**3.2.11.60 Activity Test for NSA/YA Job Seekers - Exemptions - Parents & Foster Carers with Special Family Circumstances - Automatic Exemptions**

**Summary**

This topic provides information on automatic exemptions for principal carers and main supporter parents and non-principal carer emergency and respite foster carers with special family circumstances. It also discusses assessment of participation requirement exemptions.

For a broad overview of activity test exemptions policy for principal carer and main supporter parents and emergency and respite foster carers, see [3.2.11.50](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ssguide-3/ssguide-3.2/ssguide-3.2.11/ssguide-3.2.11.50.html) Activity Test for NSA/YA Job Seekers - Exemptions - Parents & Foster Carers with Special Family Circumstances - Overview.

**Automatic exemptions**

There are a number of circumstances where an automatic exemption from the activity test can be applied to principal carer and main supporter parents receiving [NSA](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ss-aclist/ss_n.html#SS-NSA) or [YA](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ss-aclist/ss_y.html#SS-YA) as a job seeker:

* if the principal carer parent is a registered and active foster carer,
* providing foster care temporarily in an emergency, or on a respite, basis,
* if the principal carer parent or main supporter is home schooling one or more of the children or secondary pupil children for whom they are the principal carer or main supporter,
* if the principal carer or main supporter parent is providing or facilitating distance education for one or more of the children or secondary pupil children for whom they are the principal carer or main supporter,
* if the principal carer parent is caring for a large family (i.e. is the principal carer of at least 1 child aged between 6 and 15 years inclusive and a total of 4 or more children and secondary pupil children aged between 6 and 18 years inclusive), or
* if a principal carer is a relative but not a parent of a child and the child is living with the principal carer in accordance with a family law order, or
* if a principal carer is a relative but not a parent of a child (kin child) and the principal carer is caring for the wellbeing of that kin child in accordance with a document accepted by the state/territory that is responsible for the wellbeing of children.

Single principal carer parents receiving NSA or YA as a job seeker who have been granted an automatic exemption from the activity test due to any of the reasons listed above, except for single principal carers caring for a kin child in accordance with a state/territory authority, will be paid a higher rate for the duration of the exemption equivalent to the amount of [PPS](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ss-aclist/ss_p.html#SS-PPS) but will remain subject to the NSA or YA income test. Main supporters of secondary pupil children are not entitled to the higher rate (unless entitled as a principal carer) and emergency/respite foster carers are not entitled to the higher rate.

Activity test exemptions available to principal carer parent job seekers due to all other types of special family circumstances are to be considered on a case-by-case basis.

Any special family circumstances exemption (whether automatic or case-by-case) will be subject to review and may be revoked if the job seeker's family circumstances change.

**Principal carer parent job seeker is a registered & active foster carer**

Registered and active foster carers are defined in the *Social Security Act 1991* as:

* a person who meets the requirements of the law (or regulations) of the state or territory in which the person resides in order to be registered or approved to provide foster care in that state or territory, and
* the person is actively involved in providing foster care in that state or territory.

When establishing if a principal carer parent is a registered and active foster carer, primary regard should be given to documentation from the relevant state or territory authority that indicates that the person is currently or could be required to provide formal foster care in the foreseeable future. It is important that principal carer parents with this documentation who are kinship carers (e.g., grandparents whose grandchildren are considered their dependent children for income support purposes), or provide respite or emergency foster care for children on an intermittent, episodic or irregular basis, are also regarded as registered and active foster carers.

Principal carer parents should not be regarded as registered and active foster carers if they only provide informal care of a child, that is, where the person, as a relative or friend, assumes care of a child in a private arrangement.

Automatic exemptions from participation requirements should be applied to all principal carer parents whose status as registered and active foster carers can be verified.

The maximum period of exemption from the activity test is 12 months. However, it may not be appropriate to grant an exemption for this period to all NSA and YA (job seeker) principal carer parents who are registered and active foster carers. The documentation provided by the state or territory government, or designated foster care agency, should be the basis for determining the relevant period the person is to be regarded as a formal foster carer.

***Example: If the documentation indicates that a person is a registered foster carer and the documentation is only valid for 4 months, an exemption from the activity test should also be given for 4 months.***

NSA or YA (job seeker) principal carer parents who are registered and active foster carers can apply for further periods of an exemption from the activity test which are each not to exceed 12 months. The person will need to provide appropriate documentation to verify their circumstances. This documentation will also be used to determine the appropriate duration for this exemption.

Principal carer parent job seekers will have 4 weeks immediately following the expiry of their registered and active formal foster carer status to provide Centrelink with documentation proving that this status has been renewed. During this time, the job seeker should still be considered exempt from the activity test. If the job seeker cannot produce the documentation after this 4 week period, but still claims that they are considered a registered and active foster carer, Centrelink should contact the relevant authority in that state or territory to verify the foster care status of the job seeker and clarify the source of documentation that supports this.

If after checking with the relevant organisation, the parent is still considered a formal registered and active foster carer, a new exemption should be granted (and where appropriate, backdated) for the duration of the renewed/new status. The principal carer will still be required to provide copies of the documentation to Centrelink within the next 4 week period.

Principal carer parent job seekers who are caring for a child, but who are unable to produce the required documentation to verify their registration as an active foster carer are not covered by this automatic exemption. However, where the care arrangement is being overseen by a relevant government authority (i.e. a state or territory community services department), a case-by-case exemption may be applicable if the relevant authority advises that caring for the foster child affects the job seeker's ability to work, or search for work.

It is the responsibility of the principal carer parent job seeker to inform Centrelink of any changes to their registered and active foster care status. Foster carers who are no longer active, or who become deregistered, are to immediately inform Centrelink of their change in circumstances. These job seekers will then become subject to the activity test.

***Example 1: Patrick and Sharon are registered and active foster carers and Sharon is a principal carer parent on NSA. They have a child of their own, Chris, age 9 at school. They also provide formal foster care for a child, Sam, age 7. Sharon is assessed for an automatic exemption from participation requirements. Sharon has documentation which substantiates her claim as a formally registered and active foster care provider. As Sharon is likely to foster Sam (or another child if Sam leaves her care) over the next 12 months, Sharon is granted an automatic exemption for the maximum period.***

***Example 2: Kerry is a single 49 year old grandparent who is a NSA recipient with full-time participation requirements. She has an adult daughter, Cherie, who has a 9 year old son, Michael. Michael has been assessed as at risk by the state's community services department and has been placed in the care of his grandmother, Kerry. Kerry is considered by the community services department to be a registered and active foster carer for Michael and Kerry and documentation supports this. Kerry contacts Centrelink to enquire about what type of income support she is entitled to now that she has the care of a dependent child. Kerry is assessed as being eligible for NSA as a principal carer parent. Under this payment, Kerry will have part time participation requirements. However, because Kerry is the principal carer of Michael, and is also a registered and active foster carer, she is eligible for an automatic exemption from participation requirements for up to 52 weeks.***

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 542FA(3) Disabled children or other family circumstances exemption (YA), section 602C(3) Relief from activity test-people with disabled children and other circumstances (NSA)

**Providing foster care temporarily in an emergency, or on a respite, basis**

Short term exemptions can be granted where a job seeker, who is not a principal carer parent and is a registered and active foster carer, provides foster care temporarily in an emergency or to give respite to another person from caring for a child. Examples might be where a child is placed in the care of a registered foster carer for a short period while the usual principal carer is unable to look after the child and no other family member is available to look after the child.

The period of the exemption begins when the person starts to provide foster care for the child and continues for up to 12 weeks after the person ceases to provide foster care to the child. The exemption must not exceed 12 months in duration.

Documentation from the agency that is responsible for the placement of the child in the foster care arrangement should be obtained to ascertain the duration and nature of the foster care.

The foster carer's circumstances should be considered in making a decision about when the exemption period is to end. The maximum exemption of up to 12 weeks after the foster care arrangement ends should not be routinely applied. The probable disruption to the carer's routine activities by the emergency care arrangements should also be considered and allowed for in deciding when to end the exemption period. It may be appropriate to allow the maximum exemption in circumstances where an active foster carer believes that further temporary periods of emergency or respite care are likely to occur, but are not formalised.

***Example: Jane is an active registered foster carer. She is particularly interested in caring for autistic children and is often called upon with little notice by the responsible state government authority. Lately, 2 families with autistic children have sought respite care on an emergency basis. Jane has been able to provide emergency respite care for one child from one family. She is aware of the probability that she will be called upon to also care for the other family's child, but the timing and duration of the arrangement is uncertain. Jane should be given an exemption for a reasonable period after her care for the first child ends, and while the arrangements for her care for the second child are formalised. This exemption may be for up to 12 weeks after the care of the first child ceases.***

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 542FA(3B), (6A) and (7) Disabled children or other family circumstances exemption (YA), section 602C(3B), (6A) and (7) Relief from activity test-people with disabled children and other circumstances (NSA)

**Principal carer or main supporter parent job seeker is providing home schooling to one or more children or secondary pupil children for whom they are the principal carer or main supporter**

Home schooling (or home education) can be provided to children of compulsory school age regardless of proximity to government and non-government schools. In order to access an automatic exemption due to involvement in home schooling, a principal carer or main supporter parent must be home schooling at least one of the children or secondary pupil children of which they are the principal carer or main supporter. While being home schooled, a child or secondary pupil child is not generally enrolled in, or part of, the registered school system, with the exception of South Australia. It is the responsibility of the parent providing the home schooling to select or develop an appropriate curriculum (or in the case of SA develop a learning program that addresses the state curriculum) together with the manner of assessing and recording educational progress.

Under the SSAct, recognised home schoolers are defined as:

* providing education in the home that wholly or substantially replaces the education that the child or secondary pupil child would otherwise receive by attending a school, and
* properly adhering to any relevant state and territory laws in order to provide home schooling in that state or territory, and
* being suitably involved in providing and supervising that education.

In all states and territories parents wishing to home educate their child(ren) or secondary pupil child(ren) of compulsory school age are required by law to seek dispensation, registration or an exemption to register as a home educator with their relevant government authority before or shortly after removing their child or secondary pupil child from a government or registered non-government school. Similarly, in all states and territories a parent's proposed educational programme for their child(ren) or secondary pupil child(ren) must meet the requirements of the relevant government authority's assessment in order to be fully registered as a home educator. If a parent in these jurisdictions is not granted full registration by the relevant government authority, then by law they must re-enrol their child or secondary pupil child in a government or registered non-government school or if the child or secondary pupil child is still enrolled they must attend the appropriate school.

Some jurisdictions (ACT, NT and Tasmania) provide the parent with a provisional form of registration while assessing if full registration should be granted. The period of the provisional form of registration can last as long as 6 months - during which time the parent has withdrawn their child(ren) or secondary pupil child(ren) from school and has begun home schooling. In NSW, QLD, SA and NT parents must be fully registered as a home schooler before their child or secondary pupil child can be withdrawn from school.

In all states and territories primary regard should be given to documentation from the relevant state/territory authority which verifies that the recipient is either registered, or has an exemption to register, as a home educator in that state or territory. If this substantiating documentation is provided, an automatic exemption should be immediately granted.

The period of full registration for home educators granted by state/territory governments ranges from 6 months to 2 years, except in WA where it is indefinite once granted. Parents wishing to continue home education in all states and territories must submit to a reapplication/review process in which the educational progress of their child(ren) or secondary pupil child(ren) is evaluated and the educational programme for the next registration period considered.

In all jurisdictions registration documentation will indicate the period for which the home educator's registration is valid. Primary regard should be given to this information when the period of the automatic exemption is determined.

**Note:** NSW WILL NOT register a child who is past compulsory school age for home schooling. In the case of a principal carer or main supporter parent job seeker home schooling their child(ren) or secondary pupil child(ren), primary consideration should be given to the period of time to which the parent's home schooling records (such as the curriculum used) correspond, when determining the period of exemption.

**Length of exemption**

The maximum initial period of exemption from participation requirements is 12 months. However, it may not be appropriate to grant an exemption for this period to all job seekers who are recognised home educators under social security law, for example where provisional registration has been granted for 6 months. Discretion should be used to ensure that an exemption is applied only for the period corresponding to the registration period the job seeker has been granted by their relevant state or territory authority. In jurisdictions which provide a provisional form of registration prior regard to previous unsuccessful attempts to gain registration should be taken into account in assessing automatic exemption.

Principal carer and main supporter parent job seekers who are recognised as home educators under social security law can apply for further periods of exemption which each do not exceed 12 months. These job seekers will have 4 weeks immediately following the expiry of their home educator status to provide Centrelink with documentation proving that this status has been renewed. During this time the home educator should still be considered exempt. If the job seeker cannot produce the documentation after this 4 week period, but still claims that they are considered a recognised home educator, Centrelink should contact the relevant authority in that state or territory to verify the home educator status of the job seeker.

If, after checking with the relevant organisation, the job seeker is confirmed to be a registered home educator, a new exemption should be granted (and where appropriate, backdated) for the duration of this new period. The job seeker will still be required to provide copies of documentation to Centrelink within the next 4-week period.

***Example 1: Alison has one child, Sarah, aged 10 and is receiving NSA. She is a registered home educator in NSW, and has chosen to home school Sarah. Alison has the appropriate supporting documentation and can receive an automatic exemption from participation requirements while she home schools Sarah.***

***Example 2: Malcolm and Angela have one child, Derek, aged 11, and Angela is receiving NSA. She has obtained provisional registration as a home educator and has withdrawn Derek from school. Angela provides supporting documentation and is granted an exemption of 6 months which can be extended if she gains full registration as a home educator.***

It is the responsibility of the principal carer and main supporter parent job seeker to inform Centrelink of any changes to their home educator status. Home educators who are no longer active, or who lose their dispensation or exemption or become deregistered, must immediately inform Centrelink of their change in circumstances. These job seekers will then become subject to participation requirements.

Principal carer and main supporter parent job seekers who are caring for a child or secondary pupil child, but who are unable to produce documentation confirming their registration as a home educator in their state or territory are not covered under this automatic exemption.

In the event of an appeal, the jurisdictional process of each state/territory is to be the main process driver.

* If the child(ren) or secondary pupil child(ren) are required to attend a government or registered non-government school whilst the appeal process is underway then an automatic exemption from participation requirements is not to be granted.
* If the child(ren) or secondary pupil child(ren) are not required to attend a government or registered non-government school whilst the appeal process is underway then the decision to provide an exemption, for the period of the appeal process, is to rest with the Centrelink service advisor, having regard to the wellbeing of the child(ren) or secondary pupil child(ren), discussions with the relevant state/territory authority and the intentions of the parent.
* If the appeal is successful the period of automatic exemption from participation requirements is to be backdated to the date the dispensation, registration or exemption to register as a home educator was lodged.

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 5C Home educators, section 542FA(3), (3C), (6), and (7) Disabled children or other family circumstances exemption (YA), section 602C(3), (3C), (6), and (7) Relief from activity test-people with disabled children and other circumstances (NSA)

**Policy reference:** SS Guide [1.1.S.66](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ssguide-1/ssguide-1.1/ssguide-1.1.s/ssguide-1.1.s.66.html) Definition of secondary pupil child, [1.1.M.10](http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ssguide-1/ssguide-1.1/ssguide-1.1.m/ssguide-1.1.m.10.html) Definition of main supporter

**Principal carer or main supporter parent job seeker is providing or facilitating distance education for one or more of the children for whom they are the principal carer or main supporter**

Distance education is primarily available for students who live a long way from a formal school. Other students can also access distance education in certain circumstances such as those who are travelling, have itinerant families, have a medical condition or are approved for special enrolment. In order to access an automatic exemption due to involvement in distance education, a principal carer or main supporter parent job seeker must be providing or facilitating distance education for at least one of the children or secondary pupil children of which they are the principal carer or main supporter.

Under the SSAct, a person is recognised as a distance educator of a child or secondary pupil child if:

* the child or secondary pupil child is enrolled at a school providing a distance education curriculum, and
* the child or secondary pupil child is undertaking that curriculum, and
* the person is suitably involved in assisting and supervising the child or secondary pupil child in relation to that curriculum.

To establish if a principal carer or main supporter parent job seeker should be recognised as a distance educator, primary regard should be given to documentation which establishes that the child(ren) or secondary pupil child(ren) are enrolled as a distance education student in a school providing that form of enrolment. In addition the job seeker should be able to provide a written statement that they play, or intend to play, an active role in assisting and supervising the child(ren) or secondary pupil child(ren) undertaking the distance education curriculum. If all this substantiating evidence is provided, an automatic exemption should be granted.

If the child or secondary pupil child is properly enrolled and undertaking a distance education curriculum but a person other than the principal carer or main supporter parent (e.g. a tutor or nanny) is actively involved in assisting and supervising the child(ren) or secondary pupil child(ren) undertaking the distance education curriculum, it would not be appropriate for the principal carer or main supporter parent job seeker to be granted an exemption. However, unless evidence to the contrary is or becomes apparent, a determination must be made based on the job seeker's supporting statement.

The maximum initial period of exemption from participation requirements is 12 months. However, it may not be appropriate to grant an exemption for this period to all principal carer or main supporter parent job seekers who are recognised distance educators under social security law. Discretion should be used to ensure that an exemption is applied only for the period a job seeker may reasonably be expected to retain this status.

Principal carer or main supporter parent job seekers who are recognised as distance educators under social security law can apply for further periods of exemption which are also not to exceed 12 months. Similar discretion should be used to determine if a further period of exemption should be granted together with the most appropriate duration of that exemption.

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 542FA(3), (3C), (6) and (7) Disabled children or other family circumstances exemption (YA), section 602C(3), (3A), (6) and (7) Relief from activity test-people with disabled children and other circumstances (NSA)

**Principal carer parent job seeker who is caring for a large family**

A principal carer parent job seeker with at least one dependent child (aged between 6 and 15 years) and a total of 4 or more dependent children and secondary pupil child(ren) (all aged between 6 and 18 years inclusive) should be granted an automatic exemption from the activity test.

The period of the exemption cannot exceed 12 months but there may be subsequent exemptions from the activity test for one or more other periods (also each not exceeding 12 months).

**Note:** Any exemption of this type should only be granted for the duration of the period (or subsequent period) in which the principal carer parent job seeker still has care of 4 children aged between 6 and 18 inclusive including one school aged dependent child, i.e. until the youngest of the 4 children turns 16 years or until the oldest of the secondary pupil children turns 19 years.

***Example 1: Peter and Alexandra have 4 school age children. The youngest child is 9 years of age and the other three are between 10 and 18 years of age. Alexandra receives NSA as a principal carer parent. Alexandra should be granted automatic exemptions from the activity test while her youngest child is under 16 and her children and secondary pupil children are all under 19 and all within her primary care.***

***Example 2: Tom is a principal carer parent in receipt of NSA and has 4 school aged children (Mike 7, Daphne 9, Sam 14 and Greg 18). On 1 September 2010, Tom's eldest child, Greg turns 19 and ceases to be a secondary pupil child. As Tom only has 3 children under 19, he is no longer qualified for a large family exemption and he must undertake approved activities to meet the activity test.***

***Example 3: Janet is in receipt of NSA and has 4 secondary pupil children aged between 16 and 18 years. Because Janet does NOT have any children aged between 6 and 15 years (inclusive) and is not a principal carer, she is not qualified for a large family exemption. Therefore she must undertake approved activities to meet her activity test.***

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 542FA(3), (3A), (6) and (7) Disabled children or other family circumstances exemption (YA), section 602C(3), (3A), (6) and (7) Relief from activity test-people with disabled children and other circumstances (NSA)

**Principal carer parent job seeker is a relative but not a parent of a child & the child is living with the principal carer in accordance with a family law order**

In some instances where a parent is unable to appropriately care for their child(ren), a court such as the Family Court or Federal Magistrate's Court, can direct that the child(ren) live with a relative as an alternative to formal foster care. This type of exemption only applies to a job seeker who is related to the child(ren) but who is not the parent of the child(ren), and is providing care for the child(ren) as a result of a family law order, i.e. it does not apply to a job seeker who is a natural, adoptive or step parent.

In determining whether to grant an activity test exemption to a principal carer parent job seeker for this reason, consideration should be given to whether or not there is a family law order that directs a child or children to live with the job seeker, whether the job seeker is adhering to the order and whether the job seeker is a relative of the child(ren). Where all of these criteria can be established the job seeker should be granted the exemption for the period of the order, or for a period of 12 months (renewable) if the period to which the order relates exceeds 12 months. Discretion should be used to ensure that an exemption is applied only for a period consistent with the ongoing effect of the family law order.

**Note:** Documentation in the form of parenting plans are not sufficient for the purpose of this exemption, i.e. a copy of the order made by or registered by a court exercising powers under the *Family Law Act 1975* must be sighted.

This exemption does not apply to a job seeker who is a parent of the child(ren). For example, where parents separate and one parent receives a court order which provides for sole care of the child, then this person should not be granted this type of exemption. Also, any principal carer who is not the parent but an extended relative of the child(ren) but then adopts the child(ren), should be considered the parent of the child(ren), and from that point this type of exemption will no longer apply.

**Note:** For the purpose of this exemption a person is considered to be a relative of a child (other than a parent) if:

* the person is not the child's natural parent, adoptive parent or step-parent and the person is related to the child by blood, adoption or marriage,
* the child is an Aboriginal or Torres Strait Islander child who has traditional Aboriginal or Torres Strait Islander kinship ties and the person is related to the child under Aboriginal or Torres Strait Islander kinship rules, or
* the child is a member of a community that accepts relationships other than those referred to above as kinship ties and the person is accepted by the community to be related to the child.

**Note:** A family law order means:

* a parenting order within the meaning of section 64B of the *Family Law Act 1975*,
* a family violence order within the meaning of section 4 of that act,
* a state child order registered under section 70D of that act,
* an overseas child order registered under section 70G of that act.

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 5E Relatives (other than parents), section 542FA(3) Disabled children or other family circumstances exemption (YA), section 602C(3) Relief from activity test - people with disabled children and other circumstances (NSA)

**Principal carer parent job seeker is a relative, but not a parent, of a child & the child is living with the principal carer in accordance with a document prepared or accepted by a state/territory authority (also referred to as 'kinship care')**

An automatic exemption from the activity test is granted to a principal carer job seeker who is a relative (kin), but not a parent of the child, and cares for the child in accordance with a document that is prepared or accepted by the relevant state/territory authority that has responsibility for the wellbeing of children. The length of the exemption should be for the period of kinship care anticipated in the documentation, or for a maximum period of 12 months.

**Note:** For the purpose of this exemption a person is considered to be a relative of a child (other than a parent) if:

* the person is not the child's natural parent, adoptive parent or step-parent and the person is related to the child by blood, adoption or marriage,
* the child is an Aboriginal or Torres Strait Islander child who has traditional Aboriginal or Torres Strait Islander kinship ties and the person is related to the child under Aboriginal or Torres Strait Islander kinship rules, or
* the child is a member of a community that accepts relationships other than those referred to above as kinship ties and the person is accepted by the community to be related to the child.

***Example: Margaret's daughter, Sarah, abandoned her 2 year old son, Thomas. The NSW authorities have given Margaret a document awarding her with the care of her grandson Thomas for a period of 6 months. Margaret is the principal carer of 2 children and is in receipt of NSA; as the kinship carer for Thomas, she would be automatically exempt from the activity test for 6 months. Her circumstances should be reviewed at the end of this period to see whether an extension of the exemption for a longer period is warranted. The maximum length of an exemption is 12 months.***

**Act reference:** [SSAct](http://www.comlaw.gov.au/Series/C2004A04121) section 5E Relatives (other than parents), section 542FA(3D), (6), and (7) Disabled children or other family circumstances exemption (YA), section 602C(3D), (6) and (7) Relief from activity test - people with disabled children and other circumstances (NSA)

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