Australian Government

Guides to Social Policy Law

Social Security Guide

Version 1.339 - Released 11 May 2026

4.6.8.10 Defining land adjacent to the principal home

Summary

This topic discusses:

- the definition of the term 'adjacent land'
- usage of the term
- assessing adjacent land under the private land use test 4.6.8.40 (/social-security-guide/4/6/8/40)), and
- assessing adjacent land under the extended land use test 4.6.8.50 (/social-security-guide/4/6/8/50)).

Definition of adjacent land

The term adjacent land describes the land surrounding the principal home that is held under the same title document.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A Principal home ..., section 11A(11) Definition of title document

Usage

The term adjacent land applies to land assessed under the private land use test, OR from 1 January 2007, for age pensioners and CP (/social-security-guide/acronyms#cp) recipients of age pension age, the extended land use test.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(3) Private land use test, section 11A(6) Extended land use test

Assessing adjacent land under the private land use test

The maximum amount of land adjacent to the principal home that can be exempted under the private land use test is 2 hectares.

If the principal home is a dwelling-house, the land adjacent must be:

- held on the same title document, and
- must be used PRIMARILY for private or domestic purposes.

If the principal home is a flat or home unit - a garage or storeroom, the land adjacent must be used PRIMARILY for private or domestic purposes in association with the flat or home unit.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A Principal home ..., section 11A(1)(a) if the principal home is a dwelling-house ..., section 11A(1)(b) if the principal home is a flat or home unit ..., section 11A(3) Private land use test

Policy reference: SS Guide 4.6.8.40 (/social-security-guide/4/6/8/40) Private land use test

Assessing adjacent land under the extended land use test

From 1 January 2007 the maximum amount of land adjacent to the dwelling-house that can be exempted under the extended land use test is all land on the same title document as the income support recipient's principal home.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1)(a) if the principal home is a dwelling-house ..., section 11A(6) Extended land use test, section 11A(11) Definition of title document

Policy reference: SS Guide 4.6.8.50 (/social-security-guide/4/6/8/50) General provisions for the extended land use test

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4.6.8.20 Defining title document & exceptions

Summary

This topic discusses:

- the definition of the term 'title document'
- usage of the term
- dual properties held on one title document, and
- exceptions to land being held on one title document.

Definition of the term title document

The term title document is:

- the certificate of title for the land that is registered under a Torrens system (that is, the vast majority of privately owned land in Australia), and

- in any other case (that is, old title land), the last instrument by which title to the land was conveyed.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(11)(a) in relation to land title which is registered under, section 11A(11)(b) in any other case-the last instrument by ...

Usage

This definition is used when assessing the land adjacent to the principal home under the assets test.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(11) Definition of title document, section 11A Principal home definition for the ...

Exceptions to land being held on one title document

Three exceptions exist to the rule requiring land adjacent to the principal home to be held on one title document. Under the 3 exceptions land held on more than one title document can be treated as if it were held on the same title document as the person's dwelling-house. The exceptions are:

- where the dwelling-house is located on both blocks of land
- where all or part of the blocks of land are protected by a law because of the land's natural, historic or Indigenous heritage, or
- where the alienation of one of the blocks would seriously undermine the function of the house as a dwelling.

The 3 exceptions apply to income support recipients who are seeking an exemption from the assets test under the private land use test and the extended land use test.

Exception 1: The dwelling-house is located on both blocks of land.

This exception requires the dwelling-house structure to be located on both blocks of land.

Example: If the second block of land (on a separate title) includes an extension that was made a number of years ago and is connected to the main dwelling-house, then the second block can be treated as if were held on the same title document.

This exception does not extend to structures that are separate, or not attached, to the dwelling-house.

Example 1: If the second block of land (on a separate title) includes farm machinery sheds, separate to the dwelling-house, then the second block CANNOT be treated as if it were held on the same title document.

Example 2: If the second block of land (on a separate title) includes a separate dwelling-house, then the second block CANNOT be treated as if it were held on the same title document.

Exception 2: Both blocks are protected under a law of the Commonwealth, State or Territory because of its natural, historic or Indigenous heritage.

This exception requires a legal restriction being placed on a person that requires both blocks of land to be treated as a whole. That is, the restriction means that the second block is not capable of being sold separately.

Example: A second block of land (on a separate title) includes a native garden, and the dwelling-house and the native garden are together formally protected under law. If the protection means that the second block is unable to be sold separately then the second block could be treated as if it were held on the same title document.

Exception 3: The alienation of one of the blocks of land without the other will seriously undermine the function of the house as a dwelling.

This exception means that without considering the other block of land the house would be unable to perform:

- the essential functions that would reasonably be required of a house as a dwelling, such as cooking, cleaning and sleeping, or
- essential housing related infrastructure functions that would reasonably be required for a house, without connection to mains water, power or sewerage services, to function as a dwelling.

Example: If a septic tank or the main supply of water from a bore is (and originally was) located on an adjoining block of land, and it is not reasonable to expect that these functions can be relocated to the dwelling-house block, then the second block can be treated as if it were held on the same title document.

The structure of the house and the essential housing related infrastructure should have been in place for a reasonable amount of time for the income support recipient to gain access to the exception. An income support recipient cannot access this exemption if they have made alterations to the structure of the house and essential housing related infrastructure since 8 May 2006 that previously existed on a single title.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1) Principal home

Access roads & lanes

An access road or lane, which is the only way possible to the principal home, may be treated as if it were held on the one title document if the access road or lane makes up:

- the entire area of land on the second title, or

- the majority of the area of land on the second title.

Amenity

The function of a dwelling-house does not relate to a mere loss of amenity. SSAct section 11A(2) notes 'a mere loss of amenity, such as the loss of a swimming pool, garden, tennis court or view, would not seriously undermine the function of a house as a dwelling.'

Example: If a pool is located on a separate title to the home then the title where the pool is located cannot be considered as if it were held on the same title document as the home. The title (where the pool is located) will be assessed as an asset.

Extended living area

It is NOT intended that an extended living area located some distance from the dwelling-house could be considered an amenity. The block with an extended living area CANNOT be treated as if it were held on the same title document.

Example: An outdoor barbecue area that is located on a separate title some distance from the dwelling-house would be considered an amenity and the land CANNOT be treated as if it were held on the same title document.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(2) The Secretary may determine that the land is to be treated ...

Last reviewed: 4 November 2024

4.6.8.30 Grandfathering provisions for more than one title

Summary

This topic discusses the grandfathering provisions that exist for income support recipients (who have land adjacent to the principal home of up to 2 hectares) and who would otherwise be disadvantaged by the introduction of the one title rule from 1 January 2007.

Background information

From 1 January 2007 the legislative definition of a principal home was amended to clarify the exemption of land adjacent to the home as being the land held under the same title document as the land on which the dwelling-house is located.

This amendment would have resulted in some income support recipients receiving a reduced rate of payment, or having their payment cancelled, from 1 January 2007.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1) Principal home

What are grandfathering provisions

Grandfathering provisions enable a person to continue to have their circumstances assessed under the 'old rules', so they are not disadvantaged by the introduction of the 'new rules'.

Generally, if a person's payment was to be reduced or cancelled due to the introduction of a new rule (legislative or policy) then a grandfathering provision enables that person to be assessed as they were still under the old rules.

Income support recipients to whom the grandfathering provisions apply, may come to light on an ongoing basis.

Application of grandfathering provisions

The grandfathering provisions apply to income support recipients who were receiving payment as at 31 December 2006, and:

- whose payment would be reduced or cancelled from 1 January 2007 as a result of the application of the amended definition of land adjacent to the principal home, OR
- whose payment was reduced prior to 1 January 2007 because land adjacent to their dwelling-house was not on the same title.

Explanation: The grandfathering provision applies to income support recipients, current at 31 December 2006, who would be disadvantaged by the new one title rule because they currently have an exemption over 2 titles.

Example: Prior to 1 January 2007, a disability support pensioner was assessed as having the area of land adjacent to his or her principal home on 2 hectares exempt even though the 2 hectares is split across 2 titles. This is because the SSAT (/social-security-guide/acronyms#ssat) ruled in 2006 that the income support recipient should be eligible for the 2 hectare concession even though the area of land is over 2 titles.

The land on the other title was not being put to any commercial use. The income support recipient can have the 2 hectares exempt under the grandfathering provision if their payment was to be reduced or cancelled as a result of the one title rule being enforced.

Under the grandfathering provisions, from 1 January 2007, the income support recipient will continue to have the 2 hectares on more than one title exempt from the assets test, providing:

- the land on the other title is not used primarily for commercial purposes
- the income support recipient remains living in their home, and
- the income support recipient continues to receive an income support payment.

The grandfathering provisions also apply to income support recipients, current at 31 December 2006, who would have gained an advantage in the past if it were not for the one title rule being enforced. That is, the income support recipient could have had land of up to 2 hectares on 2 titles exempt, but because the one title rule was enforced they only have an exemption for one title.

Example: An age pensioner had one-hectare of land on one title and one-hectare of land on another title. Prior to 1 January 2007, the pensioner was assessed as having the area of land adjacent to his or her principal home on one-hectare exempt. The adjacent one-hectare block was assessed under the assets test. The pensioner finds out about the new grandfathering provisions and applies to have the 2 hectares exempt. The pensioner can have the 2 hectares exempt under the grandfathering provision if they would have received an increase in payment if the one title rule were not enforced.

Under the grandfathering provisions, from 1 January 2007, the income support recipient can have the 2 hectares on more than one title exempt from the assets test, providing:

- the land on the other title is not used primarily for commercial purposes
- the income support recipient remains living in their home, and
- the income support recipient continues to receive an income support payment.

Where income support recipients could have gained an advantage in the past if it were not for the one title rule being enforced, the normal date of effect provisions relating to a favourable decision will apply. That is, the date of effect of the favourable determination is the day they sought the review.

The grandfathering provisions apply only to income support recipients whose dwelling-house and adjacent land is 2 hectares and under, but the area of land is on more than one title.

The grandfathering provisions do not apply to a person who satisfies the extended land use test.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(6) Extended land use test

Cessation of income support payment

If the person ceases to receive an income support payment then grandfathering provisions are lost and cannot be reapplied some time in the future.

Example: A person is benefiting from the grandfathering provisions but their income support payment, for whatever reason, is cancelled. If at a later date they apply for payment again, the person, if they qualify under the private land use test, will only have the area of land adjacent to the principal home on the same title document exempt from the assets test.

Act reference: Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006 (https://www.legislation.gov.au/C2006A00156) Schedule 1 clause 19 Transitional arrangements-one title rule

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4.6.8.40 Private land use test

Summary

This topic discusses:

- who the private land use test applies to
- the private land use test and the area it applies to
- land used for private or domestic purposes
- land used primarily for commercial purposes
- land not used primarily for commercial purposes, and
- operating a business from the principal home.

Policy reference: SS Guide 4.6.3.10 (/social-security-guide/4/6/3/10) General provisions for assessing the principal home, 4.6.3.30 (/social-security-guide/4/6/3/30) Defining the principal home, 4.6.8.10 (/social-security-guide/4/6/8/10) Defining land adjacent to the principal home

Who the private land use test applies to

The private land use test applies to all social security income support recipients.

The private land use test and the area it applies to

The private land use test relates to the area of land adjacent to the principal home of up to 2 hectares. If the land is used for private and domestic purposes the private land use test will be satisfied, and the relevant area of land will be exempt from the assets test.

To meet the private land use test the area of land must be used PRIMARILY for private or domestic purposes in association with the dwelling-house.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1) Principal home, section 11A(3)(a) the area of the land, together with the area of ..., section 11A(3)(b) the land is used primarily for private or ...

Land used for private or domestic purposes

Land is considered to be used for private or domestic purposes if the land:

- is not PRIMARILY used for commercial purposes, or
- is land that is vacant, overgrown, or unused.

Land that is occasionally used for community purposes, even if a token payment is received, can be considered to be used for private or domestic purposes.

Land used primarily for commercial purposes

If the land is used PRIMARILY for commercial purposes, then the private land use test is NOT satisfied, and the land is an assessable asset.

Land NOT used primarily for commercial purposes

If the land is NOT used PRIMARILY for commercial purposes, then the private land use test will be satisfied. The relevant part of the land used for private and domestic purposes will be exempt from the assets test. The relevant part of the land that is used for commercial purposes will be an assessable asset.

A professionally qualified valuer appointed by Services Australia (Centrelink) will value the part of the land used for commercial purposes and its value will be included in the person's assessable assets.

Example: An income support recipient on a rural residential block of 2 hectares operates a boarding kennel for dogs on ½ hectare of the land adjacent to the dwelling-house. A professionally qualified valuer will value the ½ hectare and its value will be included in the person's assets. The portion of the land used primarily for private and domestic purposes (1½ hectares) will be excluded from the assets test.

Policy reference: SS Guide 4.6.6.10 (/social-security-guide/4/6/6/10) General provisions for valuation of assets

Operating a business from the principal home

SS Guide 4.6.3.10 (/social-security-guide/4/6/3/10) outlines the affect of a person operating a business from home where the property is used partly for business purposes.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(3) Private land use test

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4.6.8.50 General provisions for the extended land use test

Summary

This section contains information on:

- the rationale for the extended land use test
- the extended land use test
- who the extended land use test applies to
- who is not eligible for the application of the extended land use test
- the long-term (20-year) continuous attachment to land requirement
- the application of the extended land use assets test to partners
- business assets are excluded from the extended land use exemption
- effective use of the land

- basic steps for assessing eligibility for the application of the extended land use test exemption
- review of land use test exemptions that have been granted.

Rationale for the extended land use test

Up until 1 January 2007, only a person's principal home and adjacent land of up to 2 hectares in total, was exempt from the assets test. This applied even where the adjacent land in excess of 2 hectares was held on the same title document as the principal home.

The Australian Government does not believe that older Australians on farms and rural residential areas should be forced to move from their principal home where they have lived for a long period of time.

The extended land use test is therefore designed to enable people of age pension age who are receiving Age (/social-security-guide/acronyms#age) or CP (/social-security-guide/acronyms#cp) , and who have a long-term continuous attachment to their land and principal home, to stay in their home into their retirement. For this exemption to apply, the person must make effective use of productive land to generate an income, given their capacity.

What is the extended land use test

If a person is eligible to have the extended land use test applied, the area of land adjacent to their principal home that is more than 2 hectares and also held on the same title document, is exempt from the assets test, provided they are making effective use of the land.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1)-'Principal home', section 11A(6) The extended land use test is satisfied in relation to land if...

Policy reference: SS Guide 4.6.8.70 (/social-security-guide/4/6/8/70) Determining the effective use of the land

Who the extended land use test applies to

The extended land use test applies to a person if:

- the person has reached Age pension age
- the person is qualified for Age or CP and that pension or payment is payable to the person
- the dwelling-house has been the person's principal home for 20 years or more continuously.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(4) To whom does the extended land use test apply?, section 23(5A) A man born during the period specified..., section

23(5D) A woman born during the period specified..., section 43 Qualification for Age, section 198 Qualification-disabled adult or disabled adult and dependent child

Who is not eligible for the application of the extended land use test

Unless a person meets the criteria above, or is the partner of such income support recipient, they will not be eligible for the application of the extended land use test. The private land use test will instead be applied.

Long-term (20-year) continuous attachment to land

A person must have a long-term (20-year) continuous attachment to their principal home (and adjacent land) for the extended land use test to apply.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1)-'Principal home', section 11A(4)(c) the dwelling-house has been the person's principal home for 20 years or more continuously

Policy reference: SS Guide 4.6.8.60 (/social-security-guide/4/6/8/60) Long-term (20-year) Continuous attachment to land

Application of the extended land use test to partners

The information below outlines how the extended land use test applies to partners of relevant income support recipients.

Both members of a couple are of age pension age, qualify for Age or CP, and are payable for the pension or payment

For couples, where both partners are of age pension age and qualify for Age or CP and are payable for the respective pension or payment, at least one member of the couple is required to have a long-term (20-year) continuous attachment to the property to have the extended land use exemption applied.

One member of the couple is of age pension age, qualifies for Age or CP and is payable for the pension or payment

For couples, where the extended land use test applies to one partner (age pension age partner who qualifies for Age or CP and that pension or payment is payable to them), it also applies to the other partner, even if the other partner receives income support and is under age pension age. This means the extended land use test applies to both members of the couple.

The age pensioner or CP recipient of age pension age is required to have the long-term (20-year) continuous attachment to the land, not the partner who is under age pension age or under service pension age.

Qualifying partner separates or dies

Following separation from, or the death of, a qualifying partner, the extended land use test continues to apply to the partner who is under age pension age, as long as that partner continues to live in the same principal home and is making effective use of the land.

Policy reference: SS Guide 4.6.8.70 (/social-security-guide/4/6/8/70) Determining the effective use of the land

Partner who is under age pension age re-partners

If the partner who is under age pension age (person B) is a person to whom the extended land use test applies because of their previous partner's (person A) qualification, and person B re-partners, then the new partner of person B (person C) is also a person to whom the extended land use test applies. This is regardless of the age of the new partner (person C). If the relationship between person B and person C ends, but person C re-partners, then their new partner (person D) is also a person to whom the extended land use test applies.

This result may continue for as long as the person continues to live in the same principal home and they are making effective use of the land (4.6.8.70 (/social-security-guide/4/6/8/70)).

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(5) Where a person (the first person) to whom the extended land use test applies...

Policy reference: SS Guide 4.6.8.70 (/social-security-guide/4/6/8/70) Determining the effective use of the land

Business assets not included in value of land exempted under the extended land use test

For the avoidance of doubt, the exemption of land from the assets test as a result of the application of the extended land use test does not extend to or include the value of any commercial or business assets, structures and improvements, such as plant, stock, machinery, equipment, machinery sheds, that may be associated with or located on that exempt land.

Policy reference: SS Guide 4.7 (/social-security-guide/4/7) Business Structures, Primary Production & pre-01/01/2002 Assessment of Trusts & Private Companies

Effective use of the land

The person seeking the application of the extended land use exemption must be making effective use of the land.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(7) In determining whether a person is making effective use of the land...

Policy reference: SS Guide 4.6.8.70 (/social-security-guide/4/6/8/70) Determining the effective use of the land

Basic steps for assessing eligibility for the application of the extended land use exemption

The following table outlines the steps to be taken in assessing whether a person is eligible for the extended land use test to be applied. If the extended land use test exemption applies, the area of land adjacent to the principal home that is over 2 hectares, if held on the same title document, can be exempted from the assets test.

Step	Assessment questions	Action, if yes	Action, if no
1	Does the person currently own an area of land that is over 2 hectares that is also on the same title document as the person's principal home?	MAY be eligible.	Go to Step 2.
2	Has the delegate decided that the area of land adjacent to the principal home should be considered	MAY be eligible.	NOT eligible.

Step	Assessment questions	Action, if yes	Action, if no
	as if it were held on the same title document?		
3	Is the person of age pension age, and if so: a) do they qualify for Age or CP and b) are they payable for that respective pension or payment?	MAY be eligible. Go to Step 4.	NOT eligible. Go to Step 5.
4	Does the person described at (3) above have a 20-year continuous attachment to the land and principal home?	MAY be eligible. Go to Step 6.	NOT eligible.
5	Is the person a partner of a person who meets the criteria above?	MAY be eligible. Go to Step 6.	NOT eligible.
6	Does the person who meets the criteria above, or their partner, currently live in the principal home?	MAY be eligible. Go to Step 7.	NOT eligible - unless the relevant income support recipient is temporarily absent from the home for up to 12 months or in a care situation (1.1.C.25 (/social-security-guide/1/1/c/25)) for up to 2 years.
7	Has the person also satisfied the effective land use test?	Would benefit from the extended land use exemption.	NOT eligible.

Review of ongoing eligibility for the extended land use exemption

Effective land use determinations should be reviewed annually. In general, once a person has been granted the extended land use assets test exemption, their ongoing eligibility for the exemption will therefore also be reviewed regularly.

Policy reference: SS Guide 4.6.8.70 (/social-security-guide/4/6/8/70) Determining the effective use of the land

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4.6.8.60 Long term (20-year) continuous attachment to land

Summary

This section contains information on:

- what constitutes a long term (20-year) continuous attachment to land for the purposes of the extended land use test
- absences from the principal home, and
- documentary evidence required.

What constitutes a long term (20-year) attachment

The income support recipient must have a long term (20-year) continuous attachment to their principal home (and adjacent land) for the extended land use test to apply.

The long term (20-year) continuous attachment applies to income support recipients who currently own their principal home and have either:

- lived in that principal home continuously for a period of 20 years immediately prior to the date of assessment, OR
- lived on the one property (including those held on multiple adjoining titles) continuously for a period of 20 years immediately prior to the date of assessment.

Explanation: An income support recipient may satisfy the long term (20-year) continuous attachment in any of the following situations:

- Having owned and lived in their principal home on one title for 20 continuous years immediately prior to the date of assessment.
- Having lived in their principal home on one title for 20 continuous years immediately prior to the date of assessment, but have owned the property for less than 20 years.
    - **Example:** A pensioner has lived in the farm home for more than 20 years. The transfer of control of the farm, including the home, to the farmer occurred 13 years ago. Given the farmer has owned the home for 13 years but has lived in the home for more than 20 years, the long-term continuous attachment to land has been met.
- Having owned the property on one title for 20 years immediately prior to the date of assessment, and having continuously lived on that property in more than one dwelling-house, for the last 20 years.
    - **Example:** A pensioner has owned his farm on one title for more than 20 years. The farmer lived in an old farmhouse for 50 years. The farmer built a new house on the farm 15 years ago. In this case the long-term continuous attachment has been met.
- Having owned a property on multiple adjoining titles for 20 years immediately prior to the date of assessment, and having continuously lived on that property in more than one dwelling-house, for the last 20 years.
    - **Example:** A pensioner has owned a farm on 3 adjoining titles (Blocks A, B and C) for more than 20 years. The farmer lived on Block A (100 hectares) for 10 years and built a new house on Block C (150 hectares), which he has now lived in for 10 years. In this case, the long-term continuous attachment to land has been met.

Note: For couples, either the qualifying income support recipient or their partner may own the principal home. However the qualifying income support recipient must have lived in the home for 20 continuous years immediately prior to the date of assessment.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(1) Principal home, section 11A(4)(c) the dwelling-house has been the person's principal home for 20 years or more continuously, section 11A(5) Where a person ..., section 11A(6) and (7) Extended land use test

Policy reference: SS Guide 4.6.8.50 (/social-security-guide/4/6/8/50) General provisions for the extended land use test

Absences from the principal home

A continuous attachment is not broken by temporary absences that are permitted under the SSAct. However, other types of absences will break the continuous attachment.

Example: A pensioner has owned a rural residential block for 20 years but lived in the city (where he rented) for 12 years during that period. The pensioner lived in the dwelling-house on the rural residential block for 8 years. The pensioner only has an 8-year continuous attachment to the principal home immediately prior to the date of assessment so does NOT meet the long-term continuous attachment.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(4) and (5) To whom does the extended land use test apply?, section 11A(8) to (9B) Effect of absences from principal home

Temporary vacation of principal home (not a care situation)

If an income support recipient temporarily vacates their principal home and is not for a care situation, the home continues to be the principal home and the recipient continues to be defined as a homeowner for up to 12 months.

Explanation: If an income support recipient temporarily vacates their principal home for a period of up to 12 months, this absence would NOT stop them from qualifying for the long-term continuous attachment under the extended land use test.

Example: A pensioner has owned the principal home for 20 years. During that time, the person left the home to undertake seasonal work, for no longer than 12 months at a time, for a number of years. Given the pensioner was not vacant from their principal home for more than 12 months continuously, the 20-year continuous attachment is satisfied.

If the income support recipient is absent from the principal home for any period that is longer than 12 months, they will NOT meet the long-term continuous attachment.

Example: A pensioner has owned their principal home for 20 years, but has spent the last 3 years living in a house with a family member closer to town facilities. In this circumstance, the 3-year absence from the property means that the person does NOT have a 20-year continuous attachment to the property.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(8) Effect of absences from principal home, section 11A(9) A residence of a person is to be taken to continue to be the person's principal home during ...

Policy reference: SS Guide 4.6.3.60 (/social-security-guide/4/6/3/60) Exempting the principal home - temporary vacation of property, 4.6.8.30 (/social-security-guide/4/6/8/30) Grandfathering provisions for more than one title

Temporary vacation of principal home (care situation)

If an income support recipient vacates their principal home to enter into a care situation, the home continues to be their principal home and is exempt under the assets test for a period of up to 2 years.

Explanation: If a person leaves their principal home to go into a care situation for a period of up to 2 years, then this would NOT stop them from qualifying from the long-term attachment under the extended land use test.

Example: A pensioner has owned their principal home for 20 years. At one point during that period, the person left the home to go into a care situation for 18 months, but returned to the home to live. In this circumstance, the 20-year continuous attachment is satisfied.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(9)(f) A residence of a person ...

Policy reference: SS Guide 4.6.3.70 (/social-security-guide/4/6/3/70) Exempting the principal home - care situations

Documentary evidence required

The income support recipient will be required to provide documentary evidence that they currently own the property. A copy of the title deed is required, as the title deed will show when the property was last transferred and the name of the current land title owner/s.

If the title deed does not include the address details of the property, a copy of a rates notice will be required to confirm the property address. This is because the deposit plan number that is on the title deed will appear on the rates notice.

The income support recipient will be required to provide supporting evidence that they have lived on the property for 20 continuous years. Past address details recorded by Services Australia (Centrelink) may indicate the person has lived on the property for 20 continuous years. If such information is not available, a declaration from the income support recipient identifying that the property has been the person's principal home for a 20-year continuous period immediately prior to the date of assessment will be required.

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Guides to Social Policy Law

Social Security Guide

Version 1.339 - Released 11 May 2026

4.6.8.70 Determining the effective use of the land

Summary

This topic discusses:

- how the effective use determination is made
- circumstances where the effective land use test will be met
- using the land to its potential to generate an income
- how productive land can be used to its potential
- not using the land because it has no, or limited, potential to generate an income
- where the only productive use of the land is subdivision
- determining the capacity of the income support recipient to effectively use the land, and
- how the amalgamation of titles affects the effective use of the land.

How the effective use determination is made

A range of factors will be taken into consideration to determine if the income support recipient is making effective use of the land. The delegate is required to weigh up these factors, given all the circumstances of the person, in deciding if a person is making effective use of the land.

The factors to be taken into consideration include:

- where the block is located
- the size of the block of land
- the person's family situation
- the person's health
- whether the land contains a dwelling-house occupied by a family member of the person, or a child of a family member of the person, receiving an income support payment
- whether the land is being used to support
  - a family member of the person, or
  - a child of a family member of the person
- any current commercial use of the land
- any potential commercial use of the land
- whether the person's capacity to make commercial use of the land is diminished because the person, or the person's partner has responsibility for the care of another person
- whether the block of land is an amalgamation of 2 or more blocks and, if so
  - when the amalgamation occurred, and
  - whether the amalgamation reduced the potential for the land to produce personal income or to support the person
- environmental issues relating to the land, and
- any other matter that the delegate considers relevant.

Guidance is provided below to assist the delegate in making a decision.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 11A(7) In determining whether a person is making effective use of the land ...

Circumstances where the effective land use test will be satisfied

Circumstances where the income support recipient will satisfy the effective land use test by considering the factors above include:

- where the land is being used to its potential to generate an income, or
- where the land is not being used because it has no, or limited, potential to generate an income.

Using the land to its potential to generate an income

The following will be discussed:

- how to determine the potential of the land to generate an income
- the amount of land that could be used
- past income generated from the land
- estimate of the potential of the land to generate an income
- valuation of the potential of the land to generate an income, and
- circumstances that MAY satisfy the effective land use test.

How to determine the potential of the land to generate an income

In considering the potential of the land to generate an income the following will be taken into consideration:

- the amount of land that could be used, AND
- the past income generated from the land, AND
- the income support recipients future estimate of the potential of the land to generate and income, OR
- a professional valuation of the potential of the land to generate an income.

Amount of land that could be used

It would be considered reasonable for the land of 2 hectares surrounding the principal home to be used for private and domestic purposes.

Only land that has a potential to produce (that is, productive land) can be put to use. It is not expected that an income support recipient will be able to use all of their productive land at the one time. This is particularly the case for farming properties, where land management practices will only enable a portion (depending on the type of primary production industry) to be used in one season.

Discretion should be used, based on the circumstances of the income support recipient, land management practices in the area and seasonal conditions in determining the amount of productive land that is required to be put to use.

If an income support recipient is using an amount of productive land that is considered satisfactory then the whole area of land on one title document (subject to other criteria being met) may be exempt.

Example: Joe has a 60-hectare property one title document, of which 50 hectares is productive land. If Joe is using 30 hectares of productive land, in line with land management practices in the area, then he will meet the requirement relating to the amount of land to be used. Provided Joe is working the 30 hectares to its potential then he will meet the effective land use test and the whole 60-hectare property will be exempt (provided other criteria are met).

If an income support recipient is using an amount of productive land that is not considered satisfactory then they will fail the effective land use test.

Example: Joe is using 15 hectares of 50 hectares of productive land. This is below standard land management practices in the area and no reason exists, such as Joe's capacity, for the land not to be used. In this case Joe will fail the effective land use test. Joe can have 2 hectares of land exempt under the private land use test.

Past income generated from the land

The income support recipient is required to provide some evidence of the income generated from working the land in the recent past.

Example: Financial statements showing the income generated from the land over the past few years.

Estimate of the potential of land to generate an income

The income support recipient is required to provide an estimate of the amount of income that could be generated from using the land to its potential over the next 12 months. This estimate is required to be backed up with some evidence.

Example: Past income generated from the land, a copy of a lease agreement, or correspondence from a local agricultural adviser identifying the potential of the land to generate an income.

In most instances the income support recipients estimate should be accepted. The only exceptions include:

- cases where the income support recipient does not provide any evidence, AND
- where doubt exists about the correctness of the estimate provided.

Example: Instances where a significant discrepancy exists between income generated in the past and the income support recipient's estimate that cannot be explained.

Valuation of the potential of the land to generate an income

In the exceptions above, a professionally qualified valuer should undertake an assessment of the commercial lease value of the land. The commercial lease value means the income, which might be derived from the commercial use of the asset (for example, plant and machinery).

Circumstances that may satisfy the effective land use test

Circumstances under which the income support recipient MAY satisfy the effective land use test include:

- the income support recipient working the land to its potential, OR
- a family member working the land to its potential, OR
- the income support recipient is 'taking action' to use the land to capacity.

How productive land can be used to its potential

The income support recipient can show they are making effective use of the land if they, or someone else, is:

- working the land to its potential, OR
- working the land to less than its potential but still generating an income that is reasonable considering the capacity of the income support recipient.

Income support recipient working the land to its potential

The income support recipient may be able to work the property to its potential by himself/herself, or with outside assistance.

If the income support recipient is gradually slowing down but is still making an income, but the income is progressively less (due to their capacity), then they will satisfy the effective land use test.

The actual income generated by the income support recipient from making productive use of the land will be taken into consideration as part of the income test.

Family member working the land to its potential

When a family member is working the land to its potential, and the income generated from the land is a main source of income for the family, then the effective land use test will be satisfied. The income support recipient must provide correspondence from the family member confirming the arrangement.

Example: The family member writing a letter confirming the arrangement, including the amount of land to be used and an estimate of income to be generated.

If the income generated is not passed to the income support recipient then the income will NOT be taken into consideration as part of the income test.

Taking action to use the land to its potential

When the income support recipient is unable to work the land, or to have a family member work the land, they will fail the effective land use test if they do not 'take action' to make arrangements for the land to be used to its potential. The main way this can occur is through leasing the land.

The income support recipient must provide a copy of the lease agreement between himself/herself and the lessee, which identifies the amount of land to be used and the estimated amount of income generated from the lease.

The income support recipient's capacity to take action to use the land to its potential should be taken into consideration. Refer to the section below titled 'Determining the capacity of the income support recipient to effectively use the land'.

The actual income generated from the land as a result of the lease arrangement will be included as part of the income support recipient's income test.

The income support recipient can provide evidence that they have 'taken action' even though they have been unable to get an arrangement in place. In this case the effective land use test will be satisfied.

Example: The farming area is marginal and there is a lack of farmers in the area that would be interested in leasing the land. In this circumstance if the income support recipient provided evidence that they have taken action, such as advertising the leasing opportunity in the local community news, they will meet the effective land use test.

If the income support recipient subsequently leases the land they must notify Centrelink and have their circumstances reassessed under the income test.

Circumstances that do NOT satisfy the effective land use test

Circumstances under which the income support recipient will NOT satisfy the effective land use test include:

- the income support recipient working productive land, but not to its potential, AND
- the income support recipient not working productive land.

Income support recipient working productive land, but not to its potential

If a decline in working the land (for reasons other than seasonal conditions) has led to significantly less income than could potentially be made the income support recipient would NOT satisfy the effective land use test.

Example: Up until the last few years 400 head of cattle were being run from the property, however in similar circumstances the farmer now runs 40 head of cattle. In this situation it would generally be expected that the income support recipient should 'take action', such as making arrangements for leasing the land, for it to be used to its potential.

The income support recipient's capacity to make arrangements, such as leasing the land, should also be taken into consideration. Refer to the section below titled 'Determining the capacity of the income support recipient to effectively use the land'.

The income support recipient who is working productive land, but not to its potential, should be given a period of 3 months to take action to use the land to its potential.

Income support recipient is not working productive land

If the income support recipient is not making any attempt to work land that has potential to generate an income then they would NOT satisfy the effective land use test. The income support recipient can access the 2 hectare and under provision under the private land use test.

Not using the land because it has limited or no potential to generate an income

In some rural and rural residential areas land has limited potential to generate an income, either in the long term or the short term.

Unable to generate an income in the long term

The land may be unable to generate an income in the long term because of the relatively small size and nature of the land.

Example: A small block of land that is rocky and covered in bush.

The land may be unable to generate an income in the long term because of an environmental constraint.

Example: The land is protected by law from use due to an endangered flora or fauna being on the land.

The income support recipient should explain why they are unable to generate an income from the land where it has limited or no potential to generate an income.

Unable to generate an income in the short term (12 months)

The land may have been able to generate an income in the past but has been unable to generate an income in the next 12 months due to matters outside the control of the income support recipient.

Example: Previously cropping farmland that has not produced an income over the past 12 months due to severe frost.

In these cases some evidence of the reason for the farm not being able to produce should be provided.

Example: This could include a statement from the farmer outlining the situation.

Exceptional circumstances (EC) declarations

In drought situations, where the Australian Government Minister for Agriculture, Fisheries and Forestry has made EC declarations, or if a 'prima facie' case against the EC criteria has been demonstrated, the income support recipient will be considered to have satisfied the effective land use test.

The income support recipient must NOT be in receipt of income support assistance through EC relief payments. The income support recipient may choose to receive Age (/social-security-guide/acronyms#age) instead to take advantage of the concession instead of receiving income support assistance through EC.

Where the only productive use of the land is subdivision

In rural farming areas the income support recipient will not be required to subdivide to satisfy the effective land use test.

Generally, in rural residential areas the income support recipient will not be required to subdivide to satisfy the effective land use test.

If the income support recipient lives in smaller more built up rural/urban residential area and residential development is the only realistic potential commercial use of the land, then the income support recipient may fail the effective land use test if they do not subdivide. The following should be taken into consideration in making the effective land use test decision:

- the size of the block in relation to other blocks in the area
- if the market interest is favourable for blocks in the area
- if local government regulations enable subdivision, and
- if the person has the capacity to subdivide.

Example: A person has a 5-hectare property and average blocks in the area are under one hectare. If market interest exists for subdividable blocks, the land is zoned so it can be subdivided, and the person has capacity to arrange for subdivision to occur, then subdivision will be required to meet the effective land use test.

Acceptable reasons not to subdivide

If the income support recipient has an acceptable reason for not wanting to subdivide the land then the effective land use test will be satisfied.

An acceptable reason can include the income support recipient lacking the capacity to arrange for subdivision to occur. Refer to the section below titled 'Determining the capacity of the income support recipient to effectively use the land'.

Example: A block is large for the area, market interest is high and the land is zoned so it can be subdivided. The income support recipient does not have available funds to pay for the costs of subdivision and has a health condition that would make it difficult to arrange for subdivision. The capacity of the income support recipient would be an acceptable reason to show that the land should not be subdivided.

Simply wanting to keep the land for lifestyle purposes is NOT considered to be an acceptable reason and the income support recipient will NOT meet the effective land use test.

Determining the capacity of the income support recipient to effectively use the land

In certain circumstances it may be unreasonable to expect the income support recipient to either work the land, or take action to work the land to its potential. In these circumstances it must be apparent that the lack of capacity of the income support recipient prevents them from doing so. In these circumstances the effective land use test will be satisfied.

In other circumstances the capacity of the income support recipient may mean that they are unable to work the land to its full potential, but are still generating an income that is reasonable. In these circumstances the partial capacity of the income support recipient will be taken into consideration in determining if the effective land use test will be satisfied.

Factors, or a combination of factors, that could be taken into consideration when determining the capacity of an income support recipient to effectively use the land include:

Factors to consider in determining a person's capacity	**Explanation & examples**
Financial	If the person's financial circumstances mean that they lack capacity, or have reduced capacity to effectively use the land. **Example:** The person does not have the money to pay for the costs of subdivision. **Note:** This does not mean that if an income support recipient does not have the financial capacity to work the land then they will meet the effective land use test. **Example:** If the person is unable to afford to sow a crop, then the person would be expected to take action to lease the land for someone else to sow a crop, where potential exists.
Health	If the person's physical or mental health condition means that they lack capacity, or have reduced capacity to effectively use the land **Example:** If the health condition has a major bearing on the individual's ability to make rational decisions required to make effective use of the land.

Factors to consider in determining a person's capacity	Explanation & examples
Caring responsibilities	The person's caring responsibilities may mean that they lack the capacity, or have reduced capacity to effectively use the land. **Example:** A person has full-time caring responsibilities for a family member living in the home. In situations where the income support recipient has caring responsibilities this DOES NOT mean that they automatically meet the effective land use test. While the carer will be unable to work the land, they may still have the capacity to arrange for someone else to make use of their land.
Other details	If there is some doubt as to whether the income support recipient lacks the capacity (full or partial) to effectively use the land then the income support recipient should be given the benefit of the doubt.

How the amalgamation of titles affects the effective use of the land

One of the factors to be taken into consideration in determining whether an income support recipient is making effective use of the land is where the block of land is an amalgamation of 2 or more blocks.

The general principal is that income support recipients are expected to use the land (including selling the land held on separate titles) to support themselves.

The amalgamation of titles may prevent income support recipients from selling land (that was previously on a separate title) to support themselves. If this occurs the income support recipient may fail the effective land use test.

In cases where an amalgamation of titles has occurred the following should be taken into consideration to determine if the effective land use test is satisfied:

- when the amalgamation occurred, and
- whether the amalgamation reduced the potential for the land to support the person, that is, the land on the separate title can no longer be sold.

Amalgamation prior to 9 May 2006

If the income support recipient amalgamated titles before the budget announcement then the amalgamation would NOT prevent the income support recipient from satisfying the effective land use test.

Amalgamation after 9 May 2006

If the income support recipient amalgamated titles after the budget announcement then the amalgamation WILL have an impact on the effective land use test. If the amalgamation means that the income support recipient:

- can no longer support themselves from the land (that is, cannot sell the land) then the effective land use test will NOT be met, and
- improves their ability to support themselves by generating more income from amalgamating the blocks then this WILL not prevent them from satisfying the effective land use test.

Reviewing the effective use determination

Effective use determinations should be reviewed annually.

Exception: Where an income support recipient has been assessed as being unable to generate an income in the long term a review is not warranted.

Last reviewed: 12 May 2025

Guides to Social Policy Law

Social Security Guide

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4.6.8.80 Land adjacent to the principal home transitional provisions

Summary

This topic explains how the land adjacent to the principal home transition provisions are applied and covers:

- what are the backdating provisions
- periods where the transition provisions can apply
- new income support recipients who qualify on the date of claim lodgement
- new income support recipients who do not qualify on the date of claim, but would have sometime in the transition period
- existing income support recipients - increase in entitlements
- existing support recipients - decrease in entitlements
- decrease as a result of a new valuation
- special circumstances.

What are the backdating provisions

The backdating provisions enable a person to be paid their entitlements in the transition period if they qualify under the extended land use test to have the area of land on the same title document as the principal home exempt from the assets test.

Periods where the transition provisions can apply

The land adjacent to the principal home transition provisions can be applied to all new claims lodged between:

- 1 January 2007 and 31 March 2007 (inclusive), or
- 1 April 2007 to 30 June 2007 in special circumstances.

New income support recipients who qualify on the date of claim lodgement

New income support recipients who qualify for the concessional assets test treatment under the extended land use test, and have a social security payment payable on the date of making the claim may have their claim backdated to the LATER of:

- 1 January 2007, and
- the day on which the social security payment first becomes payable.

Example: Joe makes a claim and provides the information required to make an assessment under the extended land use test on 31 March 2007. Joe is assessed and qualifies for payment. Joe will receive payment from 31 March 2007, but will also be backdated for his entitlements from 1 January 2007 to 30 March 2007. If Joe was only entitled to payment from 1 February 2007, then he will be backdated to the later of 1 January 2007 or when the payment first becomes payable. So, in Joe's case he will be backdated to when his payment becomes payable (from 1 February to 30 March 2007).

Act reference: Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006 (https://www.legislation.gov.au/C2006A00156) Schedule 1 clause 20(2) Transitional arrangements—effective use test

New income support recipients who do not qualify on the date of claim, but would have sometime in the transition period

This applies to new income support recipients who at the date of making the claim (for the concessional assets test treatment under the extended land use test) do NOT qualify, and do NOT have a social security payment payable. However, if the new income support recipient would have qualified and becomes payable sometime between 1 January 2007 and the date of the claim, then they can be paid arrears.

Under the transitional arrangements the new income support recipient's entitlements between 1 January 2007 and the date of claim will be assessed and paid.

Example: George makes a claim and provides the information required to make an assessment under the extended land use test on 1 February 2007. George is assessed as NOT qualifying for payment on 1 February, however, is assessed as qualifying for a payment from 1 January to 30 January 2007. In his case George would be paid his entitlements for 1 January to 30 January 2007.

Act reference: Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006 (https://www.legislation.gov.au/C2006A00156) Schedule 1 clause 20(3) Transitional arrangements—effective use test

Existing income support recipients - increase in entitlements

For existing income support recipients who receive an increased entitlement as a result of the 1 January 2007 exemption to the assets test, may have their increase in payment backdated to the LATER of:

- 1 January 2007, and
- the day on which the increase first becomes payable.

Example: Isabella provides the information required to make an assessment under the extended land use test on 1 March 2007. Isabella is assessed and qualifies for an increase in entitlements, and will receive the increase from 1 March 2007. Isabella will be backdated for her entitlements from 1 January 2007 to 28 February 2007. If Isabella was only entitled to an increase in payment from 1 February 2007, then she will be backdated her entitlement from when she becomes payable for the increase (from 1 February to 28 February 2007).

Act reference: Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006 (https://www.legislation.gov.au/C2006A00156)

Schedule 1 clause 20(1) Transition arrangements-effective use test

Existing income support recipients - decrease in entitlements

For existing income support recipients who receive a decrease in entitlements as a result of this measure, the date of effect is to be the date of the decision. No overpayments will be raised unless the income support recipient has fraudulently misrepresented their circumstances.

Decrease as a result of a new valuation

A decrease in entitlement may occur as a result of a new valuation when:

- the income support recipient fails the effective land use test and a new valuation is undertaken of the income support recipients property that increases the value of the land, or
- the income support recipient gains an exemption for land on the same title as the principal home but the new valuation undertaken of the income support recipient's land on other titles increases the value of the land (on other titles).

The date of effect in this case applies from the first payday after the valuation is received.

Example: A pensioner makes a claim on 1 February 2007. On 1 April 2007 the pensioner is assessed and receives a decrease in entitlements due to the value of other land not on the same title as the principal home. The decrease in entitlements will occur on the first payday after the valuation is received.

Act reference: SSAct (https://www.legislation.gov.au/C2004A04121) section 23(1)-'payday'

Policy reference: SS Guide 4.6.6.10 (/social-security-guide/4/6/6/10) General provisions for valuation of assets, 8.6.1 (/social-security-guide/8/6/1) Date of effect of determinations - summary of legislation

Special circumstances

Special circumstances apply to people who will be new income support recipients from 1 January 2007, and those who will receive an increase in payment from 1 January 2007 as a result of a determination made under the extended land use test.

When to apply the special circumstances transitional provision

The land adjacent to principal home transition provisions apply to claims lodged between 1 April 2007 to 30 June 2007. If, after 1 January 2007, a social security payment becomes payable, or is payable at an increased rate as a result of the exemption, then a claim for payment lodged between 1 April 2007 to 30 June 2007 should be examined to determine if special circumstances exist.

What constitutes special circumstances

There is no definitive description of what constitutes special circumstances. However, there have been a number of AAT (/social-security-guide/acronyms#aat) (now known as the ART (/social-security-guide/acronyms#art)) and Federal Court decisions that offer a guide in determining whether special circumstances exist.

Example: In *Secretary, Department of Social Security v Paul Raymond Hulls; Stephaine Ann Forgie and John Antoine Kiosoglous* [1991] FCA 58; 22 ALD 570/13 Aar 414 (https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/1991/58.html) , the Federal Court held that it is not possible to set out a complete list of the relevant factors to be taken into account in determining whether special circumstances exist. Each case must be considered on its own merits.

Example: In *Beadle and D-GSS* (1984) 1 AAR 362 (https://austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/1984/176.html?context=1;query=beadle;mask_path=au/cases/cth/AATA) the AAT held that, in order for 'special circumstances' to exist, it must be possible to say that the circumstances in the case in question are 'markedly different from the usual run of cases'. The circumstances must have 'a particular quality of unusualness that permits them to be described as special'.

Factors to be considered when determining if special circumstances exist

The discretionary nature of the special circumstances provisions makes it impossible to give a precise list of factors that should be taken into account when considering whether the provisions should be applied. There is usually not one factor that makes a situation unusual, unforeseen or exceptional, but a combination of factors applying to each individual. The decision to apply the special circumstances provisions should be based on an individual's circumstances.

In general terms the decision maker should determine if there are any circumstances that exist for the person or their nominee that would warrant the application of the special circumstances provisions during the transitional periods.

The following table lists some factors that should be taken into consideration when determining if special circumstances exist.

Factors to consider	What to look for
Health	Changes in health could have a major bearing on the individual's circumstances. **Examples:** • Has the person been recently admitted to or been in hospital for an extended period? • Has the person's capacity to make rational decisions been impaired?
Changed circumstances	Have the circumstances of the person altered significantly due to circumstances wholly or partly outside of the person's control?
Carers & nominees	Changes in a carer's or a nominee's circumstances may impact on their capacity to act on behalf of the income support recipient. Has the carer or the nominee had any exceptional or unusual circumstances that may have a bearing on whether special circumstances should be applied?
Location	Has the person's location contributed to any delays in lodging a claim?
Incorrect or insufficient advice	Generally, if a person has been incorrectly advised by a third party or their representative then they should seek a remedy through other channels, for example, the courts. However, the person may not be, or ever likely to be, in a position to take this action.
Other details	If there is some doubt as to whether special circumstances exist then the person should be given the benefit of the doubt.

When the special circumstances transitional provisions should NEVER be applied

The special circumstances transitional provisions should never be applied to assessments:

- made outside the transitional periods, and
- where the person does not qualify for payment, or an increase in payment as a result of the exemption to land adjacent to the principal home.

Act reference: Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006 (https://www.legislation.gov.au/C2006A00156) Schedule 1 clause 20(4) The Secretary may determine in writing that a person is to be treated ..., Schedule 1 clause 20(5) The Secretary may determine in writing that a person is to be treated ...

Last reviewed: 2 February 2026