



**Families, Community Services and
Indigenous Affairs Legislation
Amendment (Child Disability Assistance)
Act 2007**

No. 182, 2007

**An Act to amend the law in relation to social
security, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	2
2	Commencement	2
3	Schedule(s)	3
Schedule 1—Amendments		4
Part 1—Main amendments		4
<i>Social Security Act 1991</i>		4
<i>Social Security (Administration) Act 1999</i>		7
Part 2—Related amendments		9
<i>Income Tax Assessment Act 1936</i>		9
<i>Income Tax Assessment Act 1997</i>		9



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No. 182, 2007

**An Act to amend the law in relation to social
security, and for related purposes**

[Assented to 28 September 2007]

The Parliament of Australia enacts:

*Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability
Assistance) Act 2007 No. 182, 2007 1*

1 Short title

This Act may be cited as the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability Assistance) Act 2007*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	28 September 2007
2. Schedule 1, items 1 to 8	1 October 2007.	1 October 2007
3. Schedule 1, items 9 to 13	The later of: (a) the start of 1 October 2007; and (b) immediately after the commencement of item 17 of Schedule 1 to the <i>Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 October 2007 (paragraph (a) applies)
4. Schedule 1, items 14 to 17	1 October 2007.	1 October 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or 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—Amendments

Part 1—Main amendments

Social Security Act 1991

1 Subsection 23(1)

Insert:

child disability assistance means child disability assistance under Part 2.19AA.

2 After Part 2.19

Insert:

Part 2.19AA—Child disability assistance

992MA Child disability assistance definitions

In this Part:

care receiver has the same meaning as in Part 2.19.

disabled child has the same meaning as in Part 2.19.

eligible care receiver has the meaning given by section 992MC.

qualified person has the meaning given by subsection 992MB(1).

qualifying instalment has the meaning given by subsection 992MB(2).

992MB Qualification for child disability assistance

- (1) A person (the *qualified person*) is qualified for child disability assistance in respect of a particular 1 July if the following conditions are satisfied in respect of one or more instalments of carer allowance:
 - (a) the person was paid the instalment in respect of a period that included that 1 July;

- (b) the instalment was for a care receiver who was a disabled child or for care receivers who were 2 disabled children.
- (2) Each instalment in respect of which the conditions in subsection (1) are satisfied is a *qualifying instalment*.

992MC Eligible care receivers

- (1) Each person to whose care a qualifying instalment relates is an *eligible care receiver* in relation to the qualified person.
- (2) However, if subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single *eligible care receiver* in relation to the qualified person.

992MD Amount of child disability assistance

- (1) The amount of child disability assistance for the qualified person in respect of the 1 July is worked out by adding together the amount applicable under subsection (2) for each eligible care receiver in relation to the qualified person.
- (2) The amount applicable under this subsection for an eligible care receiver is:
 - (a) \$1,000; or
 - (b) if the rate at which the qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver—that share of \$1,000.

3 Application of child disability assistance

Section 992MB of the *Social Security Act 1991* applies in relation to 1 July 2007 and each subsequent 1 July.

4 Subsection 1222(2) (after table item 4)

Insert:

4A	1223ABB	deductions	1231, 1234A
	(debts in respect of child	legal proceedings	1232
	disability assistance)	garnishee notice	1233
		repayment by instalments	1234

5 After section 1223ABA

Insert:

1223ABB Debts in respect of child disability assistance

- (1) If:
- (a) child disability assistance is paid to a person; and
 - (b) the assistance is paid because the person was paid an instalment of carer allowance in respect of a period that included a particular 1 July; and
 - (c) the 1 July component of the instalment, or any part of the 1 July component, becomes a debt due to the Commonwealth;
- then:
- (d) the amount of child disability assistance determined under subsection (2) or (3) is a debt due to the Commonwealth; and
 - (e) the debt is taken to have arisen when the amount was paid to the person.
- (2) If all of the 1 July component of the instalment becomes a debt due to the Commonwealth, the amount of child disability assistance that is a debt due to the Commonwealth is the amount of assistance that was paid in respect of the eligible care receiver to whose care the instalment relates.
- (3) If only part of the 1 July component of the instalment becomes a debt due to the Commonwealth, the amount of child disability assistance that is a debt due to the Commonwealth is the difference between:
- (a) the amount paid in respect of the eligible care receiver to whose care the instalment relates; and
 - (b) the amount applicable under subsection 992MD(2) for the eligible care receiver to whose care the instalment relates, based on the determination under subsection 981(1) that had effect in respect of the 1 July at the time the part of the 1 July component became a debt.
- (4) In this section:
- 1 July component**, of an instalment of carer allowance in respect of a period that includes a particular 1 July, means the amount of

carer allowance in respect of that period that is applicable to the 1 July.

Social Security (Administration) Act 1999

6 After section 12D

Insert:

12E Child disability assistance

A claim is not required for child disability assistance.

7 Subsection 47(1) (after paragraph (aa) of the definition of *lump sum benefit*)

Insert:

(ab) child disability assistance; or

8 After section 50

Insert:

50A Payment of child disability assistance

If an individual is qualified for child disability assistance in respect of a particular 1 July, the Secretary must pay the assistance to the individual in a single lump sum:

- (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
- (b) in such manner as the Secretary considers appropriate.

9 Section 123TC (before paragraph (a) of the definition of *category C welfare payment*)

Insert:

(aa) child disability assistance; or

10 Section 123TC (before paragraph (a) of the definition of *category G welfare payment*)

Insert:

(aa) child disability assistance; or

11 Section 123TC (after paragraph (g) of the definition of *category I welfare payment*)

Insert:

(ga) child disability assistance; or

12 Section 123TC (after paragraph (b) of the definition of *category Q welfare payment*)

Insert:

(ba) child disability assistance; or

13 Section 123TC (after paragraph (f) of the definition of *category S welfare payment*)

Insert:

(fa) child disability assistance; or

Part 2—Related amendments

Income Tax Assessment Act 1936

14 Subsection 159J(6) (after subparagraph (ad)(i) of the definition of *separate net income*)

Insert:

(ia) child disability assistance;

Income Tax Assessment Act 1997

15 Section 11-15 (table item headed “social security or like payments”)

Before:

Commonwealth education or training payment..... Subdivision 52-F

insert:

child disability assistance Subdivision 52-A

16 After paragraph 52-10(1)(a)

Insert:

(aa) child disability assistance; or

17 After subsection 52-10(1A)

Insert:

(1AA) Child disability assistance under Part 2.19AA of the *Social Security Act 1991* is exempt from income tax.

*[Minister's second reading speech made in—
House of Representatives on 16 August 2007
Senate on 13 September 2007]*

(158/07)

10 *Families, Community Services and Indigenous Affairs Legislation Amendment (Child
Disability Assistance) Act 2007 No. 182, 2007*