

2016-2017

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Social Services Legislation Amendment  
(Housing Affordability) Bill 2017**

**No.     , 2017**

*(Social Services)*

**A Bill for an Act to amend the law relating to social  
security, family assistance and rental affordability,  
and for related purposes**



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1     **A Bill for an Act to amend the law relating to social**  
2     **security, family assistance and rental affordability,**  
3     **and for related purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act is the *Social Services Legislation Amendment (Housing*  
7                     *Affordability) Act 2017.*

8     **2 Commencement**

9                     (1) Each provision of this Act specified in column 1 of the table  
10                     commences, or is taken to have commenced, in accordance with  
11                     column 2 of the table. Any other statement in column 2 has effect  
12                     according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 March 2018.	
3. Schedule 3, items 1 and 2	1 May 2018.	1 May 2018
4. Schedule 3, item 3	The day after this Act receives the Royal Assent.	
5. Schedule 3, item 4	1 May 2018.	1 May 2018
6. Schedule 3, item 5	The day after this Act receives the Royal Assent.	
7. Schedule 3, item 6	1 May 2018.	1 May 2018

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

8

### **3 Schedules**

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11  
12

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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1 **Schedule 1—Social security amendments**

2 **Part 1—Main amendments**

3 *Social Security (Administration) Act 1999*

4 **1 Paragraph 60(2)(aa)**

5 Omit “and 3D”, substitute “, 3D and 3E”.

6 **2 Section 123TC (subparagraph (a)(i) of the definition of *net***  
7 ***amount*)**

8 After “section 61”, insert “, 124QG”.

9 **3 Section 123TC (subparagraph (a)(iii) of the definition of *net***  
10 ***amount*)**

11 After “section”, insert “67E,”.

12 **4 Paragraph 123TH(1)(h)**

13 Repeal the paragraph, substitute:

14 (h) household utilities;

15 **5 Subsection 124PL(3) (paragraph (a) of the definition of**  
16 ***balance of the restricted portion of the restrictable***  
17 ***payment*)**

18 After “61A”, insert “, 124QG”.

19 **6 Subsection 124PL(3) (paragraph (c) of the definition of**  
20 ***balance of the restricted portion of the restrictable***  
21 ***payment*)**

22 After “section”, insert “67E,”.

23 **7 Section 124PM**

24 Repeal the section, substitute:

1 **124PM Recipient's use of funds from restrictable payments**

2 A person who receives a restrictable payment may use the  
3 restricted portion of the payment, as paid under  
4 subsection 124PL(2), to purchase goods or services, other than  
5 alcoholic beverages or gambling.

6 **8 After Part 3D**

7 Insert:

8 **Part 3E—Automatic deductions of rent or other**  
9 **household payments**

10 **Division 1—Introduction**

11 **124Q Simplified outline of this Part**

12 This Part allows a deduction to be made from certain welfare  
13 payments payable to a social housing tenant who is liable to pay  
14 rent to a social housing lessor in relation to premises.

15 A social housing lessor may request the Secretary to make a  
16 deduction:

- 17 (a) to satisfy an ongoing or outstanding obligation of the  
18 social housing tenant for rent, household utilities or  
19 both; or  
20 (b) to compensate for loss of, or damage to, property,  
21 arising as a result of the tenant's occupancy of premises  
22 let by the lessor.

23 If a deduction is made, the Secretary must pay the amount  
24 deducted to the social housing lessor (which reduces the liability to  
25 the lessor accordingly).

26 **124QA Object of this Part**

27 The object of this Part is to provide for automatic deductions from  
28 certain welfare payments for rent or household utilities, or loss of



1 or damage to property arising as a result of occupancy of premises,  
2 so as to:

- 3 (a) reduce homelessness; and  
4 (b) ensure financial effectiveness and sustainability of the social  
5 housing system; and  
6 (c) support greater investment in social housing.

### 7 **124QB Divertible welfare payment**

8 (1) For the purposes of this Part, a *divertible welfare payment* is a  
9 social security payment or a payment under the scheme known as  
10 the ABSTUDY scheme that:

- 11 (a) is payable (except as an advance) to a particular person; and  
12 (b) is not:  
13 (i) an Australian Victim of Terrorism Overseas Payment;  
14 or  
15 (ii) a Disaster Recovery Allowance; or  
16 (iii) a student start-up loan; or  
17 (iv) an ABSTUDY student start-up loan under the *Student*  
18 *Assistance Act 1973*; or  
19 (v) of a kind determined in an instrument under  
20 subsection (2).

21 (2) The Minister may, by legislative instrument, determine that one or  
22 more kinds of payments are not divertible welfare payments.

### 23 **124QC Social housing lessor**

24 (1) For the purposes of this Part, a *social housing lessor* is:

- 25 (a) an authority of a State or Territory:  
26 (i) that provides social housing in the State or Territory;  
27 and  
28 (ii) that has a written agreement with the Human Services  
29 Department relating to the authority's ability to request  
30 deductions under this Part; or  
31 (b) a body:  
32 (i) that provides social housing in a State or Territory, is  
33 approved to do so by the State or Territory, and the

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### Part 1 Main amendments

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- 1 approval has been notified, in writing, to the Chief  
2 Executive Centrelink; and  
3 (ii) that has a written agreement with the Human Services  
4 Department relating to the body's ability to request  
5 deductions under this Part;  
6 unless a determination made under subsection (2) applies in  
7 relation to the authority or body.
- 8 (2) The Minister may, by written instrument, determine that a  
9 specified authority or body may not be a social housing lessor.
- 10 (3) A determination made under subsection (2) is not a legislative  
11 instrument.

#### 12 **124QD Social housing tenant**

- 13 For the purposes of this Part, a *social housing tenant* is a person:  
14 (a) who is 18 or older; and  
15 (b) who pays, or is liable to pay, rent in relation to premises let  
16 by a social housing lessor, whether or not the person is  
17 named in an agreement (however described) with the lessor  
18 for occupancy of the premises.

19 Note: For the meaning of *rent*, see section 13 of the 1991 Act.

#### 20 **124QE Part binds the Crown**

21 This Part binds the Crown in each of its capacities.

### 22 **Division 2—Deductions from divertible welfare payments**

#### 23 **124QF Social housing lessor may request deduction**

- 24 (1) A social housing lessor may request the Secretary to make a  
25 deduction from a divertible welfare payment payable to a social  
26 housing tenant if:  
27 (a) both of the following apply:  
28 (i) the tenant has an ongoing or outstanding obligation to  
29 pay an amount for rent, household utilities, or both, in  
30 relation to the tenant's occupancy of premises let by the  
31 lessor;

- 1 (ii) the tenant's agreement with the lessor for occupancy of  
2 the premises, or another written agreement with the  
3 lessor, authorises the lessor to make requests under this  
4 Part for deductions from divertible welfare payments  
5 payable to the tenant; or  
6 (b) the tenant is to pay to the lessor an amount for loss of, or  
7 damage to, property, as a result of the tenant's occupancy of  
8 premises let by the lessor so as to comply with an order of a  
9 court, or of a tribunal or other body that has the power to  
10 make orders, and either:  
11 (i) the period for appealing against the order ends without  
12 an appeal being made; or  
13 (ii) if an appeal is made against the order—the appeal is  
14 finally determined or otherwise disposed of; or  
15 (c) the tenant agrees, in writing, to pay to the lessor an amount  
16 for loss of, or damage to, property, as a result of the tenant's  
17 occupancy of premises let by the lessor.
- 18 (2) For the purposes of subsection (1), it does not matter whether the  
19 obligation arose, or the order was made, before, on or after the  
20 commencement of this section.

21 *Content of request*

- 22 (3) The social housing lessor's request must specify:  
23 (a) the amount to be deducted from the divertible welfare  
24 payment payable to the social housing tenant, which must not  
25 be more than that required to satisfy:  
26 (i) rent, household utilities or both payable by the tenant;  
27 and  
28 (ii) an outstanding payment of rent, household utilities or  
29 both payable by the tenant; and  
30 (iii) an order mentioned in paragraph (1)(b); and  
31 (iv) an amount agreed, as mentioned in paragraph (1)(c); and  
32 (b) the date from which deductions are to be made.

33 *Amendment of request*

- 34 (4) The social housing lessor may amend the request to specify a  
35 different amount to be deducted from the divertible welfare
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1 payment. An amended request must satisfy the requirements of  
2 subsection (3).

3 *Way of giving requests and amendments*

4 (5) To be effective, the social housing lessor must give the request,  
5 and any amendment of the request, to the Secretary in a way  
6 approved by the Secretary. The Secretary may approve a way of  
7 giving requests and the same or a different way of giving  
8 amendments.

9 **124QG Secretary may make deduction**

10 (1) The Secretary may make a deduction, from a divertible welfare  
11 payment payable to a social housing tenant, if a request is made by  
12 a social housing lessor under section 124QF in relation to the  
13 tenant.

14 *When a deduction must not be made*

- 15 (2) However, the Secretary must not make a deduction:
- 16 (a) after any of the following events occur:
- 17 (i) the request is revoked;
- 18 (ii) the Secretary is notified under section 124QI that the  
19 tenant ceases to be a social housing tenant in relation to  
20 the social housing lessor;
- 21 (iii) the Secretary is notified under section 124QI that the  
22 lessor of premises for the tenant ceases to be a social  
23 housing lessor; or
- 24 (b) at any time the tenant is covered by a determination under  
25 subsection (3).
- 26 (3) The Minister may, by legislative instrument, determine that  
27 deductions must not be made from divertible welfare payments  
28 payable to specified social housing tenants.

29 Note: For specification by class, see subsection 13(3) of the *Legislation Act*  
30 *2003*.

1 *Notifying when a deduction is not made*

- 2 (4) If the Secretary does not make a deduction in accordance with a  
3 request made by a social housing lessor under section 124QF, the  
4 Secretary must give written notice to the lessor of that fact.

5 *Deductions may resume when suspension of payments ends*

- 6 (5) If a divertible welfare payment payable to a social housing tenant  
7 is suspended under this Act but such payments subsequently  
8 resume, the Secretary may deduct any amounts that would  
9 otherwise have been deducted under this Part during the period of  
10 suspension from payments paid to the tenant after the suspension  
11 ends.

12 **124QH Amount of deduction**

- 13 (1) The Secretary is to determine the amount of a deduction under  
14 section 124QG that is to be made from a particular divertible  
15 welfare payment payable to a social housing tenant.
- 16 (2) The amount of a deduction determined by the Secretary, in relation  
17 to a divertible welfare payment payable to a social housing tenant,  
18 must not exceed either of the following:
- 19 (a) the amount specified in a request made under section 124QF  
20 in relation to the tenant;
  - 21 (b) the amount of the divertible welfare payment remaining after  
22 all deductions (if any) specifically required by a law of the  
23 Commonwealth (other than this Part) are made.

24 **124QI Notifications by social housing lessors**

25 *Revocation of requests*

- 26 (1) A social housing lessor may revoke a request made under  
27 section 124QF by giving notice to the Secretary in a way approved  
28 by the Secretary.

29 *Notice of person ceasing to be tenant of social housing lessor*

- 30 (2) If a request is made under section 124QF in relation to a person  
31 and the person ceases to be social housing tenant in relation to a
-

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1 social housing lessor, the lessor must notify the Secretary of that  
2 fact as soon as practicable after the person so ceases to be a tenant.

3 *Notice of lessor ceasing to be social housing lessor*

4 (3) If an authority or body ceases to be a social housing lessor (other  
5 than because of subsection 124QC(2)), the authority or body must  
6 notify the Secretary of that fact as soon as practicable after so  
7 ceasing to be a social housing lessor.

8 *Way of giving notices*

9 (4) A notification under subsection (2) or (3) must be given in a way  
10 approved by the Secretary.

11 **Division 3—Treatment of amounts deducted**

12 **124QJ Application of Division**

13 This Division applies if under Division 2 the Secretary deducts an  
14 amount from a divertible welfare payment payable to a social  
15 housing tenant.

16 **124QK Secretary must pay amount to social housing lessor**

17 The Secretary must pay the amount to the social housing lessor.

18 **124QL Deduction reduces liability to social housing lessor**

19 (1) If:  
20 (a) the Secretary pays the amount to the social housing lessor;  
21 and  
22 (b) the amount, or a part of the amount, relates to a particular  
23 liability;  
24 then, the liability is discharged to the extent of the amount or the  
25 part of the amount, as the case requires.  
26 (2) This section applies to a liability even if the amount of the liability  
27 is not yet due and payable.

- 1 (3) This section does not apply (and is taken never to have applied) to  
2 reduce a liability by so much of an amount paid to the social  
3 housing lessor as gives rise under Division 4 to a debt due to the  
4 Commonwealth by the lessor.

5 **124QM Social housing tenant taken to be paid amount deducted**

- 6 (1) Subject to section 124QO, the social housing tenant is taken to  
7 have been paid the amount deducted, at the time the divertible  
8 welfare payment was paid (or would have been paid apart from the  
9 deduction).
- 10 (2) Subsection (1) has effect for the purposes of all laws of the  
11 Commonwealth, except any law of the Commonwealth specified in  
12 an instrument under subsection (4).
- 13 (3) To avoid doubt, subsection (1) has effect whether or not the  
14 Secretary paid the amount to the social housing lessor.
- 15 (4) The Minister may, by legislative instrument, make a determination  
16 specifying a law of the Commonwealth for the purposes of  
17 subsection (2).

18 **Division 4—Overpayments to social housing lessors**

19 **124QN Overpayment—payment to lessor exceeds deduction**  
20 **properly made**

- 21 (1) This section applies if:  
22 (a) the Secretary pays an amount to a social housing lessor  
23 purportedly under Division 3 in connection with a deduction  
24 the Secretary properly made under Division 2; and  
25 (b) the amount paid to the lessor exceeds the deduction.
- 26 (2) The excess is a debt due to the Commonwealth by the social  
27 housing lessor.

28 Note: For debt recovery, see section 124QP.

1 **124QO Overpayment—payment to lessor and deduction not**  
2 **properly made**

- 3 (1) This section applies if:  
4 (a) under Division 3 the Secretary pays a social housing lessor  
5 the amount of a deduction from a divertible welfare payment  
6 payable to a social housing tenant; and  
7 (b) the deduction exceeded the amount (which may be a nil  
8 amount) determined by the Secretary under section 124QH.
- 9 (2) The amount the social housing tenant is taken to have been paid  
10 under subsection 124QM(1) is reduced by the excess.

11 *Debt*

- 12 (3) The excess is a debt due to the Commonwealth by the social  
13 housing lessor.

14 Note: For debt recovery, see section 124QP.

15 *Payment to social housing tenant*

- 16 (4) The Secretary must pay the social housing tenant an amount equal  
17 to the excess, whether or not the Commonwealth recovers the debt.  
18 The amount is taken to be a payment of the divertible welfare  
19 payment.
- 20 (5) However, the Secretary must not pay the social housing tenant an  
21 amount under subsection (4) to the extent that the sum of that  
22 amount, and of the amount that should have been deducted, would  
23 exceed the amount of the divertible welfare payment that was  
24 payable to the tenant apart from this Part.
- 25 (6) Subsection (4) has effect for the purposes of all laws of the  
26 Commonwealth, except any law of the Commonwealth specified in  
27 an instrument under subsection (7).
- 28 (7) The Minister may, by legislative instrument, make a determination  
29 specifying a law of the Commonwealth for the purposes of  
30 subsection (6).



1 **124QP Debt recovery**

2 *Set-off*

- 3 (1) The Secretary may set off an amount payable to a social housing  
4 lessor under Division 3 against a debt due to the Commonwealth  
5 by the lessor under this Division.

6 *Legal proceedings*

- 7 (2) A debt due to the Commonwealth under this Division is  
8 recoverable by the Commonwealth in a court of competent  
9 jurisdiction.

10 Note: For other action relating to debts, see also Part 5.4 of the 1991 Act.

11 **124QQ No time limit on debt recovery action**

12 For the purposes of this Part, legal proceedings, or any action  
13 under a provision of this Part, for the recovery of a debt or  
14 overpayment may be commenced or taken at any time.

15 **Division 5—Fees**

16 **124QR Fees**

17 The Secretary may, on behalf of the Commonwealth, charge a  
18 social housing lessor fees for any of the following:

- 19 (a) deducting amounts under Division 2 in accordance with  
20 requests made by the lessor;  
21 (b) paying the lessor amounts under Division 3;  
22 (c) services provided to the lessor in relation to the  
23 administration of this Part.

24 **9 Section 124Q (heading) (the heading to section 124Q as**  
25 **that section was renumbered by item 7 of Schedule 1 to**  
26 **the *Social Security and Veterans' Entitlements***  
27 ***Legislation Amendment (Schooling Requirements) Act***  
28 **2008)**

29 Repeal the heading, substitute:

1 **124U Application of Part to decisions under repealed laws**

2 **10 After subsection 127(3)**

3 Insert:

4 (3A) The Secretary may not review a decision to make a determination  
5 under subsection 124QC(2) (about whether an authority or body is  
6 a social housing lessor).

7 **11 After paragraph 129(4)(d)**

8 Insert:

9 (daa) a decision to make a determination under subsection 124QC(2)  
10 (about whether an authority or body is a social housing lessor); or

11 **12 At the end of paragraph 192(db)**

12 Add “or 3E”.

13 **13 After paragraph 195(1)(cc)**

14 Insert:

15 (cd) to facilitate the administration of Part 3E (automatic  
16 deductions of rent or other household payments);

17 **14 At the end of subsection 195(2)**

18 Add:

19 ; (m) for the purposes of Part 3E (automatic deductions of rent or  
20 other household payments), in relation to a social housing  
21 lessor—evidence to support a request made by the social  
22 housing lessor under section 124QF.

23 **15 Subclause 1(1) of Schedule 1**

24 Insert:

25 *divertible welfare payment* has the meaning given by  
26 section 124QB.

27 *household utilities* includes the following:

- 28 (a) electricity;  
29 (b) gas;

- 1 (c) water;
- 2 (d) sewerage;
- 3 (e) garbage collection;
- 4 (f) fixed-line telephone.

5 ***social housing lessor*** has the meaning given by section 124QC.

6 ***social housing tenant*** has the meaning given by section 124QD.

1 **Part 2—Consequential amendments**

2 *Social Security Act 1991*

3 **16 After paragraph 1235(c)**

4 Insert:

5 (ca) a debt due by a social housing lessor under Division 4 of  
6 Part 3E of the Administration Act; or

7 **17 Subsection 1237AB(1)**

8 Omit “or 3D”, substitute “, 3D or 3E”.

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1 **Schedule 2—Family assistance amendments**  
2

3 ***A New Tax System (Family Assistance) (Administration) Act***  
4 ***1999***

5 **1 Subsection 3(1)**

6 Insert:

7 ***household utilities*** includes the following:

- 8 (a) electricity;
- 9 (b) gas;
- 10 (c) water;
- 11 (d) sewerage;
- 12 (e) garbage collection;
- 13 (f) fixed-line telephone.

14 ***social housing lessor*** means an authority or body that is a social  
15 housing lessor for the purposes of Part 3E of the *Social Security*  
16 *(Administration) Act 1999*.

17 ***social housing tenant*** has the same meaning as in the *Social*  
18 *Security (Administration) Act 1999*.

19 **2 Subsections 23(6), 24(4) and 24A(2)**

20 Omit “Part 4”, substitute “Parts 3A and 4”.

21 **3 After paragraph 66(2)(ab)**

22 Insert:

- 23 (ac) Part 3A (about automatic deductions from family tax benefit  
24 to pay rent or household utilities); and

25 **4 Paragraph 66(2)(g)**

26 Omit “and 3D”, substitute “, 3D and 3E”.

27 **5 After Part 3**

28 Insert:

1 **Part 3A—Automatic deductions of rent or other**  
2 **household payments**

3 **Division 1—Introduction**

4 **67A Simplified outline of this Part**

5 This Part allows a deduction to be made from family tax benefit  
6 payable to a social housing tenant who is liable to pay rent to a  
7 social housing lessor in relation to premises.

8 A social housing lessor may request the Secretary to make a  
9 deduction:

- 10 (a) to satisfy an ongoing or outstanding obligation of the  
11 social housing tenant for rent, household utilities or  
12 both; or  
13 (b) to compensate for loss of, or damage to, property,  
14 arising as a result of the tenant's occupancy of premises  
15 let by the lessor.

16 If a deduction is made, the Secretary must pay the amount  
17 deducted to the social housing lessor (which reduces the liability to  
18 the lessor accordingly).

19 **67B Object of this Part**

20 The object of this Part is to provide for automatic deductions from  
21 family tax benefit for rent or household utilities, or loss of or  
22 damage to property arising as a result of occupancy of premises, so  
23 as to:

- 24 (a) reduce homelessness; and  
25 (b) ensure financial effectiveness and sustainability of the social  
26 housing system; and  
27 (c) support greater investment in social housing.

28 **67C Part binds the Crown**

29 This Part binds the Crown in each of its capacities.

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**Division 2—Deductions from family tax benefit payments****67D Social housing lessor may request deduction**

- (1) A social housing lessor may request the Secretary to make a deduction from family tax benefit (other than family tax benefit advance), whether an instalment or other payment, payable to a social housing tenant if:
- (a) both of the following apply:
    - (i) the tenant has an ongoing or outstanding obligation to pay an amount for rent, household utilities, or both, in relation to the tenant's occupancy of premises let by the lessor;
    - (ii) the tenant's agreement with the lessor for occupancy of the premises, or another written agreement with the lessor, authorises the lessor to make requests under this Part for deductions from family tax benefit payable to the tenant; or
  - (b) the tenant is to pay to the lessor an amount for loss of, or damage to, property, as a result of the tenant's occupancy of premises let by the lessor so as to comply with an order of a court, or of a tribunal or other body that has the power to make orders, and either:
    - (i) the period for appealing against the order ends without an appeal being made; or
    - (ii) if an appeal is made against the order—the appeal is finally determined or otherwise disposed of; or
  - (c) the tenant agrees, in writing, to pay to the lessor an amount for loss of, or damage to, property, as a result of the tenant's occupancy of premises let by the lessor.
- (2) For the purposes of subsection (1), it does not matter whether the obligation arose, or the order was made, before, on or after the commencement of this section.

*Content of request*

- (3) The social housing lessor's request must specify:

- 1 (a) the amount to be deducted from family tax benefit payable to  
2 the social housing tenant, which must not be more than that  
3 required to satisfy:  
4 (i) rent, household utilities or both payable by the tenant;  
5 and  
6 (ii) an outstanding payment of rent, household utilities or  
7 both payable by the tenant; and  
8 (iii) an order mentioned in paragraph (1)(b); and  
9 (iv) an amount agreed, as mentioned in paragraph (1)(c); and  
10 (b) the date from which deductions are to be made.

11 *Amendment of request*

- 12 (4) The social housing lessor may amend the request to specify a  
13 different amount to be deducted from family tax benefit. An  
14 amended request must satisfy the requirements of subsection (3).

15 *Way of giving requests and amendments*

- 16 (5) To be effective, the social housing lessor must give the request,  
17 and any amendment of the request, to the Secretary in a way  
18 approved by the Secretary. The Secretary may approve a way of  
19 giving requests and the same or a different way of giving  
20 amendments.

21 **67E Secretary may make deduction**

- 22 (1) The Secretary may make a deduction, from family tax benefit  
23 payable to a social housing tenant, if a request is made by a social  
24 housing lessor under section 67D in relation to the tenant.

25 *When a deduction must not be made*

- 26 (2) However, the Secretary must not make a deduction:  
27 (a) after any of the following events occur:  
28 (i) the request is revoked;  
29 (ii) the Secretary is notified under section 67G that the  
30 tenant ceases to be a social housing tenant in relation to  
31 the social housing lessor;



- 1 (iii) the Secretary is notified under section 67G that the  
 2 lessor of premises for the tenant ceases to be a social  
 3 housing lessor; or  
 4 (b) at any time the tenant is covered by a determination under  
 5 subsection (3).

- 6 (3) The Minister may, by legislative instrument, determine that  
 7 deductions must not be made from family tax benefit payable to  
 8 specified social housing tenants.

9 Note: For specification by class, see subsection 13(3) of the *Legislation Act*  
 10 *2003*.

11 *Notifying when a deduction is not made*

- 12 (4) If the Secretary does not make a deduction in accordance with a  
 13 request made by a social housing lessor under section 67D, the  
 14 Secretary must give written notice to the lessor of that fact.

15 **67F Amount of deduction**

- 16 (1) The Secretary is to determine the amount of a deduction under  
 17 section 67E that is to be made from family tax benefit payable to a  
 18 social housing tenant.  
 19 (2) The amount the Secretary may deduct under section 67E, from  
 20 family tax benefit payable to a social housing tenant, must not  
 21 exceed either of the following:  
 22 (a) the amount specified in the request made under section 67D  
 23 in relation to the tenant;  
 24 (b) the amount of family tax benefit remaining after all  
 25 deductions (if any) specifically required by a law of the  
 26 Commonwealth (other than this Part) are made.

27 **67G Notifications by social housing lessors**

28 *Revocation of requests*

- 29 (1) A social housing lessor may revoke a request made under  
 30 section 67D by giving notice to the Secretary in a way approved by  
 31 the Secretary.

1 *Notice of person ceasing to be tenant of social housing lessor*

- 2 (2) If a request is made under section 67D in relation to a person and  
3 the person ceases to be a social housing tenant in relation to a  
4 social housing lessor, the lessor must notify the Secretary of that  
5 fact as soon as practicable after the person so ceases to be a tenant.

6 *Notice of lessor ceasing to be social housing lessor*

- 7 (3) If an authority or body ceases to be a social housing lessor (other  
8 than because of subsection 124QC(2) of the *Social Security*  
9 *(Administration) Act 1999*), the authority or body must notify the  
10 Secretary of that fact as soon as practicable after so ceasing to be a  
11 social housing lessor.

12 *Way of giving notices*

- 13 (4) A notification under subsection (2) or (3) must be given in a way  
14 approved by the Secretary.

## 15 **Division 3—Treatment of amounts deducted**

### 16 **67H Application of Division**

17 This Division applies if under Division 2 the Secretary deducts an  
18 amount from family tax benefit payable to a social housing tenant.

### 19 **67J Secretary must pay amount to social housing lessor**

20 The Secretary must pay the amount to the social housing lessor.

### 21 **67K Deduction reduces liability to social housing lessor**

- 22 (1) If:  
23 (a) the Secretary pays the amount to the social housing lessor;  
24 and  
25 (b) the amount, or a part of the amount, relates to a particular  
26 liability;  
27 then, the liability is discharged to the extent of the amount or the  
28 part of the amount, as the case requires.

- 
- 1 (2) This section applies to a liability even if the amount of the liability  
2 is not yet due and payable.
- 3 (3) This section does not apply (and is taken never to have applied) to  
4 reduce a liability by so much of an amount paid to the social  
5 housing lessor as gives rise under Division 4 to a debt due to the  
6 Commonwealth by the lessor.

7 **67L Social housing tenant taken to be paid amount deducted**

- 8 (1) Subject to section 67N, the social housing tenant is taken to have  
9 been paid the amount deducted, at the time the family tax benefit  
10 was paid (or would have been paid apart from the deduction).
- 11 (2) Subsection (1) has effect for the purposes of all laws of the  
12 Commonwealth, except any law of the Commonwealth specified in  
13 an instrument under subsection (4).
- 14 (3) To avoid doubt, subsection (1) has effect whether or not the  
15 Secretary paid the amount to the social housing lessor.
- 16 (4) The Minister may, by legislative instrument, make a determination  
17 specifying a law of the Commonwealth for the purposes of  
18 subsection (2).

19 **Division 4—Overpayments to social housing lessors**

20 **67M Overpayment—payment to lessor exceeds deduction properly  
21 made**

- 22 (1) This section applies if:  
23 (a) the Secretary pays an amount to a social housing lessor  
24 purportedly under Division 3 in connection with a deduction  
25 the Secretary properly made under Division 2; and  
26 (b) the amount paid to the lessor exceeds the deduction.
- 27 (2) The excess is a debt due to the Commonwealth by the social  
28 housing lessor.

29 Note: For debt recovery, see section 67P.

1 **67N Overpayment—payment to lessor and deduction not properly**  
2 **made**

- 3 (1) This section applies if:  
4 (a) under Division 3 the Secretary pays a social housing lessor  
5 the amount of a deduction from family tax benefit payable to  
6 a social housing tenant; and  
7 (b) the deduction exceeded the amount (which may be a nil  
8 amount) determined by the Secretary under section 67F.
- 9 (2) The amount the social housing tenant is taken to have been paid  
10 under subsection 67L(1) is reduced by the excess.

11 *Debt*

- 12 (3) The excess is a debt due to the Commonwealth by the social  
13 housing lessor.

14 Note: For debt recovery, see section 67P.

15 *Payment to social housing tenant*

- 16 (4) The Secretary must pay the social housing tenant an amount equal  
17 to the excess, whether or not the Commonwealth recovers the debt.  
18 The amount is taken to be a payment of family tax benefit.
- 19 (5) However, the Secretary must not pay the social housing tenant an  
20 amount under subsection (4) to the extent that the sum of that  
21 amount, and of the amount that should have been deducted, would  
22 exceed the amount of family tax benefit that was payable to the  
23 tenant apart from this Part.
- 24 (6) Subsection (4) has effect for the purposes of all laws of the  
25 Commonwealth, except any law of the Commonwealth specified in  
26 an instrument under subsection (7).
- 27 (7) The Minister may, by legislative instrument, make a determination  
28 specifying a law of the Commonwealth for the purposes of  
29 subsection (6).

1 **67P Debt recovery**

2 *Set-off*

- 3 (1) The Secretary may set off an amount payable to a social housing  
4 lessor under Division 3 against a debt due to the Commonwealth  
5 by the lessor under this Division.

6 *Legal proceedings*

- 7 (2) A debt due to the Commonwealth under this Division is  
8 recoverable by the Commonwealth in a court of competent  
9 jurisdiction.

10 *Relationship with Part 4*

- 11 (3) Part 4 does not apply to a debt due by a social housing lessor to the  
12 Commonwealth under this Division.

13 **67Q No time limit on debt recovery action**

14 For the purposes of this Part, legal proceedings, or any action  
15 under a provision of this Part, for the recovery of a debt or  
16 overpayment may be commenced or taken at any time.

17 **Division 5—Fees**

18 **67R Fees**

19 The Secretary may, on behalf of the Commonwealth, charge a  
20 social housing lessor fees for any of the following:

- 21 (a) deducting amounts under Division 2 in accordance with  
22 requests made by the lessor;  
23 (b) paying the lessor amounts under Division 3;  
24 (c) services provided to the lessor in relation to the  
25 administration of this Part.

26 **6 Subsection 154(1)**

27 Omit “either or both of the following matters”, substitute “one or more  
28 of the following matters”.

1 **7 At the end of subsection 154(1)**

2 Add:

3 ; (c) the operation of Part 3A (automatic deductions of rent or  
4 other household payments).

5 **8 Subsection 157(1)**

6 Omit “either or both of the following purposes”, substitute “one or more  
7 of the following purposes”.

8 **9 At the end of subsection 157(1)**

9 Add:

10 ; (c) to facilitate the administration of Part 3A (about automatic  
11 deductions of rent or other household payments).

12 **10 At the end of subsection 157(2)**

13 Add:

14 ; (m) for the purposes of Part 3A (automatic deductions of rent or  
15 other household payments), in relation to a social housing  
16 lessor—evidence to support a request made by the social  
17 housing lessor under section 67D.

1 **Schedule 3—National rental affordability**  
2 **scheme amendments**  
3

4 *National Rental Affordability Scheme Act 2008*

5 **1 Subparagraph 7(2)(b)(ii)**

6 Repeal the subparagraph, substitute:

- 7 (ii) each charge of rent for the rental dwelling during the  
8 year is at least 20% less than the market value rent for  
9 the dwelling; and

10 **2 Paragraph 7(2)(c)**

11 Repeal the paragraph, substitute:

- 12 (c) to the extent that the rental dwelling is not rented during an  
13 NRAS year that falls within the incentive period—the  
14 dwelling is not vacant for longer than a period prescribed by  
15 the regulations.

16 **3 At the end of section 7**

17 Add:

- 18 (4) The National Rental Affordability Scheme may provide for, and in  
19 relation to, the variation of a condition of an allocation (other than  
20 a condition mentioned in paragraph (2)(a) or  
21 subparagraph (2)(b)(ii)) in certain circumstances.
- 22 (5) To avoid doubt, a condition provided for by the National Rental  
23 Affordability Scheme may be imposed on an allocation after the  
24 allocation is made.

25 **4 After paragraph 8(b)**

26 Insert:

- 27 (ba) the transfer of an allocation to another rental dwelling in  
28 certain circumstances;

1 **5 Application**

2 Subsections 7(4) and (5) of the *National Rental Affordability Scheme*  
3 *Act 2008*, as inserted by item 3 of this Schedule, apply to an allocation  
4 made before, on or after the day this Schedule commences.

5 **6 Making allocations—continuity of conditions prescribed by**  
6 **the regulations**

7 The amendment made by item 2 of this Schedule does not affect the  
8 continuity of any regulations made for the purposes of paragraph 7(2)(c)  
9 of the *National Rental Affordability Scheme Act 2008* that are in force  
10 immediately before this item commences.