 21 (3B) The Secretary must make a determination under this section in
22 relation to the person if the Secretary is satisfied that the person:
23 (a) is not the principal carer of one or more children; and
24 (b) is a registered and active foster carer; and
25 (c) is providing foster care to a child temporarily in an
26 emergency or to give respite to another person from caring
27 for the child.

28 Note 1: For *principal carer* see subsections 5(15) to (24).

29 Note 2: For *registered and active foster carer* see section 5B.

- 30 (3C) The Secretary must make a determination under this section in
31 relation to the person if the Secretary is satisfied that the person:
32 (a) is the main supporter of one or more secondary pupil
33 children; and

1 (b) is a home educator or distance educator of one or more of
2 those children.

3 Note 1: For *main supporter* see section 5G.

4 Note 2: For *secondary pupil child* see section 5F.

5 Note 3: For *home educator* see section 5C.

6 Note 4: For *distance educator* see section 5D.

7 (3D) The Secretary must make a determination under this section in
8 relation to the person if the Secretary is satisfied that:

9 (a) the person is the principal carer of one or more children; and

10 (b) the person is a relative (other than a parent) of a child (the
11 *kin child*); and

12 (c) there is a document that:

13 (i) provides for the kin child to live with the person for the
14 care and wellbeing of the kin child; and

15 (ii) is prepared or accepted by an authority of a State or
16 Territory that has responsibility for the wellbeing of
17 children; and

18 (d) the person is acting in accordance with the document.

19 Note 1: For *principal carer* see subsections 5(15) to (24).

20 Note 2: For *relative (other than a parent)* see section 5E.

21 **10 Subsection 542FA(6)**

22 After “this section”, insert “, except subsection (3B),”.

23 **11 After subsection 542FA(6)**

24 Insert:

25 (6A) The period that the Secretary determines under subsection (3B) in
26 relation to the person must be the lesser of:

27 (a) the period:

28 (i) starting when the person starts to provide foster care to
29 the child; and

30 (ii) ending 12 weeks, or a shorter period determined by the
31 Secretary, after the person ceases to provide foster care
32 to the child; and

33 (b) 12 months.

34 **12 Subsection 542FA(7)**

1 Omit “Any such period”, substitute “A period determined by the
2 Secretary under this section in relation to the person”.

3 **13 Subparagraphs 602B(2)(a)(ii), (iii) and (iv)**

4 Repeal the subparagraphs, substitute:

5 (ii) was subjected to domestic violence in the 26 weeks
6 before the making of the determination; or

7 **14 Paragraph 602B(5)(b)**

8 Omit “in connection with the particular cessation referred to in
9 subparagraph (2)(a)(ii)”, substitute “in relation to the person on or after
10 1 July 2010”.

11 **15 Subsection 602C(3A)**

12 Repeal the subsection, substitute:

13 (3A) The Secretary must make a determination under this section in
14 relation to the person if the Secretary is satisfied that:

15 (a) the person is the principal carer of a child; and

16 (b) the person is one or both of the following:

17 (i) the principal carer of one or more other children;

18 (ii) the main supporter of one or more secondary pupil
19 children; and

20 (c) there are 4 or more of the children of whom the person is the
21 principal carer or main supporter.

22 Note 1: For *principal carer* see subsections 5(15) to (24).

23 Note 2: For *main supporter* see section 5G.

24 Note 3: For *secondary pupil child* see section 5F.

25 (3B) The Secretary must make a determination under this section in
26 relation to the person if the Secretary is satisfied that the person:

27 (a) is not the principal carer of one or more children; and

28 (b) is a registered and active foster carer; and

29 (c) is providing foster care to a child temporarily in an
30 emergency or to give respite to another person from caring
31 for the child.

32 Note 1: For *principal carer* see subsections 5(15) to (24).

33 Note 2: For *registered and active foster carer* see section 5B.

- 1 (3C) The Secretary must make a determination under this section in
2 relation to the person if the Secretary is satisfied that the person:
3 (a) is the main supporter of one or more secondary pupil
4 children; and
5 (b) is a home educator or distance educator of one or more of
6 those children.

7 Note 1: For *main supporter* see section 5G.

8 Note 2: For *secondary pupil child* see section 5F.

9 Note 3: For *home educator* see section 5C.

10 Note 4: For *distance educator* see section 5D.

- 11 (3D) The Secretary must make a determination under this section in
12 relation to the person if the Secretary is satisfied that:
13 (a) the person is the principal carer of one or more children; and
14 (b) the person is a relative (other than a parent) of a child (the
15 *kin child*); and
16 (c) there is a document that:
17 (i) provides for the kin child to live with the person for the
18 care and wellbeing of the kin child; and
19 (ii) is prepared or accepted by an authority of a State or
20 Territory that has responsibility for the wellbeing of
21 children; and
22 (d) the person is acting in accordance with the document.

23 Note 1: For *principal carer* see subsections 5(15) to (24).

24 Note 2: For *relative (other than a parent)* see section 5E.

25 **16 Subsection 602C(6)**

26 After “this section”, insert “, except subsection (3B),”.

27 **17 After subsection 602C(6)**

28 Insert:

- 29 (6A) The period that the Secretary determines under subsection (3B) in
30 relation to the person must be the lesser of:
31 (a) the period:
32 (i) starting when the person starts to provide foster care to
33 the child; and

1 (ii) ending 12 weeks, or a shorter period determined by the
2 Secretary, after the person ceases to provide foster care
3 to the child; and

4 (b) 12 months.

5 **18 Subsection 602C(7)**

6 Omit “Any such period”, substitute “A period determined by the
7 Secretary under this section in relation to the person”.

8 **19 Subparagraphs 731DA(2)(a)(ii), (iii) and (iv)**

9 Repeal the subparagraphs, substitute:

10 (ii) was subjected to domestic violence in the 26 weeks
11 before the making of the determination; or

12 **20 Paragraph 731DA(5)(b)**

13 Omit “in connection with the particular cessation referred to in
14 subparagraph (2)(a)(ii)”, substitute “in relation to the person on or after
15 1 July 2010”.

16 **21 Subsection 731DB(3A)**

17 Repeal the subsection, substitute:

18 (3A) The Secretary must make a determination under this section in
19 relation to the person if the Secretary is satisfied that:

20 (a) the person is the principal carer of a child; and

21 (b) the person is one or both of the following:

22 (i) the principal carer of one or more other children;

23 (ii) the main supporter of one or more secondary pupil
24 children; and

25 (c) there are 4 or more of the children of whom the person is the
26 principal carer or main supporter.

27 Note 1: For *principal carer* see subsections 5(15) to (24).

28 Note 2: For *main supporter* see section 5G.

29 Note 3: For *secondary pupil child* see section 5F.

30 (3B) The Secretary must make a determination under this section in
31 relation to the person if the Secretary is satisfied that the person:

32 (a) is not the principal carer of one or more children; and

33 (b) is a registered and active foster carer; and

1 (c) is providing foster care to a child temporarily in an
2 emergency or to give respite to another person from caring
3 for the child.

4 Note 1: For *principal carer* see subsections 5(15) to (24).

5 Note 2: For *registered and active foster carer* see section 5B.

6 (3C) The Secretary must make a determination under this section in
7 relation to the person if the Secretary is satisfied that the person:

8 (a) is the main supporter of one or more secondary pupil
9 children; and

10 (b) is a home educator or distance educator of one or more of
11 those children.

12 Note 1: For *main supporter* see section 5G.

13 Note 2: For *secondary pupil child* see section 5F.

14 Note 3: For *home educator* see section 5C.

15 Note 4: For *distance educator* see section 5D.

16 (3D) The Secretary must make a determination under this section in
17 relation to the person if the Secretary is satisfied that:

18 (a) the person is the principal carer of one or more children; and

19 (b) the person is a relative (other than a parent) of a child (the
20 *kin child*); and

21 (c) there is a document that:

22 (i) provides for the kin child to live with the person for the
23 care and wellbeing of the kin child; and

24 (ii) is prepared or accepted by an authority of a State or
25 Territory that has responsibility for the wellbeing of
26 children; and

27 (d) the person is acting in accordance with the document.

28 Note 1: For *principal carer* see subsections 5(15) to (24).

29 Note 2: For *relative (other than a parent)* see section 5E.

30 **22 Subsection 731DB(6)**

31 After “this section”, insert “, except subsection (3B),”.

32 **23 After subsection 731DB(6)**

33 Insert:

- 1 (6A) The period that the Secretary determines under subsection (3B) in
2 relation to the person must be the lesser of:
3 (a) the period:
4 (i) starting when the person starts to provide foster care to
5 the child; and
6 (ii) ending 12 weeks, or a shorter period determined by the
7 Secretary, after the person ceases to provide foster care
8 to the child; and
9 (b) 12 months.

10 **24 Subsection 731DB(7)**

11 Omit “Any such period”, substitute “A period determined by the
12 Secretary under this section in relation to the person”.

13 **25 Section 1190 (table item 40A)**

14 Repeal the item, substitute:

40A.	Amount that a young person who has turned 16, but not 22, can earn in a financial year without ceasing to be a student child, dependent child or secondary pupil child	Permissible child earnings limit (child aged 16 to 21 years)	[paragraphs 5(1A)(b) and (4)(b) and 5F(b)]
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15 **26 Saving provision**

16 The amendments of sections 502C, 502D, 542F, 542FA, 602B, 602C,
17 731DA and 731DB of the *Social Security Act 1991* made by this
18 Schedule do not affect the validity (after the commencement of those
19 amendments) of a determination made under any of those sections
20 before that commencement.