Student Assistance Act 1973

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About this compilation

This compilation

This is a compilation of the *Student Assistance Act 1973* that shows the text of the law as amended and in force on 21 February 2025 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide certain benefits to certain students and for other purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Student Assistance Act 1973*.

2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

ABSTUDY SSL debt means a debt incurred under section 8B.

ABSTUDY student start-up loan means a loan for which a person qualifies under Division 2 of Part 2.

Note: Part 2 is taken to be part of the ABSTUDY Scheme and ABSTUDY student start-up loans are taken to be made under the ABSTUDY Scheme: see section 7B.

ABSTUDY student start-up loan overpayment has the meaning given by subsection 38A(1).

accumulated ABSTUDY SSL debt has the meaning given by section 9C.

accumulated FS debt has the meaning given by subsection 12ZF(2) or (3).

actual repayments, in relation to financial supplement, at a particular time, means the sum of the amounts actually repaid in respect of the financial supplement before that time.

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adjusted parental income, for the purposes of Part 4A, has the meaning given by the regulations.

amount notionally repaid, in relation to financial supplement, has the meaning given by subparagraph 12ZA(10)(b)(ii).

amount outstanding, in relation to a financial supplement contract, has the meaning given by section 12X.

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

approved scholarship course has the same meaning as in the ABSTUDY Scheme.

ART means the Administrative Review Tribunal.

ART Act means the *Administrative Review Tribunal Act 2024*.

ART Principal Registrar means the Chief Executive Officer and Principal Registrar of the ART.

ART review has the meaning given by section 311.

Australia, when used in a geographical sense, includes Norfolk Island, the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

Note: In Division 4 of Part 6 (about departure prohibition orders), ***Australia*** has an extended meaning.

bank includes, but is not limited to, a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

centrelink program has the same meaning as in the *Human Services (Centrelink) Act 1997*.

Chief Executive Centrelink has the same meaning as in the *Human Services (Centrelink) Act 1997*.

Commissioner means the Commissioner of Taxation.

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compulsory ABSTUDY SSL repayment amount means an amount that:

(a) is required to be paid in respect of an accumulated ABSTUDY SSL debt under section 10F; and

(b) is included in a notice of assessment made under section 10H.

compulsory repayment amount means an amount that:

(a) is required to be paid in respect of an accumulated FS debt under section 12ZK; and

(b) is included in a notice of an assessment made under section 12ZM.

contract period, in relation to a financial supplement contract, means the period beginning when the contract was entered into and ending on 31 May in the year in which the last of the periods of 12 months referred to in paragraph 12X(3)(b) ends.

current special educational assistance scheme means:

(a) the Assistance for Isolated Children Scheme; or

(b) the ABSTUDY Scheme (also known as the Aboriginal Study Assistance Scheme).

departure authorisation certificate means a certificate under Subdivision D of Division 4 of Part 6.

departure prohibition order means an order under Subdivision A of Division 4 of Part 6 (including such an order varied under Subdivision C of that Division).

discount, in relation to a repayment of an amount of financial supplement, has the meaning given by section 12ZA.

disqualifying education costs scholarship has the same meaning as in the *Social Security Act 1991*.

education institution means:

(a) a higher education institution; or

(b) a technical and further education institution; or

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(c) a secondary school; or

(d) any other institution (including an educational institution), authority or body, that is in Australia and that, in accordance with a determination by the Minister, is to be regarded as an education institution for the purposes of this Act.

eligible student, for the purposes of Part 4A, has the meaning given by section 12C.

Note: A person cannot be an eligible student for the whole or a part of a year that begins on or after the day on which the *Student Assistance Legislation Amendment Act 2006* receives the Royal Assent (see subsection 12C(1A)).

enrolment test day has the meaning given by subsection 8B(5).

exempt foreign income has the meaning given by subsection 12ZL(4).

family assistance law has the same meaning as in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

financial corporation means:

(a) a foreign corporation within the meaning of paragraph 51(xx) of the Constitution whose sole or principal business activities in Australia are the borrowing of money and the provision of finance; or

(b) a financial corporation within the meaning of that paragraph;

and includes a bank.

financial institution has the same meaning as in the *Social Security Act 1991*.

financial supplement means a loan made by a participating corporation under a financial supplement contract to the other party to the contract.

financial supplement contract means a contract in force as provided by subsection 12K(2).

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former accumulated ABSTUDY SSL debt has the meaning given by section 9B.

former special educational assistance scheme means:

(a) the former Aboriginal Secondary Assistance Scheme; or

(aa) the scheme known as the Aboriginal Overseas Study Assistance Scheme or the Aboriginal and Torres Strait Islander Overseas Study Award Scheme; or

(b) the former Adult Secondary Education Assistance Scheme; or

(c) the former Secondary Allowances Scheme; or

(d) the former Living Allowance for English as a Second Language Scheme.

FS assessment debt means an amount that is required to be paid in respect of an accumulated FS debt under section 12ZK and is included in a notice of an assessment made under section 12ZM.

FS debt has the meaning given by subsection 12ZF(1).

guidance and appeals panel has the same meaning as in the ART Act.

guidance and appeals panel proceeding has the same meaning as in the ART Act.

HELP debt indexation factor has the same meaning as in the *Higher Education Support Act 2003*.

HELP repayment income has the same meaning as ***repayment income*** has in the *Higher Education Support Act 2003*.

higher education institution means an educational institution in Australia that, in accordance with a determination by the Minister, is to be regarded as a higher education institution for the purposes of this Act.

Human Services Department means Services Australia.

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income tax has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

income tax law has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

income year has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

indexation amount, in relation to a financial supplement contract, has the meaning given by section 12Y.

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

Medicare levy means the Medicare levy imposed by the *Medicare Levy Act 1986*.

medicare program has the same meaning as in the *Human Services (Medicare) Act 1973*.

minimum HELP repayment income has the same meaning as ***minimum repayment income*** has in the *Higher Education Support Act 2003*.

minimum repayment income has the meaning given by section 12ZLA.

notional repayments, in relation to financial supplement, at a particular time, means the sum of the amounts notionally repaid in respect of the financial supplement before that time.

office, in relation to a financial corporation, has the meaning given by the regulations.

officer means a person performing duties, or exercising powers or functions, under or in relation to this Act and, in relation to a provision of Division 3 of Part 10, includes:

(a) a person who has been such a person; and

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(b) a person who is or has been appointed or employed by the Commonwealth and who, as a result of that appointment or employment, may acquire or has acquired information concerning a person under this Act; and

(c) a person who, although not appointed or employed by the Commonwealth, performs or did perform services for the Commonwealth and who, as a result of performing those services, may acquire or has acquired information concerning a person under this Act.

participating corporation has the meaning given by subsection 12D(2).

prescribed benefit, for the purposes of Part 4A, in relation to the ABSTUDY scheme, means a benefit under the scheme concerned that is declared by the regulations to be a prescribed benefit for the purposes of that Part.

prescribed educational scheme overpayment means an amount paid under a prescribed education scheme that should not have been paid.

principal sum, in relation to a financial supplement contract, at a particular time, means the total of the amounts of financial supplement paid under the contract before that time by the relevant participating corporation to the other party to the contract.

protected information means information about a person that:

(a) has been obtained for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme); and

(b) is held in the records of:

(i) the Department; or

(ii) a Department administered by a Minister responsible for the administration of the *Social Security Act 1991*; or

(iii) the Human Services Department.

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qualification period, for an ABSTUDY student start-up loan, means a period of 6 months starting on 1 January or 1 July in any year.

qualification test day, for a qualification period for an ABSTUDY student start-up loan, has the meaning given by subsection 7C(2).

repayable ABSTUDY SSL debt has the meaning given by section 10G.

repayable debt, for an income year, has the meaning given by section 12ZLB.

repayment income has the meaning given by section 12ZL.

return means an income tax return within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

secondary school means an educational institution in Australia that, in accordance with a determination by the Minister, is to be regarded as a secondary school for the purposes of this Act.

Secretary means the Secretary of the Department.

social security law has the same meaning as in the *Social Security Act 1991*.

special educational assistance scheme overpayment means an amount paid under a current special educational assistance scheme, or a former special educational assistance scheme, that should not have been paid.

student, in Part 4A, has a meaning affected by subsection 12B(2).

student assistance benefit means a payment under:

(a) the AUSTUDY scheme under this Act as in force before 1 July 1998; or

(b) the Student Financial Supplement Scheme (including the Scheme as in force before 1 July 1998); or

(c) a current or former special educational assistance scheme.

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student assistance overpayment means:

(a) an amount:

(i) paid under the AUSTUDY scheme under this Act as in force before 1 July 1998; and

(ii) that should not have been paid; or

(b) a debt due by a person other than a financial corporation to the Commonwealth under paragraph 12QB(2)(d), 12QC(2)(d), 12S(2)(d) or 12U(2)(c) (including a debt accrued under either of those paragraphs as in force before 1 July 1998).

Student Financial Supplement Scheme means the scheme constituted by Part 4A for the payment of financial supplement to students.

Note: An application under the Student Financial Supplement Scheme cannot be made in respect of a year, or a part of a year, that begins on or after the day on which the *Student Assistance Legislation Amendment Act 2006* receives the Royal Assent (see subsection 12C(1A)).

subsidy means subsidy under an agreement referred to in section 12D.

taxable income has the meaning given by section 4-15 of the *Income Tax Assessment Act 1997*.

tax file number has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

technical and further education institution means an educational institution in Australia that, in accordance with a determination by the Minister, is to be regarded as a technical and further education institution for the purposes of this Act.

termination date, in relation to a financial supplement contract, means the last day of the contract period.

TFN declaration has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

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veteran payment means a veteran payment made under an instrument made under section 45SB of the *Veterans' Entitlements Act 1986*.

voluntary ABSTUDY SSL repayment means a payment made to the Commissioner in discharge of an accumulated ABSTUDY SSL debt or an ABSTUDY SSL debt. It does not include a payment made in discharge of a compulsory ABSTUDY SSL repayment amount.

WPI index number, in relation to a quarter, means the Wage Price Index (quarterly index/total hourly rates of pay excluding bonuses/Australia/private and public/all industries) number published by the Australian Statistician in respect of that quarter.

year means a calendar year.

(2) For the purposes of the definitions of ***education institution***, ***higher education institution***, ***secondary school*** and ***technical and further education institution*** in subsection (1), a reference to Australia includes a reference to the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

(2A) A determination by the Minister for the purposes of the definition of ***education institution***, ***higher education institution***, ***secondary school*** or ***technical and further education institution*** is a legislative instrument.

5 Binding of the Crown

(1) This Act binds the Crown in all its capacities.

(2) Nothing in this Act permits the Crown to be prosecuted for an offence.

5A Extension of Act

This Act extends to Norfolk Island, to the Territory of Christmas Island and to the Territory of Cocos (Keeling) Islands.

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5B Secretary to have general administration

The Secretary is, subject to section 12ZEA and to any directions of the Minister, to have the general administration of this Act.

Note: Section 12ZEA provides that the Commissioner has the general administration of Division 6 of Part 4A, to the extent that the Division relates to the Commissioner.

5C Principles of administration

In administering this Act, the Secretary is to have regard to:

(a) the desirability of achieving the following results:
  (i) the ready availability to members of the public of advice and information services relating to benefits under this Act;
  (ii) the ready availability of publications containing clear statements about entitlements under this Act and procedural requirements;
  (iii) the delivery of services under this Act in a fair, courteous, prompt and cost-efficient manner;
  (iv) a process of monitoring and evaluating delivery of programs with an emphasis on the impact of programs on people who receive benefits under this Act;
  (v) the establishment of procedures to ensure that abuses of the schemes for benefits under this Act are minimised; and

(b) the special needs of disadvantaged groups in the community; and

(c) the need to be responsive to Aboriginality and to cultural and linguistic diversity; and

(d) the importance of the systems of review of decisions under this Act; and

(e) the need to apply government policy in accordance with the law and with due regard to relevant decisions of the ART.

Note: In administering this Act, the Secretary is also bound by the *Privacy Act 1988* and by the provisions of this Act concerning confidentiality—see Division 3 of Part 10.

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5D Minister may determine secondary and tertiary courses etc.

(1) The Minister may, for the purposes of this Act, determine in writing that:

(a) a course of study or instruction is a secondary course, or a tertiary course; or

(b) a part of a course of study or instruction is a part of a secondary course, or a part of a tertiary course.

(1A) To avoid doubt, a course of study or instruction includes an accelerator program course (within the meaning of the *Higher Education Support Act 2003*).

(2) For the purposes of this section, a determination that:

(a) was made under paragraph 7(1)(c) as in force before the day on which this section commences; and

(b) was in force immediately before that day;

is taken to be a determination under subsection (1) of this section and may be amended or repealed accordingly.

(2A) A determination under subsection (1) may make provision for and in relation to a specified course, that ceases to be a secondary course or a tertiary course, continuing to be a secondary course or a tertiary course in relation to specified persons in specified circumstances.

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

(3) A determination under subsection (1) is a legislative instrument.

5E Application of the *Criminal Code*

Chapter 2 (except Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part 2—ABSTUDY student start-up loans

Division 1—Introduction

6A Simplified outline of this Part

ABSTUDY student start-up loans are income-contingent loans made under the ABSTUDY Scheme.

Broadly, full-time students who are receiving Living Allowance might be qualified for an ABSTUDY student start-up loan. A person can qualify for up to 2 loans each calendar year. To receive a loan, a person must make a claim before the end of the relevant period for each loan.

Once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes, the person must start repaying debt in relation to ABSTUDY student start-up loans.

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Division 2—Qualification for and amount of ABSTUDY student start-up loan

7A Simplified outline of this Division

Broadly, full-time students who are receiving Living Allowance might be qualified for an ABSTUDY student start-up loan. A person can qualify for up to 2 loans each calendar year.

7B ABSTUDY Scheme

(1) For the purposes of a reference in this Act or another law to the ABSTUDY Scheme:
  (a) this Part is taken to be part of the ABSTUDY Scheme; and
  (b) ABSTUDY student start-up loans are taken to be made under the ABSTUDY Scheme.

(2) This Part does not limit the ABSTUDY Scheme. In particular, the ABSTUDY Scheme may make provision for matters relating to ABSTUDY student start-up loans for which provision is not made in this Act.

7C Qualification for ABSTUDY student start-up loan

(1) A person is qualified for an ABSTUDY student start-up loan for a qualification period if:
  (a) on the person's qualification test day for the period:
    (i) the person is qualified for a payment known as Living Allowance under the ABSTUDY Scheme and Living Allowance is payable to the person; and
    (ii) the person is receiving Living Allowance and would be receiving Living Allowance if any amounts of pharmaceutical allowance and rent assistance payable to the person under the ABSTUDY Scheme were

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disregarded for the purposes of working out the person's rate of that allowance; and

(iii) the person is qualified for Living Allowance because the person is undertaking full-time study in a course of education that is an approved scholarship course; and

(b) the Secretary is satisfied that the person is not likely to receive the amount or value of a disqualifying education costs scholarship in the period of 6 months starting immediately after that qualification test day; and

(c) the person notifies the Secretary of the person's tax file number.

Note: If the condition in subparagraph (a)(iii) is no longer met in a certain period starting on the qualification test day, the amount of the loan might become an immediately recoverable debt, rather than an income-contingent SSL debt: subsection 38A(1) and section 39.

Qualification test day

(2) A person's ***qualification test day*** for a qualification period is the earliest of the following:

(a) the day the Secretary determines the person's claim for an ABSTUDY student start-up loan for the qualification period;

(b) if the approved scholarship course ends in the qualification period—the last day of the approved scholarship course;

(c) the last day of the qualification period.

7D Circumstances in which person is not qualified for ABSTUDY student start-up loan

Despite section 7C, a person is not qualified for an ABSTUDY student start-up loan for a qualification period if:

(a) immediately before the person's qualification test day for the period:

(i) a determination is in effect that the person is qualified for an ABSTUDY student start-up loan for the qualification period; or

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(ii) a determination is in effect that the person is qualified for a student start-up loan under the *Social Security Act 1991* for the qualification period; or

(b) in the period of 6 months ending immediately before that qualification test day, the person:

(i) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 117 of the *Veterans' Entitlements Act 1986*; or

(ii) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 258 of the *Military Rehabilitation and Compensation Act 2004*; or

(iii) has received the amount or value of a disqualifying education costs scholarship; or

(iv) was entitled to the amount or value of a disqualifying education costs scholarship but has not received the full entitlement only because the scholarship was suspended.

7E Amount of ABSTUDY student start-up loan

(1) The amount of an ABSTUDY student start-up loan for which a person is qualified is $1,025.

(2) The amount of an ABSTUDY student start-up loan is to be indexed under Division 2 of Part 3.16 of the *Social Security Act 1991*, on each 1 January, as if it were a student start-up loan amount referred to in the table in subsection 1191(1) of that Act. The indexed amount is taken to be the amount specified in subsection (1) on and from that 1 January.

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Division 3—Indebtedness: incurring ABSTUDY SSL debts

8A Simplified outline of this Division

A person incurs an ABSTUDY SSL debt if the person receives an ABSTUDY student start-up loan (except in certain circumstances when the loan is required to be recovered as a debt under this Act).

8B ABSTUDY SSL debts

(1) A person incurs an ABSTUDY SSL debt to the Commonwealth if the person is paid an ABSTUDY student start-up loan for a qualification period.

(2) The ABSTUDY SSL debt is incurred by the person on the later of:
  (a) the day the person was paid the loan; and
  (b) the day after the person's enrolment test day for the qualification period.

Note: For ***enrolment test day***, see subsection (5).

(3) The amount of the person's ABSTUDY SSL debt is the amount of the loan, reduced by any amount repaid before the day on which the debt is incurred.

(4) Despite subsection (1), an ABSTUDY SSL debt is not incurred, and is taken never to have been incurred, in relation to a loan if:
  (a) the loan has been fully repaid before the day on which the ABSTUDY SSL debt in respect of the loan would be incurred; or
  (b) the amount of the loan is a debt under section 39; or
  (c) the Secretary has formed an opinion under subsection 38A(3) in relation to the loan (relating to exceptional circumstances beyond the person's control).

(5) A person's ***enrolment test day***, for a qualification period, is the earliest of the following days:

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(a) if the relevant approved scholarship course ends in the qualification period—the last day of that approved scholarship course;

(b) the last day of the qualification period;

(c) the 35th day of the period starting on whichever of the following applies:

(i) if the person's qualification test day for the qualification period was before the first day of the relevant approved scholarship course—the first day of that approved scholarship course;

(ii) otherwise—the qualification test day.

8C ABSTUDY SSL debt discharged by death

Upon the death of a person who owes an ABSTUDY SSL debt to the Commonwealth, the debt is taken to have been paid.

Note: ABSTUDY SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

8D Notice to Commissioner

(1) If a person incurs an ABSTUDY SSL debt, the Secretary must give the Commissioner a notice specifying the amount of the debt incurred by the person.

(2) The Secretary may include in the notice any other details the Commissioner requests for the purpose of ensuring the Commissioner has the information needed to exercise powers or perform functions of the Commissioner under this Act.

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Division 4—Indebtedness: working out accumulated ABSTUDY SSL debts

9A Simplified outline of this Division

Each ABSTUDY SSL debt a person incurs is incorporated into the person's accumulated ABSTUDY SSL debt. This accumulated ABSTUDY SSL debt forms the basis for working out the amounts the person is obliged to repay.

There are 2 stages to working out a person's accumulated ABSTUDY SSL debt for a financial year.

In stage 1, the person's former accumulated ABSTUDY SSL debt is worked out by adjusting the preceding financial year's accumulated ABSTUDY SSL debt to take account of:

(a) the HELP debt indexation factor for 1 June in that financial year; and
(b) the debts that the person incurs during the last 6 months of the preceding financial year; and
(c) voluntary ABSTUDY SSL repayments of the debt; and
(d) compulsory ABSTUDY SSL repayment amounts in respect of the debt.

In stage 2, the person's accumulated ABSTUDY SSL debt is worked out from:

(a) the person's former accumulated ABSTUDY SSL debt; and
(b) the ABSTUDY SSL debts that the person incurs during the first 6 months of the financial year; and
(c) voluntary ABSTUDY SSL repayments of those debts.

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9B Stage 1—working out a former accumulated ABSTUDY SSL debt

(1) A person's ***former ABSTUDY accumulated SSL debt***, in relation to the person's accumulated ABSTUDY SSL debt for a financial year, is worked out by multiplying:

(a) the amount worked out using the following method statement; by

(b) the HELP debt indexation factor for 1 June in that financial year.

Method statement

Step 1. Take the person's accumulated ABSTUDY SSL debt for the immediately preceding financial year. (This amount is taken to be zero if the person has no accumulated ABSTUDY SSL debt for that financial year.)

Step 2. Add the sum of all of the ABSTUDY SSL debts (if any) that the person incurred during the last 6 months of the immediately preceding financial year.

Step 3. Subtract the sum of the amounts by which the person's debts referred to in steps 1 and 2 are reduced because of any voluntary ABSTUDY SSL repayments that have been made during the period:

(a) starting on 1 June in the immediately preceding financial year; and

(b) ending immediately before the next 1 June.

Step 4. Subtract the sum of all of the person's compulsory ABSTUDY SSL repayment amounts that:

(a) were assessed during that period (excluding any assessed as a result of a return given before that period); or

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(b) were assessed after the end of that period as a result of a return given before the end of that period.

Step 5. Subtract the sum of the amounts by which any compulsory ABSTUDY SSL repayment amount of the person is increased (whether as a result of an increase in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.

Step 6. Add the sum of the amounts by which any compulsory ABSTUDY SSL repayment amount of the person is reduced (whether as a result of a reduction in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.

(2) For the purposes of this section, an assessment, or an amendment of an assessment, is taken to have been made on the day specified in the notice of assessment, or notice of amended assessment, as the date of issue of that notice.

9C Stage 2—working out an accumulated ABSTUDY SSL debt

(1) A person's ***accumulated ABSTUDY SSL debt***, for a financial year, is worked out as follows:

$$\text{Former accumulated ABSTUDY SSL debt} + \text{ABSTUDY SSL debts incurred} - \text{ABSTUDY SSL debt repayments}$$

where:

ABSTUDY SSL debt repayments is the sum of all of the voluntary ABSTUDY SSL repayments (if any) paid, on or after 1 July in the financial year and before 1 June in that year, in reduction of the ABSTUDY SSL debts incurred in that year.

ABSTUDY SSL debts incurred is the sum of the amounts of all of the SSL debts (if any) that the person incurred during the first 6 months of the financial year.

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former accumulated ABSTUDY SSL debt is the person's former accumulated ABSTUDY SSL debt in relation to that accumulated ABSTUDY SSL debt.

(2) The person incurs the accumulated ABSTUDY SSL debt on 1 June in the financial year.

9D Rounding of amounts

(1) If, apart from this section, a person's accumulated ABSTUDY SSL debt would be an amount consisting of a number of whole dollars and a number of cents, disregard the number of cents.

(2) If, apart from this section, a person's accumulated ABSTUDY SSL debt would be an amount of less than $1.00, the person's accumulated ABSTUDY SSL debt is taken to be zero.

9E Accumulated ABSTUDY SSL debt discharges earlier debts

(1) The accumulated ABSTUDY SSL debt that a person incurs on 1 June in a financial year discharges, or discharges the unpaid part of:

(a) any ABSTUDY SSL debt that the person incurred during the calendar year immediately preceding that day; and

(b) any accumulated ABSTUDY SSL debt that the person incurred on the immediately preceding 1 June.

(2) Nothing in subsection (1) affects the application of section 8B, 8C, 9B or 9C.

9F Accumulated ABSTUDY SSL debt discharged by death

(1) Upon the death of a person who has an accumulated ABSTUDY SSL debt, the accumulated ABSTUDY SSL debt is taken to be discharged.

(2) To avoid doubt, this section does not affect any compulsory ABSTUDY SSL repayment amounts required to be paid in respect

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of the accumulated ABSTUDY SSL debt, whether or not those amounts were assessed before the person's death.

Note: Accumulated ABSTUDY SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

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Division 5—Discharge of indebtedness

Subdivision A—Introduction

10A Simplified outline of this Division

A person who owes a debt to the Commonwealth under this Part may make voluntary ABSTUDY SSL repayments.

The person is required to make repayments once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes.

The amount of the repayments is based on the person's income.

The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax.

10B Debts under this Part

(1) The debts under this Part are:
  (a) ABSTUDY SSL debts; and
  (b) accumulated ABSTUDY SSL debts.

(2) To avoid doubt, debts that arise under section 39 are not debts under this Part.

(3) To avoid doubt, nothing in this section affects section 7B (about the relationship of this Part to the ABSTUDY Scheme).

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Subdivision B—Voluntary discharge of indebtedness

10C Voluntary ABSTUDY SSL repayments in respect of debts

(1) A person may at any time make a payment in respect of a debt that the person owes to the Commonwealth under this Part.

(2) The payment must be made to the Commissioner.

10D Application of voluntary ABSTUDY SSL repayments

(1) Any money a person pays under this Subdivision to meet the person's debts to the Commonwealth under this Part is to be applied in payment of those debts as the person directs at the time of the payment.

(2) If the person has not given any directions, or the directions given do not adequately deal with the matter, any money available is to be applied as follows:

(a) first, in discharge or reduction of any accumulated ABSTUDY SSL debt of the person;

(b) second, in discharge or reduction of:

(i) any ABSTUDY SSL debt of the person; or

(ii) if there is more than one such debt, those debts in the order in which they were incurred.

10E Refunding of payments

If:

(a) a person pays an amount to the Commonwealth under this Subdivision; and

(b) the amount exceeds the sum of:

(i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Part; and

(ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

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the Commonwealth must refund to the person an amount equal to that excess.

Subdivision C—Compulsory discharge of indebtedness

10F Liability to repay amounts

(1) If:

(a) a person's HELP repayment income for an income year exceeds the minimum HELP repayment income for the income year; and

(b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an accumulated ABSTUDY SSL debt;

the person is liable to pay to the Commonwealth, in accordance with this Subdivision, so much of the person's repayable ABSTUDY SSL debt for the income year as does not exceed the amount worked out by the formula:

$$\text{Applicable percentage of HELP repayment income} _ \text{Relevant income-contingent loans liability}$$

where:

applicable percentage of HELP repayment income means the amount that is the percentage of the person's HELP repayment income applicable under the table in section 154-20 of the *Higher Education Support Act 2003*.

relevant income-contingent loans liability means the amount that is the sum of the following:

(a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year;

(aa) the sum of any amounts the person is liable to pay under section 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year;

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(b) the sum of any amounts the person is liable to pay under section 1061ZZEZ of the *Social Security Act 1991*, or section 12ZK of this Act, in respect of the income year;

(c) any amount the person is liable to pay under section 1061ZVHA of the *Social Security Act 1991* in respect of the income year.

(2) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.

(3) A person is not liable under this section to pay an amount for an income year if, under section 8 of the *Medicare Levy Act 1986*:

(a) no Medicare levy is payable by the person on the person's taxable income for the income year; or

(b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

10G Repayable ABSTUDY SSL debt for an income year

(1) A person's ***repayable ABSTUDY SSL debt*** for an income year is:

(a) the person's accumulated ABSTUDY SSL debt referred to in paragraph 10F(1)(b) in relation to that income year; or

(b) if one or more amounts:

(i) have been paid in reduction of that debt; or

(ii) have been assessed under section 10H to be payable in respect of that debt;

the amount (if any) remaining after deducting from that debt any amounts referred to in subparagraph (i) or (ii).

(2) A reference in paragraph (1)(b) of this section to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

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Subdivision D—Assessments

10H Commissioner may make assessments

The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

(a) the person's accumulated ABSTUDY SSL debt on 1 June immediately before the making of the assessment; and

(b) the amount required to be paid in respect of the person's repayable SSL debt under section 10F.

10J Notification of notices of assessment of tax

If:

(a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of an income year under section 174 of the *Income Tax Assessment Act 1936*; and

(b) the Commissioner has made, in respect of the person, an assessment under paragraph 10H(b) of this Act of the amounts referred to in that paragraph; and

(c) notice of the assessment under that paragraph has not been served on the person;

notice of the assessment under that paragraph may be served by specifying the amounts concerned in the notice referred to in paragraph (a).

10K Commissioner may defer making assessments

(1) A person may apply in the approved form to the Commissioner for deferral of the making of an assessment in respect of the person under section 10H.

(2) The application must specify:

(a) the income year for which the deferral is being sought; and

(b) the reasons for seeking the deferral.

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(3) The income year specified in the application must be:
  (a) the income year in which the person makes the application; or
  (b) the immediately preceding income year; or
  (c) the immediately succeeding income year.

(4) The Commissioner may, on application by a person under this section, defer making an assessment in respect of the person under section 10H if the Commissioner is of the opinion that:
  (a) if the assessment were made, payment of the assessed amount would cause serious hardship to the person; or
  (b) there are other special reasons that make it fair and reasonable to defer making the assessment.

(5) The Commissioner may defer making the assessment for any period that he or she thinks appropriate.

(6) The Commissioner must, as soon as practicable after an application is made under this section:
  (a) consider the matter to which the application relates; and
  (b) notify the applicant of the Commissioner's decision on the application.

Note: Deferrals of making assessments, or refusals of applications, are reviewable under Division 1A of Part 9.

10L Commissioner may amend assessments

(1) A person may apply in the approved form to the Commissioner for an amendment of an assessment made in respect of the person under section 10H so that:
  (a) the amount payable under the assessment is reduced; or
  (b) no amount is payable under the assessment.

(2) The application:
  (a) must be made within 2 years after the day on which the Commissioner gives notice of the assessment to the person; or

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(b) must specify the reasons justifying a later application.

(3) The Commissioner may, on application by a person under this section, amend an assessment made in respect of the person under section 10H so that:

(a) the amount payable under the assessment is reduced; or

(b) no amount is payable under the assessment;

if the Commissioner is of the opinion that:

(c) payment of the assessed amount has caused or would cause serious hardship to the person; or

(d) there are other special reasons that make it fair and reasonable to make the amendment.

(4) The Commissioner must, as soon as practicable after an application is made under this section:

(a) consider the matter to which the application relates; and

(b) notify the applicant of the Commissioner's decision on the application.

Note: Amendments of assessments, or refusals of applications, are reviewable under Division 1A of Part 9.

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Division 6—Tax administration matters

11A Simplified outline of this Division

The Secretary and the Commissioner may share information about tax file numbers for the purposes of administering ABSTUDY student start-up loans. The Commissioner is also responsible for the recovery of debts under this Part and has functions and powers to fulfil that responsibility relating to returns, assessments, collection and other administrative matters.

11B Verification of tax file numbers

(1) The Secretary may provide to the Commissioner a tax file number that a person has notified to the Secretary for the purposes of paragraph 7C(1)(c), for the purpose of verifying that the number is the person's tax file number.

(2) If the Commissioner is satisfied that the number is the person's tax file number, the Commissioner may give the Secretary a written notice informing the Secretary accordingly.

11C When person with tax file number incorrectly notifies number

(1) If the Commissioner is satisfied:

(a) that the tax file number that a person has notified to the Secretary for the purposes of paragraph 7C(1)(c):

(i) has been cancelled or withdrawn since the notification was given; or

(ii) is otherwise wrong; and

(b) that the person has a tax file number;

the Commissioner may give to the Secretary written notice of the incorrect notification and of the person's tax file number.

(2) That number is taken to be the number that the person notified to the Secretary.

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11D When person without tax file number incorrectly notifies number

(1) If:

(a) the Commissioner is satisfied that the tax file number that a person notified to the Secretary for the purposes of paragraph 7C(1)(c):

(i) has been cancelled since the notification was given; or

(ii) is for any other reason not the person's tax file number; and

(b) the Commissioner is not satisfied that the person has a tax file number;

the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.

(2) The Commissioner must give a copy of any notice under subsection (1) of this section to the person concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subsection (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

11E When tax file numbers are altered

(1) If the Commissioner issues, to a person who has notified a tax file number to the Secretary for the purposes of paragraph 7C(1)(c), a new tax file number in place of a tax file number that has been withdrawn, the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.

(2) That new number is taken to be the number that the person notified to the Secretary.

11F When tax file numbers are cancelled

(1) If the Commissioner cancels a tax file number issued to a person who has notified the tax file number to the Secretary for the

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purposes of paragraph 7C(1)(c), the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.

(2) The Commissioner must give a copy of any notice under subsection (1) of this section to the person concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subsection (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

11G Returns, assessments, collection and recovery

Subject to Division 5 and this Division:

(a) Part IV of the *Income Tax Assessment Act 1936*; and

(b) Division 5 of the *Income Tax Assessment Act 1997*; and

(c) Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*;

apply, so far as they are capable of application, in relation to a compulsory ABSTUDY SSL repayment amount of a person as if it were income tax assessed to be payable by a taxpayer by an assessment made under Part IV of the *Income Tax Assessment Act 1936*.

11H Charges and civil penalties for failing to meet obligations

(1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:

(a) any compulsory ABSTUDY SSL repayment amount of a person were income tax payable by the person in respect of the income year in respect of which the assessment of that debt was made; and

(b) paragraph 7C(1)(c), and Divisions 3, 4 and 5 and this Division, were income tax laws.

(2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

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11J Pay as you go (PAYG) withholding

Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and 12-G) in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of amounts of a compulsory ABSTUDY SSL repayment amount of a person as if the compulsory ABSTUDY SSL repayment amount were income tax.

11K Pay as you go (PAYG) instalments

Division 45 in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of a compulsory ABSTUDY SSL repayment amount of a person as if the compulsory ABSTUDY SSL repayment amount were income tax.

11L Administration of this Part

The Commissioner has the general administration of:

(a) paragraph 7C(1)(c); and

(b) Divisions 3, 4 and 5 and this Division; and

(c) Division 1A of Part 9 (Internal review of certain Commissioner decisions relating to ABSTUDY student start-up loans).

Note: One effect of this is that these Divisions are taxation laws for the purposes of the *Taxation Administration Act 1953*.

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Part 4A—Financial supplement for tertiary students

Division 1—Preliminary

12A Object and explanation of this Part

(1) The object of this Part is to enable a tertiary student who is, or except for the ABSTUDY parental income test would be, eligible for certain benefits under the ABSTUDY scheme to obtain a repayable financial supplement by choosing to enter into a contract for that purpose with a financial corporation that participates in the Student Financial Supplement Scheme.

(2) The payment of financial supplement will reduce certain other benefits payable to the student under the ABSTUDY scheme. The amount of the supplement that the student is eligible to obtain depends on the total amount of those benefits that the student chooses to receive, and the student may choose to repay some of the benefits, or to receive lower benefits, in order to receive a higher supplement.

(3) The student is not liable to pay interest to the financial corporation in respect of financial supplement obtained, but the Commonwealth will, without cost to the student, pay a subsidy to the financial corporation that includes an amount in lieu of interest.

(4) However, the amount of the financial supplement that has to be repaid under a contract will be indexed on 1 June in the year next following the year in which the contract is entered into and on 1 June in each subsequent year. The amount by which supplement is increased by indexation is owed by the student to the Commonwealth and not to the financial corporation. The student is entitled, but not required, to make early repayments above a certain amount in respect of the supplement during the period of the contract. There is a discount, worked out under

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subsection 12ZA(7) or (7A), for repayments made before the end of that period.

(5) If financial supplement obtained by a student is not repaid in full before the end of the period of the contract, the obligation to repay the amount of the supplement that is still outstanding is assigned to the Commonwealth and the indexed amount is repayable by the student to the Commonwealth through the taxation system when the student's income reaches a certain level.

12B Interpretation

(1) In this Part, unless the contrary intention appears, expressions that are defined in the *Income Tax Assessment Act 1936* have the same meanings as in that Act.

(2) For the purposes of the application of this Part in relation to a person at a time after the person entered or first entered into a financial supplement contract with a participating corporation, the person is called a ***student*** even though the contract period or any contract period may have ended or the person may have ceased to be a student.

12C Which students are eligible for financial supplement

(1) Subject to subsection (1A), a person is an eligible student for the purposes of this Part in relation to a year or a part of a year if:

(a) the person is undertaking, or proposes to undertake, at an education institution in that year or that part of that year, a prescribed course of study or instruction; and

(b) either of the following subparagraphs applies:

(i) the person qualifies for a prescribed benefit under the ABSTUDY scheme in respect of that year or that part of that year;

(ii) the adjusted parental income in relation to the person in respect of that year or that part of that year is less than such amount as is prescribed by the regulations and, except for the parental income test applicable under the

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ABSTUDY scheme, the person would have qualified for a prescribed benefit under that scheme in respect of that year or that part of that year.

(1A) A person is not an eligible student in relation to a year, or a part of a year, that begins on or after the day on which the *Student Assistance Legislation Amendment Act 2006* receives the Royal Assent.

(2) If:

(a) a person is undertaking a course of study or instruction, or a part of a course of study or instruction, offered by an education institution; and

(b) for the purposes of that course or that part of that course, the person is required or allowed by that institution to attend, and attends, a place other than:

(i) that institution; or

(ii) a place in respect of which a determination under subsection (3) is in force;

the person is, for the purposes of this section, taken to be undertaking that course or that part of that course wholly at that institution.

(3) The Minister may, by legislative instrument, determine that subsection (2) does not apply in relation to a place, or a class of place, specified in the determination.

(5) If a person is undertaking, or proposes to undertake, by correspondence with an education institution:

(a) a course of study or instruction; or

(b) a part of a course of study or instruction;

offered by that education institution, the person is, for the purposes of this section, taken to be undertaking that course, or that part of that course, wholly at that institution.

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12D Agreements between Commonwealth and financial corporations

(1) An eligible student may apply for financial supplement only to a financial corporation that has entered into an agreement with the Commonwealth to pay financial supplement in accordance with this Act.

(2) Subject to this section, if the Minister has, whether before or after the commencement of this Part, entered into, on behalf of the Commonwealth, an agreement with a financial corporation for the payment by the corporation, in the year beginning on 1 January 1993 or a subsequent year, of financial supplement to eligible students, the corporation is a participating corporation for the purposes of this Part in respect of that year.

(3) Subsection (2) does not apply in relation to an agreement unless the agreement:

(a) is expressed to have effect subject to this Act; and

(b) provides for the payment by the Commonwealth to the financial corporation, in respect of each amount of financial supplement paid by the corporation to a student that has not been repaid, or in respect of which the rights of the corporation have been assigned to the Commonwealth, of a subsidy of such amount or amounts, or at such rate or rates, and in respect of such period or periods, as are stated in the agreement.

(4) Subject to subsection (5), the parties to an agreement referred to in subsection (2) (or such an agreement as previously amended) may enter into an agreement amending or terminating the first-mentioned agreement (or that agreement as previously amended).

(5) The amendment or termination of an agreement does not affect any financial supplement contract that was in force immediately before the amendment or termination took effect.

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(6) An agreement entered into between the Commonwealth and a financial corporation as mentioned in this section is not subject to any stamp duty or other tax under a law of a State or Territory.

(7) An officer may disclose to a participating corporation any information about a student that is relevant to the exercise or performance by the corporation of any of its rights or obligations in respect of the student under this Part.

(8) A participating corporation may disclose to an officer any information about a student that is relevant to the exercise or performance of any rights, powers or obligations conferred or imposed on an officer or on the Commonwealth in respect of the student under this Part.

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Division 2—Applications for financial supplement

12E Explanation of Division

This Division sets out how an eligible student can, if he or she so chooses, obtain financial supplement, the amount of the financial supplement that can be obtained and the effect of payment of the financial supplement on the student's entitlement to certain other benefits under the ABSTUDY scheme.

12F Secretary to give student notice of entitlement

(1) The Secretary must:

(a) decide whether a person (***the student***) who applies for benefits under the AUSTUDY scheme or the ABSTUDY scheme in respect of a year or a part of a year is an eligible student in respect of that year or that part of that year; and

(b) give to the student written notice of the decision stating whether the student is an eligible student in respect of that year or that part of that year and, if so, stating:

(i) the minimum and maximum amounts, as determined under the regulations, of the financial supplement that the student is eligible to obtain; and

(ii) such other information as is required by the regulations to be included in such a notice.

(1A) Subsection (1) does not apply in relation to a year, or a part of a year, that begins on or after the day on which the *Student Assistance Legislation Amendment Act 2006* receives the Royal Assent.

(2) If the notice under subsection (1) states that the student is an eligible student, the Secretary must give to the student a form of application for the financial supplement approved by the Secretary.

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(3) At any time, whether before or after the student has lodged an application for the financial supplement with a participating corporation under section 12G, the Secretary may review the decision and must, if the decision is revoked or varied, give to the student:

(a) a notice under paragraph (1)(b) stating that the decision has been revoked or varied and, if the decision has been varied, setting out particulars of the variation; and

(b) if the decision has been varied before the student lodged an application for the financial supplement—a fresh form of application.

(4) If a notice is given to the student as mentioned in subsection (3), any notice previously given to the student under paragraph (1)(b) before the decision was reviewed is taken to be revoked and the student is not entitled to use any previous notice in connection with an application for financial supplement under section 12G.

12G When must a person apply for financial supplement?

(1) A person who receives a notice under section 12F stating that the person is an eligible student in respect of a year or part of a year, is entitled to apply for the whole or part of the financial supplement he or she is eligible to obtain in respect of the year or part of the year. To obtain financial supplement, the person must apply in accordance with this section.

(2) The person may obtain the financial supplement if the person applies for it while the person is an eligible student in respect of the year or part of the year, as the case requires.

(3) The person may also obtain the financial supplement if:

(a) the person was an eligible student during the year or part of the year, as the case requires; and

(b) the person applies for financial supplement before the end of the calendar year in respect of which, or a part of which, the person was eligible for financial supplement; and

(c) in the opinion of the Secretary, the person:

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(i) had taken all reasonable steps to apply for the financial supplement while still an eligible student in respect of the year or part of the year and had been prevented from applying during the year or part of the year (as the case requires) only because of circumstances beyond his or her control; and

(ii) had taken steps to apply for financial supplement in respect of the year or part of the year as soon as practicable after ceasing to be an eligible student.

(4) An application for financial supplement must be made by lodging the form of application, duly completed, together with the notice issued under section 12F, at any office of a participating corporation.

(5) The Secretary must notify an applicant under subsection (3) and the corporation of a decision made under that subsection in respect of the applicant.

12GA Student may give notice to participating corporation to increase or decrease financial supplement

At any time after a person applies to a participating corporation for an amount of financial supplement, the person may by written notice to the corporation lodged at any office of the corporation tell the corporation that the person requires:

(a) a specified lesser amount of financial supplement (not being an amount that is less than the total financial supplement already paid to the person); or

(b) a specified greater amount of financial supplement (not being an amount that is greater than the maximum amount of financial supplement that the person is eligible to obtain).

12H Effect of financial supplement on certain other benefits

(1) The payment of financial supplement to a person will, as mentioned in subsection 12A(2), reduce the person's entitlement to

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certain other benefits under the ABSTUDY scheme in accordance with subsection (2).

(2) If:

(a) apart from this section a person would be entitled to a prescribed benefit under the ABSTUDY scheme in respect of a year or a part of a year; and

(b) an application by the person to a participating corporation for financial supplement in respect of that year or that part of that year is accepted by the corporation in accordance with section 12K;

the benefit referred to in paragraph (a) is reduced by an amount equal to one-half of the amount of the financial supplement paid to the person.

(3) If, apart from this subsection, the amount by which a benefit would be reduced by subsection (2) is an amount of dollars and cents and the cents include a half of one cent, the amount is increased by a half of one cent.

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Division 3—Payment of financial supplement

12J Explanation of Division

This Division sets out the legal relationship between a person who applies for financial supplement and the financial corporation that pays the financial supplement. An application for financial supplement relates only to a year or a part of a year and a separate contract between the person and the corporation therefore arises in respect of each year or part of a year for which an application for financial supplement is made.

12K Contract between applicant for financial supplement and participating corporation

(1) If a person (***the student***) who is entitled to do so applies to a participating corporation in accordance with section 12G for the payment of financial supplement in respect of a year or a part of a year, the corporation must, as soon as practicable, accept the application by written notice to the student.

(2) The acceptance of the application forms a binding contract in respect of that year or that part of that year between the corporation and the student for the making of a loan by the corporation to the student in accordance with this Division of such amount of financial supplement as the student from time to time requests but not exceeding the maximum amount of financial supplement that the student is from time to time eligible to obtain and for the making, if the student so wishes, of repayments during the contract period in accordance with Division 5 in respect of the amount outstanding from time to time under the contract.

(3) Despite subsection (2), any amount paid to the student by the corporation in accordance with advice provided by the Commonwealth is taken to be financial supplement paid under the contract even though the student may not have been eligible to obtain that amount.

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(4) Subsection (3) does not affect the operation of Division 4.

(5) In determining the extent (if any) to which it is liable to make a payment in respect of financial supplement to a student under a financial supplement contract, a participating corporation is entitled to rely on advice provided by the Commonwealth.

(6) Subject to this Part, the validity of a financial supplement contract is not affected merely because the student was not an eligible student when the application was accepted or ceases at a later time to be an eligible student.

(7) A financial supplement contract is not invalid, and is not voidable, under any other law (whether written or unwritten) in force in a State or Territory.

(8) Without limiting the generality of subsection (7), a financial supplement contract is not invalid merely because the student is an undischarged bankrupt when the contract is entered into, and any liability of the student to a participating corporation or the Commonwealth under or because of the contract is enforceable despite the bankruptcy.

12KA Cooling off period for financial supplement contract

(1) An eligible student under a financial supplement contract has a right to cancel the contract. However, the student may waive the right to cancel the contract (see section 12KB). If the student waives the right to cancel the contract, subsections (2) to (6) do not operate in respect of that contract.

(2) To exercise the right to cancel the contract, the student must give to the participating corporation written notice that the student is withdrawing his or her application for financial supplement. The notice may be lodged at any office of the corporation.

(3) The student's right is exercisable at any time within the period of 14 days (the ***cooling off period***) after the day the corporation accepts the student's application under subsection 12K(1).

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Note: When the corporation accepts the student's application a binding contract is formed—see subsection 12K(2).

(4) During the cooling off period the corporation must not make a payment to the student under the contract.

(5) If:

(a) the corporation makes a payment to the student under the contract before the end of the cooling off period; or

(b) the corporation makes a payment to the student after the end of the cooling off period and the student has exercised the right to cancel the contract within the cooling off period;

the payment is taken not to be a payment of financial supplement if an amount equal to the payment is repaid by the student to the corporation within 7 days after the day of the payment.

12KB Person may waive right to cancel contract

(1) An eligible student under a financial supplement contract may waive the right to cancel the contract.

(2) To exercise the right of waiver, the student must give to the participating corporation written notice that he or she is waiving the right to cancel the contract immediately after his or her application is accepted by the corporation under subsection 12K(1).

12L Financial supplement contract exempt from certain laws and taxes

(1) A law of a State or Territory relating to the provision of credit or other financial assistance does not apply to a financial supplement contract.

(2) An application for the payment of financial supplement, a financial supplement contract, or an act or thing done or transaction entered into under such a contract, is not subject to taxation under any law of a State or Territory.

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Division 4—Payments under financial supplement contract to stop in certain circumstances

12P Explanation of Division

This Division provides for payments in respect of financial supplement to stop if the person in receipt of the financial supplement:

(a) so requests; or

(b) is found to be eligible for a reduced maximum amount of financial supplement and has already been paid that amount; or

(c) ceases to be, or is found never to have been, eligible for financial supplement; or

(d) dies.

12Q Payments to stop at request of student

(1) A student who is a party to a financial supplement contract with a participating corporation may, by written notice to the corporation lodged at any office of the corporation, tell the corporation that he or she does not require any further payments under the contract after a day stated in the notice.

(2) If notice is so given to the corporation:

(a) as from the end of the day stated in the notice, the corporation is discharged from liability to make further payments to the student under the contract; but

(b) if, despite paragraph (a), the corporation makes any payments to the student after that day, any amounts so paid after that day or the end of 4 weeks after the notice was given to the corporation, whichever is the later:

(i) are taken not to be payments of financial supplement made under the contract; and

(ii) are repayable by the student to the corporation; and

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(iii) may be recovered by the corporation as a debt due to it by the student.

12QA Payments to eligible student to stop if the maximum amount of financial supplement is reduced to less than the amount already paid

(1) If:

(a) the Secretary reviews the decision (the ***original decision***) made in respect of the student under section 12F; and

(b) the student remains an eligible student in respect of the year or part of the year to which the student's financial supplement contract relates; and

(c) as a result of the review the Secretary varies the original decision so that the maximum amount (the ***original amount***) of financial supplement that the student is eligible to obtain under the financial supplement contract is reduced (the ***revised amount***); and

(d) the revised amount is less than the amount of financial supplement that the student has already been paid under the financial supplement contract;

the Secretary must give written notice to the student and to a participating corporation that must include the following:

(e) the revised amount that the student is eligible to obtain;

(f) the amount of financial supplement paid in excess of the revised amount;

(g) a statement that the corporation must cease paying financial supplement to the student.

(2) If notice is given to the corporation under subsection (1), then, unless the decision of the Secretary under subsection (1) is set aside or varied:

(a) as from the time the notice is given to the corporation, the corporation is discharged from liability to make further payments to the student under the contract; and

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(b) if, despite paragraph (a), the corporation makes payments to the student after that time, any amounts so paid after the end of 4 weeks after the notice is given to the corporation:
  (i) are taken not to be payments of financial supplement; and
  (ii) are repayable by the student to the corporation; and
  (iii) may be recoverable by the corporation as a debt due to it by the student.

(3) This section has effect subject to section 12ZX.

12QB What happens if financial supplement was paid to eligible student after student failed to notify change of circumstances

(1) If the Secretary decides that an eligible student to whom a notice is given under section 12QA failed to notify the Department under subsection 48(1) of the happening of a prescribed event in relation to the student within 14 days of the happening of the event, the Secretary may give written notice of the decision to the student and to the participating corporation.

(2) If notice is given under subsection (1), then, unless the decision of the Secretary under subsection (1) is set aside or varied:
  (a) the corporation's rights in respect of the student under the contract that relate to financial supplement paid by the corporation to the student after the end of the period beginning at the end of the period of 14 days referred to in subsection (1) and ending at the end of the period of 4 weeks referred to in paragraph 12QA(2)(b) (the ***wrongly paid financial supplement***) are assigned to the Commonwealth, by force of this paragraph, at the time when the notice was given to the corporation; and
  (b) any actual repayments of financial supplement made by the student before the notice was given to the student under subsection (1) are taken to have been made:

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(i) first, in or towards repayment of the wrongly paid financial supplement; and

(ii) secondly, to the extent (if any) to which the sum of those repayments exceeded the amount of the wrongly paid financial supplement, in or towards repayment of the remainder of the financial supplement paid to the student under the contract; and

(c) the Commonwealth is liable to pay to the corporation in respect of the rights referred to in paragraph (a), the amount of any wrongly paid financial supplement that has not been repaid; and

(d) the student is liable to pay to the Commonwealth an amount equal to the sum of:

(i) the amount that the Commonwealth is liable to pay to the corporation under paragraph (c); and

(ii) the part of the total subsidy paid by the Commonwealth to the corporation in respect of the financial supplement paid to the student under the contract that was paid in lieu of interest on the principal sum in respect of the period beginning at the end of the period of 14 days referred to in subsection (1) and ending at the end of the period of 4 weeks referred to in paragraph 12QA(2)(b).

(3) Nothing in this section affects the operation of section 12QA.

12QC What happens if financial supplement was paid to eligible student because of the provision of false or misleading information

(1) If the Secretary decides that false or misleading information was provided to the Commonwealth in relation to an eligible student to whom a notice is given under section 12QA, the Secretary may give written notice of the decision to the student and to the participating corporation.

(2) If notice is given under subsection (1), then, unless the decision of the Secretary under subsection (1) is set aside or varied:

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(a) the corporation's rights in respect of the student under the contract that relate to financial supplement paid by the corporation to the student during the period beginning at the end of the date on which the student was paid an amount equal to the revised amount referred to in paragraph 12QA(1)(e) and ending at the end of the period of 4 weeks referred to in paragraph 12QA(2)(b) (the ***wrongly paid financial supplement***) are assigned to the Commonwealth, by force of this paragraph, at the time when the notice was given to the corporation; and

(b) any actual repayments of financial supplement made by the student before the notice was given to the student under subsection (1) are taken to have been made:

(i) first, in or towards repayment of the wrongly paid financial supplement; and

(ii) secondly, to the extent (if any) to which the sum of those repayments exceeded the amount of the wrongly paid financial supplement, in or towards repayment of the remainder of the financial supplement paid to the student under the contract; and

(c) the Commonwealth is liable to pay to the corporation in respect of the rights referred to in paragraph (a), the amount of any wrongly paid financial supplement that has not been repaid; and

(d) the student is liable to pay to the Commonwealth an amount equal to the sum of:

(i) the amount that the Commonwealth is liable to pay to the corporation under paragraph (c); and

(ii) the part of the total subsidy paid by the Commonwealth to the corporation in respect of the financial supplement paid to the student under the contract that was paid in lieu of interest on the principal sum in respect of the period beginning at the end of the date on which the student was paid an amount equal to the revised amount referred to in paragraph 12QA(1)(e) and ending at the end of the period of 4 weeks referred to in paragraph 12QA(2)(b).

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(3) Nothing in this section affects the operation of section 12QA.

12R Payments to stop if student ceases to be eligible for financial supplement

(1) If the Secretary decides that a student who is a party to a financial supplement contract with a participating corporation ceased to be an eligible student during the year or the part of the year to which the contract relates, the Secretary must give written notice to the student and to the corporation stating that the student ceased to be an eligible student and stating the date on which the student so ceased.

(2) If notice is so given to the corporation, then, unless the decision of the Secretary under subsection (1) is set aside or varied:

(a) as from the time when the notice was given to the corporation, the corporation is discharged from liability to make further payments to the student under the contract; but

(b) if, despite paragraph (a), the corporation makes any payments to the student after that time, any amounts so paid after the end of 4 weeks after the notice was given to the corporation:

(i) are taken not to be payments of financial supplement made under the contract; and

(ii) are repayable by the student to the corporation; and

(iii) may be recovered by the corporation as a debt due to it by the student.

(3) This section has effect subject to section 12ZX.

12S What happens if student fails to notify change in circumstances

(1) If the Secretary decides that the student to whom a notice is given under subsection 12R(1) failed to notify the Department under subsection 48(1) that he or she had ceased to be an eligible student within 14 days after he or she so ceased, the Secretary may give written notice of the decision to the student and to the corporation.

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(2) If notice is so given, then, unless the decision of the Secretary under subsection (1) is set aside or varied:

(a) the corporation's rights in respect of the student under the contract that relate to financial supplement paid by the corporation to the student after the end of the date stated in the notice given by the Secretary to the student under subsection 12R(1) and before the end of the period of 4 weeks referred to in paragraph 12R(2)(b) (***wrongly paid financial supplement***) are assigned to the Commonwealth, by force of this paragraph, at the time when the notice was given to the corporation; and

(b) any actual repayments of financial supplement made by the student before the notice was given to the student are taken to have been made:

(i) first, in or towards repayment of the wrongly paid financial supplement; and

(ii) secondly, to the extent (if any) to which the sum of those repayments exceeded the amount of the wrongly paid financial supplement, in or towards repayment of the remainder of the financial supplement paid to the student under the contract; and

(c) the Commonwealth is liable to pay to the corporation in respect of the rights referred to in paragraph (a), the amount of any wrongly paid financial supplement that has not been repaid; and

(d) the student is liable to pay to the Commonwealth an amount equal to the sum of:

(i) the amount that the Commonwealth is liable to pay to the corporation under paragraph (c); and

(ii) the part of the total subsidy paid by the Commonwealth to the corporation in respect of the financial supplement paid to the student under the contract that was paid in lieu of interest on the principal sum in respect of the period beginning at the end of the period of 14 days referred to in subsection (1) and ending at the end of the period of 4 weeks referred to in paragraph 12R(2)(b).

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(3) Nothing in this section affects the operation of section 12R.

12T Payments to stop if student is found never to have been eligible for financial supplement

(1) If:

(a) a student is a party to a financial supplement contract with a participating corporation; and

(b) the Secretary decides that the statement contained in the notice given to a student under paragraph 12F(1)(b) that the student was an eligible student in respect of the year or the part of the year to which the contract relates was incorrect;

the Secretary must give written notice to the student and to the corporation stating that the student had never been eligible for financial supplement in respect of that year or that part of that year.

(2) If notice is so given, then, unless the decision of the Secretary under subsection (1) is set aside or varied:

(a) as from the time when the notice was given to the corporation, the corporation is discharged from liability to make further payments to the student under the contract; but

(b) if, despite paragraph (a), the corporation makes any payments to the student after that time, any amounts so paid after the end of 4 weeks after the notice was given to the corporation:

(i) are taken not to be payments of financial supplement made under the contract; and

(ii) are repayable by the student to the corporation; and

(iii) may be recovered by the corporation as a debt due to it by the student.

(3) This section has effect subject to section 12ZX.

12U What happens if financial supplement was paid because of provision of false or misleading information

(1) If the Secretary decides that the incorrectness of the statement referred to in paragraph 12T(1)(b) resulted from false or

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misleading information provided to the Commonwealth in relation to the student, the Secretary may give written notice of the decision to the student and to the corporation.

(2) If notice is so given, then, unless the decision of the Secretary under subsection (1) is set aside or varied:

(a) the corporation's rights in respect of the student under the contract that relate to financial supplement paid by the corporation to the student at any time after the beginning of the contract period and before the end of the period of 4 weeks referred to in paragraph 12T(2)(b) are assigned to the Commonwealth, by force of this paragraph, at the time when the notice was given to the corporation; and

(b) the Commonwealth is liable to pay to the corporation in respect of those rights the amount worked out in relation to the contract, as at the end of that period of 4 weeks, using the formula:

$$\text{principal sum} - (\text{actual repayments} + \text{notional repayments});$$

and

(c) no amount is taken to be outstanding under the contract after the notice is given but the student is liable to pay to the Commonwealth the amount worked out in relation to the contract, as at the end of that period of 4 weeks, using the formula:

$$\text{principal sum} - \text{actual repayments} + \text{interest subsidy}.$$

(3) In the formula in paragraph (2)(c):

interest subsidy means the part of the total subsidy paid by the Commonwealth to the corporation in respect of the financial supplement paid to the student under the contract that was paid in lieu of interest on the principal sum.

(4) Nothing in this section affects the operation of section 12T.

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12V Death of student

(1) If a student who is a party to a financial supplement contract with a participating corporation dies during the contract period, the Secretary may give written notice to that effect to the corporation.

(2) If a notice is given under subsection (1), the following provisions apply:

(a) as from the time the notice is given, the corporation is discharged from liability to make further payments to the student under the contract;

(b) the corporation's rights in respect of the student under the contract are assigned to the Commonwealth, by force of this paragraph, at the time when the corporation ceased to make payments under the contract or at the end of 4 weeks after the time the notice was given, whichever is the earlier;

(c) the Commonwealth is liable to pay to the corporation in respect of those rights the amount worked out in relation to the contract as at the time when the corporation ceased to make payments under the contract or at the end of 4 weeks after the time the notice was given, whichever is the earlier, using the formula:

$$\text{Principal sum} - \left(\text{Actual repayments} + \text{Notional repayments}\right)$$

(d) the indebtedness of the student to the Commonwealth under the contract as a result of the assignment is discharged by force of this paragraph.

(3) If, despite paragraph (2)(a), the corporation makes payments to the student after the time the notice is given, any amounts so paid after the end of 4 weeks after that day:

(a) are taken not to be payments of financial supplement made under the contract; and

(b) are repayable from the student's estate to the corporation; and

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(c) may be recovered by the corporation as a debt due to it from the student's estate.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to a notice given under this section.

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Division 5—Repayments of financial supplement during contract period

12W Explanation of Division

This Division sets out how a student who is a party to a financial supplement contract (***the contract***) with a participating corporation may make repayments of financial supplement before the end of 4 years beginning on 1 June in the year next following the year in which the contract was entered into. Section 12X explains how the amount outstanding at any time under the contract (including the amount attributable to indexation, which is identified by section 12Y) is calculated. Section 12ZA explains how the discount for early repayment is calculated and applied.

12X Calculation of amount outstanding under financial supplement contract

(1) Subject to this section, ***the amount outstanding*** under the contract at any time after the contract was entered into and before 1 June in the year next following the year in respect of which the contract was entered into is the amount worked out in relation to the contract, as at that time, using the formula:

$$\text{principal sum} \ \textit{minus} \ \left(\text{actual repayments} \ \textit{plus} \ \text{discounts} \right)$$

(2) In subsection (1):

discounts means the sum of the discounts under subsection 12ZA(7) to which the student became entitled in respect of the financial supplement before the time mentioned in subsection (1).

(3) Subject to the following provisions of this section, at any time during:

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(a) the period of 12 months beginning on 1 June in the year next following the year in respect of which a financial supplement contract was entered into; or

(b) any of the following 3 periods of 12 months;

the amount outstanding under the contract is taken to be the amount worked out in relation to the period concerned using the formula:

$$\left(\begin{array}{l}\text{previous}\\ \text{amount}\\ \text{outstanding}\end{array} \times \begin{array}{l}\text{indexation}\\ \text{factor}\end{array}\right) \textit{ minus } \left(\begin{array}{l}\text{actual}\\ \text{repayments} + \text{discounts}\end{array}\right)$$

(4) For the purposes of the application of the formula in subsection (3) in relation to a time (***the relevant time***) within a period of 12 months beginning on 1 June (***the relevant 12 months***):

previous amount outstanding means the amount that was outstanding under the contract immediately before the beginning of the relevant 12 months.

actual repayments means the sum of the amounts actually repaid in respect of the financial supplement during the relevant 12 months but before the relevant time.

discounts means the sum of the discounts under subsection 12ZA(7) to which the student became entitled in respect of the financial supplement during the relevant 12 months but before the relevant time.

indexation factor means the lower of the WPI indexation factor and the number worked out to 3 decimal places in relation to the relevant 12 months using the formula:

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$$\frac{\text{the sum of the index number for the March quarter in the later reference period and the index numbers for the 3 immediately preceding quarters}}{\text{the sum of the index number for the March quarter in the earlier reference period and the index numbers for the 3 immediately preceding quarters}}$$

.

WPI indexation factor means the number worked out to 3 decimal places in relation to the relevant 12 months using the formula:

$$\frac{\text{The sum of the WPI index number for the March quarter in the later reference period and the WPI index numbers for the 3 immediately preceding quarters}}{\text{The sum of the WPI index number for the March quarter in the earlier reference period and the WPI index numbers for the 3 immediately preceding quarters}}$$

later reference period means the period of 12 months immediately before the relevant 12 months.

earlier reference period means the period of 12 months immediately before the later reference period.

(5) If an indexation factor or a WPI indexation factor worked out under subsection (4) would end with a number greater than 4 if it were worked out to 4 decimal places, the indexation factor is increased by 0.001.

(5A) The Minister must cause to be published in the *Gazette* before each 1 June the indexation factor worked out under subsection (4) (as affected by subsection (5)) in relation to the period of 12 months beginning on that day.

(5B) An indexation factor published under subsection 12ZZB(3) before the commencement of this subsection has effect as if it were an indexation factor published under subsection (5A).

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(6) If, apart from this subsection, an amount worked out under subsection (3) would be an amount of dollars and cents, the amount of the cents is to be disregarded.

(7) This section has effect subject to paragraph 12U(2)(c).

12Y Indexation amount

An indexation amount exists in relation to the contract at a particular time (***the relevant time***) if:

(a) subsection 12X(3) applied for the purpose of working out the amount outstanding under the contract at the relevant time; and

(b) the amount outstanding under the contract at the relevant time exceeds the amount worked out using the formula:

$$\text{principal sum} - \left(\text{actual repayments} + \text{notional repayments}\right);$$

and the amount of the excess constitutes the indexation amount in relation to the contract at the relevant time.

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12Z Notice to student of amount outstanding in respect of financial supplement

If an amount is outstanding under the contract on 1 June in the year next following the year in respect of which the contract was entered into or on 1 June in any of the next 3 years, the Secretary must arrange for written notice to be given to the student stating the amount outstanding at that date.

12ZA Rights of student during contract period to make repayments in respect of financial supplement

(1) Subject to paragraphs 12QB(2)(d), 12QC(2)(d), 12S(2)(d) and 12U(2)(c), the student is not required during the contract period to make a repayment in respect of the amount outstanding under the contract.

(2) Non-payment by the student of the amount outstanding under the contract does not constitute a default under the contract for the purposes of any law of the Commonwealth, of a State or of a Territory.

(3) Subject to subsection (4), the student may make to the corporation a repayment in respect of the amount outstanding under the contract at any time during the contract period.

(4) The student is not entitled to make a repayment under subsection (3) that is less than an amount prescribed by the regulations unless the amount repaid is equal to the amount outstanding under the contract.

(5) If the student purports to make a repayment under subsection (3) that exceeds the amount that, having regard to the discount to which the student would be entitled under subsection (7) or (7A) (as the case may be), would be needed to be paid in order to pay in full the amount outstanding under the contract, the excess is taken not to be a repayment in respect of the financial supplement and is to be repaid by the corporation to the student.

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(6) If the student makes a repayment as mentioned in subsection (3), the following provisions of this section have effect in relation to the amount of that repayment (***the amount repaid***) except:

(a) to the extent (if any) to which that repayment is taken to have been made in or towards repayment of any wrongly paid financial supplement referred to in subsection 12QB(2), 12QC(2) or 12S(2); or

(b) in respect of a repayment made after the giving of a notice under section 12QB, 12QC or 12U.

(7) If the student makes a repayment in respect of the amount outstanding under the contract that is less than the amount outstanding under the contract, the student is entitled for the purposes of this Part, in respect of the amount outstanding under the contract, to a discount of an amount worked out using the formula:

$$\left[\text{the amount repaid} \times \frac{100}{85}\right] - \text{the amount repaid}$$

(7A) If the student makes a repayment in respect of the amount outstanding under the contract that equals that amount, the student is entitled, for the purposes of this Act, to a discount of an amount worked out using the formula:

$$\left(\text{Amount repaid} \times \frac{115}{100}\right) - \text{Amount repaid}$$

(8) If, apart from this subsection, an amount worked out under subsection (7) or (7A) would be an amount of dollars and cents, the amount is to be rounded to the nearest dollar (rounding 50 cents upwards).

(9) If no indexation amount existed in relation to the contract immediately before the repayment is made, the student is taken to have repaid to the corporation in respect of the financial supplement an amount (***the amount notionally repaid***) equal to the discount.

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(10) If an indexation amount existed in relation to the contract immediately before the repayment is made:

(a) if the discount is equal to or less than the indexation amount—the amount outstanding under the contract is taken to be reduced by the amount of the discount; or

(b) if the discount exceeds the indexation amount:

(i) the amount outstanding under the contract is taken to be reduced by the indexation amount; and

(ii) the student is taken to have repaid to the corporation in respect of the financial supplement an amount (***the amount notionally repaid***) equal to the excess.

(11) The Commonwealth is liable to pay to the corporation an amount equal to the amount notionally repaid.

(12) If, after the making of the repayment mentioned in subsection (6), the sum of the actual repayments and the notional repayments is equal to or exceeds the principal sum:

(a) the corporation's rights in respect of the student under the contract are assigned to the Commonwealth by force of this paragraph; and

(b) if the sum of the actual repayments and the notional repayments exceeds the principal sum—the corporation is liable to pay the excess to the Commonwealth.

12ZB What happens at end of contract period

At the end of the contract period:

(a) if the corporation's rights in respect of the student under the contract have not previously been assigned to the Commonwealth, those rights are assigned to the Commonwealth by force of this paragraph; and

(b) if the principal sum exceeds the sum of the actual repayments and the notional repayments, the Commonwealth is liable to pay the excess to the corporation.

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12ZC Notice to student

(1) The Secretary must, as soon as practicable after the termination date in relation to the contract, arrange for written notice to be given to the student:

(a) stating that at the end of the contract period the student ceased to be indebted to the participating corporation under the contract and will not receive any discount for repayments made after that time; and

(b) stating that on a date specified in the notice, being 1 June immediately following the termination date, the student incurred an FS debt or FS debts to the Commonwealth and setting out the amount of that debt or the amounts of those debts; and

(c) stating that the student is entitled at any time to make a repayment in respect of that debt or those debts and that so much of that debt or those debts as is not voluntarily repaid by the student will be recovered under the taxation system in accordance with this Part.

(2) If, after a notice was given to the student under subsection (1) or this subsection, the Secretary or an officer of the Department is satisfied that a material particular in the notice was not, or has ceased to be, correct, the Secretary must arrange for a further written notice to be given to the student setting out the correct particular.

(3) A notice given to the student under this section is given for the purpose only of providing information to the student, and an FS debt of the student to the Commonwealth is not affected by a failure to give such a notice or by any incorrect statement in such a notice.

12ZD Requests for correction of notices

(1) If the student considers that the notice given to the student under section 12ZC was not, or has ceased to be, correct in a material particular, the student may, within 14 days after the date on which

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the notice was given, or within such further period as the Secretary or an officer of the Department allows, give to the Secretary a written request for the notice to be corrected in respect of that particular.

(2) A request must set out the particular that is considered to be incorrect and the grounds on which the student considers that particular to be incorrect.

(3) The making of a request does not affect an FS debt of the student to the Commonwealth.

(4) If a request is received by the Secretary, the Secretary must arrange, as soon as practicable, for the matter to which the request relates to be considered and for written notice to be given to the student of the decision on the request and, if it is decided as a result of that consideration that a material particular in the notice under section 12ZC was not, or has ceased to be, correct, for a further notice to be given to the student under subsection 12ZC(2).

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Division 6—Indebtedness existing after termination date

Subdivision A—Introductory

12ZE Explanation of Division

This Division provides for the recovery through the taxation system of a student's outstanding indebtedness in respect of financial supplement paid to the student and not repaid before the end of 4 years beginning on 1 June in the year next following the year in which the relevant financial supplement contract was entered into. The Division uses certain technical expressions to define:

(a) a student's indebtedness in respect of a contract under which the student received financial supplement for a year or a part of a year, which is called an FS debt; and

(b) a student's total indebtedness under such contracts, which is called accumulated FS debt; and

(c) the amount that a student is assessed by the Commissioner of Taxation to be liable to pay in a particular year of income in respect of that total indebtedness, which is called an FS assessment debt.

12ZEA Extent of Commissioner's general administration of this Division

The Commissioner has the general administration of this Division, to the extent that it relates to the Commissioner.

Note: One effect of this is that this Division is to that extent a taxation law for the purposes of the *Taxation Administration Act 1953*.

12ZF FS debt and accumulated FS debt

(1) If, at the end of the contract period in relation to a financial supplement contract between a participating corporation and another person, there was an amount outstanding under the

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contract, the person incurs on 1 June immediately following the end of that period a debt (***FS debt***) to the Commonwealth worked out using the formula:

$$\text{amount outstanding} \times \text{indexation factor}$$

where:

amount outstanding means the amount outstanding under the contract at the end of the contract period.

indexation factor means the factor calculated under subsection (6).

(2) If an FS debt or FS debts of a person that existed on 1 June in a year (***the relevant date***) are not, or do not include, an FS debt that existed on 1 June in the immediately preceding year, the person incurs on the relevant date an ***accumulated FS debt*** to the Commonwealth equal to that FS debt or the total of those FS debts.

(3) If an FS debt or FS debts of a person that existed on 1 June in a year (***the later date***) are, or include, an FS debt or FS debts that existed on 1 June in the immediately preceding year (***the earlier date***), the person incurs on the later date an ***accumulated FS debt*** to the Commonwealth worked out using the formula:

$$\left(\text{adjusted accumulated FS debt} \times \text{indexation factor}\right) + \text{later FS debts}$$

where:

adjusted accumulated FS debt means the adjusted accumulated FS debt at the earlier date.

indexation factor means the factor calculated under subsection (6).

later FS debts means any FS debt, or the total of any FS debts, of the person that did not exist on the earlier date.

(4) The reference in subsection (3) to the adjusted accumulated FS debt of a person at the earlier date is a reference to the amount worked out using the formula:

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$$\text{accumulated FS debt} \quad \textit{minus} \quad \left[\text{FSA debts} + \text{repayments} + \text{increases in FSA debts} - \text{reductions in FSA debts}\right]$$

where:

accumulated FS debt means the accumulated FS debt of the person at the earlier date.

FSA debts means the sum of:

(a) any FS assessment debt or FS assessment debts of the person assessed on or after the earlier date and before the later date excluding any such FS assessment debt assessed as a result of a return furnished before the earlier date; and

(b) any FS assessment debt or FS assessment debts of the person assessed on or after the later date as a result of a return furnished before the later date.

repayments means any amount, or the sum of any amounts, paid, except in discharge of an FS assessment debt, on or after the earlier date and before the later date in reduction of the accumulated FS debt of the person at the earlier date.

increases in FSA debts means any amount, or the sum of any amounts, by which any FS assessment debt of the person is increased by an amendment of the relevant assessment (whether as a result of an increase in the person's taxable income or otherwise), being an amendment made on or after the earlier date and before the later date.

reductions in FSA debts means any amount, or the sum of any amounts, by which any FS assessment debt of the person is reduced by an amendment of the relevant assessment (whether as a result of a reduction in the person's taxable income or otherwise), being an amendment made on or after the earlier date and before the later date.

(5) For the purposes of subsection (4), an assessment or an amendment of an assessment is taken to have been made on the date specified

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in the notice of assessment or notice of amended assessment, as the case may be, as the date of that notice.

(6) The factor to be calculated for the purposes of the definition of ***indexation factor*** in subsection (1) or (3) in determining an FS debt or the accumulated FS debt of a person at 1 June in a year (***the relevant year***) is the lower of the WPI indexation factor (see subsection (6A)) and the number worked out to 3 decimal places using the formula:

the sum of the index number for the March quarter in the relevant year and the index numbers for the 3 immediately preceding quarters

divided by

the sum of the index number for the March quarter in the year immediately before the relevant year and the index numbers for the 3 immediately preceding quarters

.

(6A) The ***WPI indexation factor*** is the number worked out to 3 decimal places using the formula:

$$\frac{\text{The sum of the WPI index number for the March quarter in the relevant year and the WPI index numbers for the 3 immediately preceding quarters}}{\text{The sum of the WPI index number for the March quarter in the year immediately before the relevant year and the WPI index numbers for the 3 immediately preceding quarters}}$$

(7) If an indexation factor or a WPI indexation factor calculated in accordance with subsection (6) or (6A) would end with a number greater than 4 if it were worked out to 4 decimal places, the indexation factor is increased by 0.001.

(7A) The Commissioner must cause to be published in the *Gazette* before each 1 June the indexation factor worked out under subsection (6) (as affected by subsection (7)) that is applicable in working out FS debts and accumulated FS debts incurred in the 1 June concerned.

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(7B) An indexation factor published under subsection 12ZZB(4) before the commencement of this subsection has effect as if it were an indexation factor published under subsection (7A).

(8) If, apart from this subsection, the amount of an FS debt or accumulated FS debt worked out under this section would be an amount of dollars and cents, the amount of the cents is to be disregarded.

12ZG Accumulated FS debt discharges earlier debts

(1) Subject to subsection (2), an accumulated FS debt that a person incurs on 1 June in a year (***the relevant date***):

(a) discharges, or discharges the unpaid part of:

(i) any accumulated FS debt of the person that the person incurred on the immediately preceding 1 June; and

(ii) any FS debt that was incurred by the person on the relevant date; and

(b) discharges the liability of the person to pay the amount outstanding immediately before the relevant date under the financial supplement contract in relation to which any FS debt referred to in subparagraph (a)(ii) was incurred.

(2) For the purpose of applying section 12ZF, subsection (1) of this section is to be disregarded.

12ZH Notice and a certificate to Commissioner

(1) The Secretary must, as soon as practicable after the termination date in relation to a financial supplement contract between a participating corporation and a student, arrange for notice to be given to the Commissioner stating such of the following information as is in the possession of the Secretary:

(a) the name of the student;

(b) the student number of the student;

(c) the student's last known address;

(d) the student's tax file number;

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(e) the amount of the FS debt or the amounts of the FS debts that the student incurred to the Commonwealth on 1 June immediately following the termination date;

(f) any other information relating to the student that is reasonably required by the Commissioner for the purpose of administering this Division.

(2) If, after a notice is given to the Commissioner under subsection (1) or this subsection, the Secretary or an officer of the Department is satisfied that a material particular in the notice was not, or has ceased to be, correct, the Secretary must arrange for a further notice to be given to the Commissioner setting out the correct particular.

(3) The Secretary must, if required by the Commissioner to do so, give a written certificate to the Commissioner setting out a matter specified by the Commissioner that was, or was required to be, set out in a notice under subsection (1) or (2).

Subdivision B—Voluntary discharge of indebtedness

12ZJ Voluntary payments in respect of FS debts

(1) If a person is indebted to the Commonwealth under this Division, the person may at any time make a payment in respect of that indebtedness.

(2) A payment under subsection (1) is to be made to the Commissioner.

12ZJA Refunding of payments

If:

(a) a person pays an amount to the Commonwealth under this Subdivision; and

(b) the amount exceeds the sum of:

(i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Part; and

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(ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

the Commonwealth must refund to the person an amount equal to that excess.

Note: Interest is payable if the Commonwealth is late in paying requested refunds: see Part IIIA of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*.

Subdivision C—Requirement to discharge indebtedness

12ZK Compulsory payments in respect of accumulated FS debt

(1) If:

(a) a person's repayment income for the income year 2006-07 or a subsequent income year exceeds the minimum repayment income for that income year; and

(b) on 1 June immediately preceding the making of an assessment in respect of the person's income for that income year, the person had an accumulated FS debt;

the person is liable to pay to the Commonwealth, in accordance with this Division, the amount worked out under section 12ZLC in reduction of the person's repayable debt.

(2) A person is not liable under this section to pay an amount for an income year if, under section 8 of the *Medicare Levy Act 1986*:

(a) no Medicare levy is payable by the person on the person's taxable income for the income year; or

(b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

12ZL Repayment income

(1) A person's ***repayment income*** for an income year is an amount equal to the sum of:

(a) the person's taxable income for the income year, disregarding the person's assessable FHSS released amount (within the

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meaning of the *Income Tax Assessment Act 1997*) for the income year; and

(b) the person's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for the income year; and

(c) if the person:

(i) is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*); and

(ii) has a reportable fringe benefits total (within the meaning of that Act) for the income year;

the reportable fringe benefits total for the income year; and

(d) the person's exempt foreign income for the income year; and

(e) the person's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for the income year.

(4) The person's ***exempt foreign income*** is the total amount (if any) by which the person's income that is exempt from tax under section 23AF or 23AG of the *Income Tax Assessment Act 1936* exceeds the total amount of losses and outgoings that the person incurs in deriving that exempt income.

(5) For the purposes of subsection (4), disregard any capital losses and outgoings.

12ZLA Minimum repayment income

The ***minimum repayment income*** for the 2006-07 income year or for a later income year is the amount worked out under paragraph 154-10(b) of the *Higher Education Support Act 2003* in respect of that income year.

12ZLB Repayable debt for an income year

(1) A person's ***repayable debt*** for an income year is:

(a) the person's accumulated FS debt referred to in paragraph 12ZK(1)(b) in relation to that income year; or

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(b) if one or more amounts:

(i) have been paid in reduction of that debt; or

(ii) have been assessed under section 12ZM to be payable in respect of that debt;

the amount (if any) remaining after deducting from that debt the amount, or sum of the amounts, so paid or assessed to be payable.

(2) A reference in paragraph (1)(b) to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

12ZLC Amounts payable to the Commonwealth

(1) The amount that a person is liable to pay under section 12ZK, in respect of:

(a) the 2019-20 income year; or

(b) a later income year;

is the amount worked out using the formula:

$$\text{Applicable percentage of repayment income} _ \text{Relevant income-contingent loans liability}$$

where:

applicable percentage of repayment income means an amount equal to so much of the person's repayable debt for the income year as does not exceed the percentage of the person's repayment income worked out in respect of the income year using the table in section 154-20 of the *Higher Education Support Act 2003*.

relevant income-contingent loans liability means the amount that is the sum of the following:

(a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year;

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(b) the sum of any amounts the person is liable to pay under section 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year.

(2) For the purposes of subsection (1), assume that the reference in the table in section 154-20 of the *Higher Education Support Act 2003* to the person's repayment income is a reference to the person's repayment income within the meaning of section 12ZL of this Act.

(3) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.

Subdivision D—Returns and assessments

12ZM Assessment

The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

(a) the amount of the accumulated FS debt of a person at 1 June immediately before the making of the assessment; and

(b) the amount required to be paid in respect of that accumulated FS debt under section 12ZK.

12ZN Application of tax legislation

Part IV of the *Income Tax Assessment Act 1936*, Division 5 of the *Income Tax Assessment Act 1997* and Part IVC of, and Part 4-15 in Schedule 1 to, the *Taxation Administration Act 1953* apply, so far as they are capable of application and subject to this Division, in relation to an FS assessment debt of a person as if it were income tax assessed to be payable by a taxpayer by an assessment made under Part IV of the *Income Tax Assessment Act 1936*.

Note: FS assessment debts are also collected through the Pay As You Go (PAYG) system of collecting income tax: see Parts 2-1, 2-5 and 2-10 in Schedule 1 to the *Taxation Administration Act 1953*.

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12ZNA Charges and administrative penalties for failing to meet obligations

(1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:

(a) any compulsory repayment amount of a person were income tax payable by the person in respect of the income year in respect of which the assessment of that debt was made; and

(b) this Part were an income tax law.

(2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

12ZNB Pay as you go (PAYG) withholding

Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and 12-G) in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of amounts of a compulsory repayment amount of a person as if the compulsory repayment amount were income tax.

12ZND Pay as you go (PAYG) instalments

Division 45 in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of a compulsory repayment amount of a person as if the compulsory repayment amount were income tax.

12ZO How notices of assessment may be served

If:

(a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of a year of income under section 174 of the *Income Tax Assessment Act 1936*; and

(b) an assessment (***the relevant assessment***) has been made in respect of the person of the amounts referred to in

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section 12ZM of this Act but notice of the relevant assessment has not been served on the person;

notice of the relevant assessment may be served by setting out the amounts concerned in the notice referred to in paragraph (a).

12ZP Power of Commissioner to defer assessment or reduce assessment to nil

(1) The Commissioner may, on application in the approved form by a person, defer, for such period as the Commissioner considers appropriate, the making of an assessment in relation to the person under section 12ZM if the Commissioner considers that, were the assessment to be made, payment of the assessed amount would cause serious hardship to the person or considers that there are other special reasons that make it fair and reasonable to defer the making of the assessment.

(2) The Commissioner may, on application in the approved form by a person, amend an assessment made in relation to the person under section 12ZM so that no amount is payable under the assessment if the Commissioner considers that payment of the assessed amount has caused or would cause serious hardship to the person or considers that there are other special reasons that make it fair and reasonable to make the amendment.

(3) If an application referred to in subsection (1) or (2) is made, the Commissioner must as soon as practicable consider the matter to which the application relates and give to the applicant written notice of the Commissioner's decision on the application.

(4) In this section:

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

12ZQ Review of decision of Commissioner

(1) Application may be made to the ART for review of a decision of the Commissioner on an application referred to in

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subsection 12ZP(1) or a decision by the Commissioner refusing to amend an assessment pursuant to an application referred to in subsection 12ZP(2).

(2) A notice under subsection 12ZP(3) must include a statement to the effect that:

(a) if the person is dissatisfied with the decision of the Commissioner on the application under section 12ZP, application may, subject to the ART Act, be made to the ART for review of the decision; and

(b) the person may, under section 268 of that Act, request a statement of reasons for the decision.

(3) A failure to comply with subsection (2) in relation to a notice does not affect the validity of the notice or of the decision to which the notice relates.

Subdivision E—Miscellaneous

12ZR Benefits to students under student financial supplement scheme not subject to taxation

(1) Any amount paid or other benefit given to a person under the Student Financial Supplement Scheme is not subject to taxation under any law of the Commonwealth unless a provision of such a law expressly provides to the contrary.

(2) Subsection (1) does not affect any liability to taxation of a participating corporation in respect of any subsidy or other amount paid to the corporation under the Student Financial Supplement Scheme.

12ZS Application of payments

An amount paid by a person in respect of the person's indebtedness to the Commonwealth under this Division is to be applied in accordance with the direction of the person or, in the absence of such a direction or to the extent that the direction does not adequately deal with the matter:

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(a) first, in discharge or reduction of any FS assessment debts of the person; and
(b) secondly, in discharge or reduction of any accumulated FS debt of the person.

12ZT Indebtedness discharged by death

Upon the death of a person who has an indebtedness to the Commonwealth under this Division, other than an indebtedness in respect of an FS assessment debt, the indebtedness is discharged by force of this section.

12ZU Secrecy

(1) In this section:

Commissioner includes a Second Commissioner of Taxation and a Deputy Commissioner of Taxation.

officer means a person:
(a) who is or has been appointed or employed by the Commonwealth and, because of the appointment or employment or in the course of the performance of the duties of the appointment or in the course of the employment, may acquire or has acquired confidential information; or
(b) to whom powers or functions have been delegated by the Commissioner and who, because of, or in the course of the exercise of powers or the performance of functions under, the delegation, may acquire or has acquired confidential information.

(2) A reference in this section to the acquisition by a person of confidential information is a reference to the acquisition of information in relation to the affairs of another person disclosed or obtained under or for the purposes of this Division.

(3) For the purposes of this section, a person who performs services for the Commonwealth, although not appointed or employed by the Commonwealth, is taken to be employed by the Commonwealth.

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(4) A person who is or has been an officer must not, directly or indirectly:

(a) make a record of any information in relation to the affairs of a second person; or

(b) disclose to a second person any information in relation to the affairs of a third person;

being information disclosed or obtained under or for the purposes of this Division and acquired by the person:

(c) because of the person's appointment or employment by the Commonwealth or in the course of such employment; or

(d) because of the delegation to the person of powers or functions by the Commissioner or in the course of the exercise of such powers or performance of such functions.

Penalty: Imprisonment for 2 years or 100 penalty units, or both.

(4A) Subsection (4) does not apply to the extent that the person makes the record of the information, or discloses the information, for the purposes of this Division or in the performance of the person's duties as an officer.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4A), see subsection 13.3(3) of the *Criminal Code*.

(4B) For the purposes of an offence against subsection (4), strict liability applies to the physical element of circumstance, that the information was disclosed or obtained under or for the purposes of this Division.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(5) Except when it is necessary to do so for the purpose of carrying into effect the provisions of this Division, an officer cannot be required:

(a) to produce to a court any document made or given under or for the purposes of this Division; or

(b) to disclose to a court a matter or thing in relation to information disclosed or obtained under or for the purposes of this Division;

being a document or information acquired by the officer:

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(c) because of the officer's appointment or employment by the Commonwealth or in the course of such employment; or

(d) because of the delegation to the officer of powers or functions by the Commissioner or in the course of the exercise of such powers or the performance of such functions.

(6) Subsection (4) does not prohibit the Commissioner, or a person authorised by the Commissioner, from disclosing any information to the ART in connection with proceedings under this Act or any other Act of which the Commissioner of Taxation has the general administration.

(7) No Act of which the Commissioner of Taxation has the general administration prohibits the Commissioner, or a person authorised by the Commissioner, from disclosing any information to a person performing, as an officer, duties arising under this Division for the purpose of enabling the person to perform those duties.

(8) Subsection (4) does not prohibit an officer (***the relevant officer***) from disclosing any information to an officer of the Department for the purpose of assisting the relevant officer in the performance of duties arising under this Division.

(9) For the purposes of subsection (4), an officer is taken to have disclosed information to another person in contravention of that subsection if the officer discloses the information to a Minister.

(10) An officer must, if and when required by the Commissioner to do so, make an oath or declaration, in a manner and form specified by the Commissioner in writing, to maintain secrecy in accordance with the provisions of this section.

(11) In this section:

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

disclose, in relation to information, means give, reveal or communicate in any way.

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Division 7—General

12ZV Explanation of Division

This Division deals with:

(a) the application of the *Bankruptcy Act 1966* in relation to rights and liabilities arising under or out of a financial supplement contract; and

(b) the effect of decisions reviewing decisions by the Secretary under this Part; and

(c) the giving of notice to a student when the student's obligations to a participating corporation have been assigned to the Commonwealth; and

(d) the exemption from State and Territory taxes of assignments and other acts and transactions under this Part.

12ZW Application of the Bankruptcy Act

(1) This section applies if, at any time after a financial supplement contract (***the contract***) is entered into between a participating corporation (***the corporation***) and a student, including a time after the end of the contract period:

(a) the student becomes bankrupt; or

(b) the student enters into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*.

(2) A debt arising under or out of the contract is not a provable debt in the bankruptcy or for the purposes of the personal insolvency agreement.

(3) Any right of the Commonwealth or of the corporation to bring an action or other proceeding against the student in respect of such a debt is not affected by the bankruptcy or personal insolvency agreement.

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(4) The trustee of the estate of the bankrupt student or the trustee of the personal insolvency agreement, as the case may be, is not entitled to recover under the *Bankruptcy Act 1966* any payment made by the student to the Commonwealth or to the corporation in respect of such a debt.

(5) A reference in this section to a debt arising under or out of the contract includes a reference to:

(a) the amount outstanding at any time under the contract; and

(b) an amount that the student is liable to pay under paragraph 12QB(2)(d), 12QC(2)(d), 12S(2)(d) or 12U(2)(c); and

(c) any accumulated FS debt that discharges, or discharges the unpaid part of, an FS debt;

but does not include a reference to:

(d) a debt constituted by an obligation to repay the amount of a payment that, because of subparagraph 12Q(2)(b)(i), 12QA(2)(b)(i), 12R(2)(b)(i) or 12T(2)(b)(i), is not a payment of financial supplement made under the contract; or

(e) an FS assessment debt that is required to be paid in respect of an accumulated FS debt.

12ZX What happens if a decision of Secretary is set aside or varied

If a decision of the Secretary under this Part is set aside or varied:

(a) if the decision is set aside—subject to paragraph (b), this Part has effect, and is taken to have always had effect, as if the decision had not been made; or

(b) if the decision is set aside and another decision is substituted for the original decision—this Part has effect, and is taken to have always had effect, as if the substituted decision had been the original decision; or

(c) if the decision is varied—this Part has effect, and is taken to have always had effect, as if the decision as varied had been the original decision.

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12ZY Notices of assignment

If any right of a participating corporation to receive a payment from a person under this Part is assigned to the Commonwealth, the Secretary must as soon as practicable arrange for written notice to be given to the person stating that the right has been so assigned and identifying any future payments by the person that, because of the assignment, are required to be made to the Commonwealth.

12ZZ Assignments etc. not subject to State or Territory taxes

An assignment to the Commonwealth under this Part of rights of a corporation under a financial supplement contract, or any other act or thing done or transaction entered into under this Part, is not subject to taxation under any law of a State or Territory.

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Part 6—Overpayments arising under this Act and certain administrative schemes

Division 1—Debts recoverable by the Commonwealth

38 Definitions

In this Part:

debt means an amount of any of the following kinds (whether the amount has arisen before or after the commencement of this Part):

(a) a special educational assistance scheme overpayment;

(aa) an ABSTUDY student start-up loan overpayment;

(b) a student assistance overpayment;

(c) an amount payable to the Commonwealth in relation to an amount of a kind referred to in paragraph (a), (aa) or (b) (including an amount payable under section 41B or subsection 42(10)).

relevant debt means:

(a) an amount paid under the ABSTUDY Scheme (also known as the Aboriginal Study Assistance Scheme) that should not have been paid; or

(b) an amount paid under the Assistance for Isolated Children Scheme that should not have been paid; or

(c) an ABSTUDY student start-up loan overpayment.

Note: The amount in paragraph (a) or (b) is a debt under paragraph (a) of the definition of ***debt*** in this section. The amount in paragraph (c) is a debt under paragraph (aa) of the definition of ***debt*** in this section.

38A ABSTUDY student start-up loan overpayments

(1) If:

(a) a person is paid an ABSTUDY student start-up loan for a qualification period; and

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(b) the circumstances determined under subsection (2) apply to the person;

then the amount of the loan is an ***ABSTUDY student start-up loan overpayment***.

(2) The Minister may, by legislative instrument, determine circumstances in which subsection (1) applies to a person who has not met, or who has ceased to meet, the condition in subparagraph 7C(1)(a)(iii).

(3) Subsection (1) does not apply to a person if, in the Secretary's opinion, the person did not meet, or ceased to meet, the condition in subparagraph 7C(1)(a)(iii) because of exceptional circumstances beyond the person's control.

39 Debts are recoverable by the Commonwealth

(1) If a person:

(a) has been paid an amount of a kind referred to in paragraph (a), (aa) or (b) of the definition of ***debt*** in section 38; or

(b) incurs an amount referred to in paragraph (c) of that definition;

the amount is a debt owed by the person to the Commonwealth.

(2) A debt that arises under subsection (1) because of an ABSTUDY student start-up loan overpayment is taken to have arisen when the person is paid the loan to which the overpayment relates.

39AA Recovery of certain debts from current special educational assistance scheme payments

A debt or overpayment that may be recovered by making deductions under section 1231 of the *Social Security Act 1991* may be recovered by making deductions from amounts that would otherwise be payable under a current special educational assistance scheme (other than from the amount of an ABSTUDY student start-up loan).

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Division 2—Recovery of debts

40 Notice in respect of relevant debt

(1) If a relevant debt owed by a person to the Commonwealth has not been wholly paid, the Secretary must give the person a notice specifying:

(a) the date on which it was issued (the ***date of the notice***); and

(b) the reason the debt was incurred, including a brief explanation of the circumstances that led to the debt being incurred; and

(c) the period to which the debt relates; and

(d) the outstanding amount of the debt at the date of the notice; and

(e) the day on which the outstanding amount is due and payable; and

(f) the effect of sections 41 and 41A; and

(g) that a range of options is available for repayment of the debt; and

(h) the contact details for inquiries concerning the debt.

(2) The outstanding amount of the debt is due and payable on the 28th day after the date of the notice.

(3) The Secretary may give more than one notice under subsection (1) in relation to a person and a relevant debt of the person.

41 Interest charge—no repayment arrangement in effect

(1) If:

(a) a notice is given to a person under subsection 40(1) in relation to a relevant debt; and

(b) an amount (the ***unpaid amount***) of the debt remains unpaid at the end of the day (the ***due day***) on which the debt is due to be paid; and

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(c) at the end of the due day, there is no arrangement in effect under section 41F in relation to the debt;

then the person is liable to pay, by way of penalty, interest charge, worked out under subsection (3), for each day in the period described in subsection (2).

Note: For exemptions, see sections 41D and 41E.

(2) The period starts at the beginning of the day after the due day and ends at the end of the earlier of the following days:

(a) the last day at the end of which any of the following remains unpaid:

(i) the unpaid amount;

(ii) interest charge on any of the unpaid amount;

(b) the day before the first day, after the due day, on which the person makes a payment under an arrangement under section 41F in relation to the debt.

(3) The interest charge for a day in the period described in subsection (2) is worked out by multiplying the interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the unpaid amount;

(b) the interest charge from previous days.

Note 1: For ***interest charge rate*** see section 41C.

Note 2: The interest charge for a day is due and payable to the Commonwealth at the end of that day: see section 41B.

41A Interest charge—failure to comply with or termination of repayment arrangement

(1) If:

(a) an arrangement is in effect under section 41F in relation to a person and a relevant debt; and

(b) the person fails to make a payment under the arrangement;

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then the person is liable to pay, by way of penalty, interest charge, worked out under subsection (3), for each day in the period described in subsection (2).

Note: For exemptions, see sections 41D and 41E.

(2) The period starts at the beginning of the day after the day (the ***due day***) on which the payment was required to be made under the arrangement and ends at the end of the earliest of the following days:

(a) the last day at the end of which any of the following remains unpaid:

(i) the outstanding amount of the debt;

(ii) interest charge on any of the outstanding amount of the debt;

(b) the day before the first day, after the due day, on which the person has paid all the payments that have so far become due and payable under the arrangement;

(c) the day before the day the arrangement is terminated under section 41F.

(3) The interest charge for a day in the period described in subsection (2) is worked out by multiplying the interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the outstanding amount of the debt;

(b) the interest charge from previous days.

Note 1: For ***interest charge rate*** see section 41C.

Note 2: The interest charge for a day is due and payable to the Commonwealth at the end of that day: see section 41B.

Repayment arrangement is terminated

(4) If:

(a) an arrangement is in effect under section 41F in relation to a person and a relevant debt; and

(b) the arrangement is then terminated under section 41F on a day (the ***termination day***);

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then:

(c) the following amounts (if any) are due and payable on the 14th day after the termination day:

(i) the outstanding amount of the debt;

(ii) interest charge on any of the outstanding amount of the debt; and

(d) if, at the end of that 14th day, any of those amounts remains unpaid, the person is liable to pay, by way of penalty, interest charge, worked out under subsection (6), for each day in the period described in subsection (5).

Note: For exemptions, see sections 41D and 41E.

(5) The period starts at the beginning of the day after that 14th day and ends at the end of the earlier of the following days:

(a) the last day at the end of which any of the following remains unpaid:

(i) the outstanding amount of the debt;

(ii) interest charge on any of the outstanding amount of the debt;

(b) the day before the first day, after that 14th day, on which the person makes a payment under another arrangement under section 41F in relation to the debt.

(6) The interest charge for a day in the period described in subsection (5) is worked out by multiplying the interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the outstanding amount of the debt;

(b) the interest charge from previous days.

Note 1: For ***interest charge rate*** see section 41C.

Note 2: The interest charge for a day is due and payable to the Commonwealth at the end of that day: see section 41B.

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41B When interest charge becomes due and payable

The interest charge under section 41 or 41A for a day is due and payable to the Commonwealth at the end of that day.

Note: The interest charge for a day is a debt owed to the Commonwealth: see section 39.

41C What is the *interest charge rate*?

(1) For the purposes of sections 41 and 41A, the ***interest charge rate*** for a day is the rate worked out by adding 7 percentage points to the base interest rate for that day, and dividing that total by the number of days in the calendar year.

(2) The ***base interest rate*** for a day depends on which quarter of the year the day is in. For each day in a quarter in column 1 of the table, it is the monthly average yield of 90-day Bank Accepted Bills published by the Reserve Bank of Australia for the month in column 2 of the table.

Base interest rate

Item	Column 1 For days in this quarter:	Column 2 the monthly average yield of 90-day Bank Accepted Bills for this month applies:
1	1 January to 31 March	the preceding November
2	1 April to 30 June	the preceding February
3	1 July to 30 September	the preceding May
4	1 October to 31 December	the preceding August

(3) If the monthly average yield of 90-day Bank Accepted Bills for a particular month in column 2 of the table in subsection (2) is not published by the Reserve Bank of Australia before the beginning of the relevant quarter, assume that it is the same as the last monthly average yield of 90-day Bank Accepted Bills published by the Reserve Bank of Australia before that month.

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(4) The base interest rate must be rounded to the second decimal place (rounding .005 upwards).

41D Exemption from interest charge—general

(1) A person is not liable to pay interest charge under section 41 or 41A if on the day before the start of the period in respect of which the person would otherwise have been liable to pay that charge:

(a) the person is receiving instalments under the ABSTUDY scheme (also known as the Aboriginal Study Assistance Scheme) that includes an amount identified as living allowance; or

(b) the person is receiving instalments under the Assistance for Isolated Children Scheme; or

(c) the person is receiving instalments of family tax benefit (within the meaning of the *A New Tax System (Family Assistance) Act 1999*); or

(d) the person is receiving a social security payment (within the meaning of the *Social Security Act 1991*); or

(e) the person is receiving a payment of pension, veteran payment or allowance under the *Veterans' Entitlements Act 1986*; or

(f) the circumstances determined in an instrument under subsection (2) apply in relation to the person.

(2) The Minister may, by legislative instrument, determine circumstances for the purposes of paragraph (1)(f).

41E Exemption from interest charge—Secretary's determination

(1) The Secretary may determine that interest charge is not payable, or is not payable in respect of a particular period, by a person on the outstanding amount of a relevant debt.

(2) The Secretary may make a determination under this section in circumstances that include (but are not limited to) the Secretary being satisfied that the person has a reasonable excuse for:

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(a) failing to enter into an arrangement under section 41F to pay the outstanding amount of the debt; or

(b) having entered an arrangement, failing to make a payment in accordance with that arrangement.

(3) The determination may relate to a period before, or to a period that includes a period before, the making of the determination.

(4) The determination may be expressed to be subject to the person complying with one or more specified conditions.

(5) If the determination is expressed to be subject to the person complying with one or more specified conditions, the Secretary must give written notice of the determination to the person as soon as practicable after the determination is made.

(6) If:

(a) the determination is expressed to be subject to the person complying with one or more specified conditions; and

(b) the person contravenes a condition or conditions without reasonable excuse;

the determination ceases to have effect from and including the day on which the contravention or the earliest of the contraventions occurred.

(7) The Secretary may cancel or vary the determination by written notice given to the person.

41F Arrangement for payment of relevant debt

(1) The Secretary may, on behalf of the Commonwealth, enter into an arrangement with a person under which the person is to pay a relevant debt, owed by the person to the Commonwealth, or the outstanding amount of such a debt, in a way set out in the arrangement.

(2) If a person is required to make a payment under an arrangement entered into under subsection (1) before the end of a particular day, the person must make that payment before the end of that day.

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(3) An arrangement entered into under subsection (1) has effect, or is taken to have had effect, on and after the day specified in the arrangement as the day on which the arrangement commences (whether that day is the day on which the arrangement is entered into or an earlier or later day).

(4) If an arrangement entered into under subsection (1) does not specify a day as mentioned in subsection (3), it has effect on and after the day on which it is entered into.

(5) The Secretary may terminate or alter an arrangement entered into under subsection (1):
  (a) at the debtor's request; or
  (b) after giving 28 days' notice to the debtor of the proposed termination or alteration; or
  (c) without notice, if the Secretary is satisfied that the person has failed to disclose material information about his or her true capacity to repay the debt.

41G Guidelines on interest charge provisions

The Minister may, by legislative instrument, determine guidelines relating to the operation of the provisions of this Division dealing with interest charge.

42 Recovery of certain overpayments from third parties

(2) This section applies where:
  (a) the liability of a person (in this section called the ***debtor***) to the Commonwealth in relation to a debt has not been fully satisfied; and
  (b) there is another person (in this section called the ***third party***):
    (i) by whom any money is due, or may become due, to the debtor; or
    (ii) who holds, or may subsequently hold, money for the debtor; or
    (iii) who holds, or may subsequently hold, money for some other person for payment to the debtor; or

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(iv) who has authority from some other person to pay money to the debtor.

(2A) The first reference in paragraph (2)(b) to another person includes a reference to:

(a) the Commonwealth; and

(b) a State; and

(c) a Territory; and

(d) any authority of the Commonwealth or of a State or Territory.

(3) The Secretary may, by written notice given to the third party, require the third party to pay to the Commonwealth:

(a) a specified amount, not being an amount more than:

(i) the amount then due to the Commonwealth in relation to the debt; or

(ii) the amount of the money referred to in whichever of the subparagraphs of paragraph (2)(b) is applicable; or

(b) a specified amount out of each payment that the third party becomes liable from time to time to make to the debtor until the total of the amounts paid to the Commonwealth under the notice equals the amount then due to the Commonwealth in relation to the debt.

(4) A payment required to be made by the notice is to be made within the time specified in the notice, not being a time earlier than:

(a) the money concerned becomes due or is held; or

(b) 14 days after the notice is given.

(5) The third party must not contravene the notice.

Penalty: Imprisonment for 1 year.

(5A) Subsection (5) does not apply if the party has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

(6) The Secretary must give a copy of the notice to the debtor.

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(7) Contravention of subsection (6) does not invalidate the notice.

(8) If the third party makes a payment to the Commonwealth under the notice, the payment is to be taken to have been made with the authority of the debtor and of any other person concerned.

(9) If the whole or a part of the debt stops being due to the Commonwealth otherwise than because of a payment made by the third party, the following provisions have effect:

(a) the Secretary must notify the third party of the amount that has stopped being due;

(b) if paragraph (3)(a) applies to the notice—the amount specified in the notice is to be taken to be reduced, or further reduced, as the case requires, by the amount that has stopped being due;

(c) if paragraph (3)(b) applies to the notice—the reference in that paragraph to the total of the amounts paid to the Commonwealth under the notice is to be taken to be a reference to that total as increased, or further increased, as the case requires, by the amount that has stopped being due.

(10) If the third party, without reasonable excuse, contravenes the notice, an amount equal to:

(a) so much (if any) of the amount required by the notice to be paid by the third party as the third party was able to pay to the Commonwealth but did not pay; or

(b) so much of the debt as remains due to the Commonwealth from time to time;

whichever is the lesser, is a debt due by the third party to the Commonwealth.

(11) If:

(a) the third party is indebted to the Commonwealth under subsection (10); and

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(b) the Commonwealth recovers the whole or a part of the third party's debt;

the debtor's liability to the Commonwealth in relation to the debt referred to in paragraph (2)(a) is reduced or further reduced, as the case requires, by the amount recovered from the third party.

(12) If, apart from this section, money is not due or payable on demand by the third party unless a condition is fulfilled, the money is to be taken, for the purposes of this section, to be due or payable on demand, whether or not the condition has been fulfilled.

(13) If a person has unsatisfied liabilities to the Commonwealth in relation to more than one debt, the Secretary may:

(a) for the purposes of this section, treat the debts as a single debt; but

(b) apportion any amount recovered under this section in relation to the debts in such proportion as the Secretary considers appropriate.

(14) An apportionment made by the Secretary under subsection (13) must be made in writing.

42A Recovery of amounts from financial institutions

(1) If:

(a) an amount or amounts of student assistance benefit are paid to a financial institution for the credit of an account kept with the institution; and

(b) the Secretary is satisfied that the amount or the amounts were intended to be paid for the benefit of someone who was not the person or one of the persons in whose name or names the account was kept;

the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

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(c) an amount specified in the notice, being the amount, or the sum of the amounts, of the student assistance benefit;

(d) the amount standing to the credit of the account when the notice is received by the institution.

(2) If:

(a) an amount or amounts of student assistance benefit that are intended for the benefit of a person are paid to a financial institution for the credit of an account that was kept with the institution by the person or by the person and one or more other persons; and

(b) the person died before the amount or amounts were paid;

the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

(c) an amount specified in the notice, being the amount, or the sum of the amounts, of the student assistance benefit;

(d) the amount standing to the credit of the account when the notice is received by the institution.

(3) As soon as possible after issuing a notice under subsection (2), the Secretary must inform the deceased estate in writing of:

(a) the amount sought to be recovered from the deceased person's account; and

(b) the reasons for the recovery action.

(4) A financial institution must comply with a notice given to it under subsection (1) or (2).

Penalty: 300 penalty units.

(5) It is a defence to a prosecution of a financial institution for failing to comply with a notice given to it under subsection (1) or (2) if the financial institution proves that it was incapable of complying with the notice.

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Note: The defendant bears a legal burden in relation to the matter in subsection (5). See section 13.4 of the *Criminal Code*.

(6) If a notice is given to a financial institution under:

(a) subsection (1) (amount paid to wrong account) in respect of an amount or amounts of student assistance benefit; or

(b) subsection (2) (death of person in whose name the account was kept) in respect of an amount or amounts of student assistance benefit;

any amount recovered by the Commonwealth from the institution in respect of the debt reduces any debt owed to the Commonwealth by any other person in respect of the amount or amounts of student assistance benefit.

42B No time limit on debt recovery action

For the purposes of this Part, any action under a provision of this Part for the recovery of a debt may be taken at any time.

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Division 3—Non-recovery of debts

43 Secretary may write off debt

Writing off debt

(1) The Secretary may, on behalf of the Commonwealth, write off a debt.

Class of debts

(2) For the purposes of subsection (1), the Secretary may write off debts that are included in a class of debts determined by the Minister by notice published in the *Gazette*.

When decision takes effect

(3) A decision made under subsection (1) takes effect:
  (a) if a day is stated in the decision as the day on which the decision takes effect—on the day so stated (whether that day is before, on or after the day on which the decision is made); or
  (b) if a day is not so stated in the decision—on the day on which the decision is made.

Note: If the Secretary writes off a debt, this means an administrative decision has been made that, in the present circumstances, there is no point in trying to recover the debt. In law, however, this debt still exists and may later be pursued.

43A Power to waive Commonwealth's right to recover debt

Secretary's limited power to waive

(1) The Secretary may, on behalf of the Commonwealth, waive the Commonwealth's right to recover the whole or a part of a debt only in the circumstances described in section 43B, 43C, 43D, 43E or 43F.

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When waiver takes effect

(2) A waiver takes effect:

(a) if a day is stated in the waiver as the day on which the waiver takes effect—on the day so stated (whether that day is before, on or after the day on which the decision to waive is made); or

(b) if a day is not so stated in the waiver—on the day on which the decision to waive is made.

Note: If the Secretary waives the Commonwealth's right to recover all or part of a debt, the waiver is a permanent bar to recovery of that debt or that part of the debt—that debt or that part of the debt effectively ceases to exist.

43B Waiver of debt arising from error

Administrative error

(1) Subject to subsection (2), the Secretary must waive the right to recover the proportion of a debt that is attributable solely to an administrative error made by the Commonwealth if the debtor received in good faith the payment or payments that gave rise to that proportion of the debt.

Note: Subsection (1) does not allow waiver of part of a debt that was caused partly by administrative error and partly by one or more other factors (such as error by the debtor).

Circumstances under which subsection (1) applies

(2) Subsection (1) only applies if:

(a) the debt is not raised within a period of 6 weeks from the first payment that caused the debt; or

(b) if the debt arose because a person has complied with an obligation to provide information or documents to the Department under this Act, the debt is not raised within a period of 6 weeks from the end of the period within which the person was required to comply with that obligation;

whichever is the later.

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Underestimating value of property

(3) If:

(a) a debt arose because the debtor, the debtor's partner, or the debtor's parent or parents underestimated the value of particular property; and

(b) the estimate was made in good faith; and

(c) the value of the property was not able to be easily determined when the estimate was made;

the Secretary must waive the right to recover the proportion of the debt attributable to the underestimate.

Proportion of a debt

(4) For the purposes of this section, a proportion of a debt may be 100% of the debt.

(5) In this section:

child: without limiting who is a child of a person for the purposes of this section, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

parent, in relation to a person, means:

(a) if the person is not an adopted child—a natural parent of the person or someone of whom the person is a child because of the definition of ***child*** in this section; or

(b) if the person is an adopted child—an adoptive parent of the person.

partner has the same meaning as in the *Social Security Act 1991*.

43C Waiver of debt relating to an offence

(1) If:

(a) a debtor has been convicted of an offence that gave rise to a proportion of a debt; and

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(b) the court indicated in sentencing the debtor that it imposed a longer custodial sentence on the debtor because he or she was unable or unwilling to pay the debt;

the Secretary must waive the right to recover the proportion of the debt.

(2) For the purposes of this section, a proportion of a debt may be 100% of the debt.

43D Waiver of small debt

The Secretary must waive the right to recover a debt if:

(a) the debt is, or is likely to be, less than $50; and

(b) it is not cost effective for the Commonwealth to take action to recover the debt.

43E Waiver in relation to settlements

Settlement of civil action

(1) If the Commonwealth has agreed to settle a civil action against a debtor for recovery of a debt for less than the full amount of the debt, the Secretary must waive the right to recover the difference between the debt and the amount that is the subject of the settlement.

Settlement of proceedings before the ART

(2) If the Secretary has agreed to settle proceedings before the ART relating to recovery of a debt on the basis that the debtor will pay less than the full amount of the debt, the Secretary must waive the right to recover the difference between the debt and the amount that is the subject of the settlement.

Waiver where at least 80% of debt recovered and debtor cannot pay more

(3) If:

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(a) the Commonwealth has recovered at least 80% of the original value of a debt from a debtor; and

(b) the Commonwealth and the debtor agree that the recovery is in full satisfaction of the whole of the debt; and

(c) the debtor cannot repay a greater proportion of the debt;

the Secretary must waive the right to recover the remaining 20% or less of the value of the original debt.

Agreement for part-payment in satisfaction of outstanding debt

(4) If the Secretary and a debtor agree that the debtor's debt will be fully satisfied if the debtor pays the Commonwealth an agreed amount less than the amount of the debt outstanding at the time of the agreement (the ***unpaid amount***), the Secretary must waive the right to recover the difference between the unpaid amount and the agreed amount.

Limits on agreement to accept part-payment in satisfaction of outstanding debt

(5) The Secretary must not make an agreement described in subsection (4) unless the Secretary is satisfied that:

(a) the debtor cannot repay more of the debt than the agreed amount; and

(b) the agreed amount is at least the present value of the unpaid amount repaid in instalments whose amount and timing are determined by the Secretary; and

(c) it would take at least 12 months to recover the unpaid amount under this Part if subsection (4) did not apply.

Formula for working out present value of unpaid amount

(6) For the purposes of subsection (5), the ***present value of the unpaid amount*** is the amount worked out in accordance with the following formula:

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$$\frac{\text{Annual repayment}}{\text{Interest}} \times \left[1 - \frac{1}{\left(1 + \text{Interest}\right)^{\text{Repayment period}}}\right]$$

where:

annual repayment is the amount of the debt that the Secretary believes would be recovered under this Part in a year if subsection (4) did not apply in relation to the debt.

interest is the annual rate of interest specified by the Minister in a written notice.

repayment period is the number of years needed to repay the unpaid amount if repayments equal to the annual repayment were made each year.

Example:

Facts: Terry owed a debt of $8,000 to the Commonwealth. He has repaid $2,000 with the remaining debt being $6,000.

Terry, with the assistance of his mother, offers to make a single payment of $4,700 in full satisfaction, leaving $1,300 of the debt unpaid. Without Terry's mother's assistance, Terry can only pay fortnightly instalments amounting to $1,200 a year and, at that rate, would take 5 years to pay the remaining $6,000.

Assume that the Minister has specified an interest rate of 10%.

Result: The present value of the unpaid amount of $6,000 to be repaid in 5 years at a 10% interest rate is worked out as follows:

$$\frac{\$1{,}200}{0.1} \times \left[1 - \frac{1}{\left(1 + 0.1\right)^{5}}\right] = \$4{,}548$$

As the proposed payment of $4,700 is more than the present value of the unpaid amount (which is $4,548 as shown), and as the other conditions in subsection (5) apply, the Secretary may accept Terry's offer and make an agreement with him as described in subsection (4).

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If the Secretary makes the agreement, the Secretary must, in accordance with subsection (4), waive the remaining $1,300 of the debt (being the difference between the unpaid amount of $6,000 and the agreed amount of $4,700).

Notice is a legislative instrument

(7) A notice described in the definition of ***interest*** in subsection (6) is a legislative instrument.

43F Waiver in special circumstances

The Secretary may waive the right to recover all or part of a debt if the Secretary is satisfied that:

(a) the debt did not result wholly or partly from the debtor or another person knowingly:
  (i) making a false statement or a false representation; or
  (ii) failing or omitting to comply with a provision of this Act; and

(b) there are special circumstances (other than financial hardship alone) that make it desirable to waive; and

(c) it is more appropriate to waive than to write off the debt or part of the debt.

Note: Section 43 allows the Secretary to write off a debt on behalf of the Commonwealth.

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Division 4—Departure prohibition orders

Subdivision A—Secretary may make departure prohibition orders

43G Secretary may make departure prohibition orders

(1) The Secretary may make an order (a ***departure prohibition order***) prohibiting a person from departing from Australia for a foreign country if:

(a) the person has one or more debts to the Commonwealth under this Part; and

(b) there are not arrangements satisfactory to the Secretary for the one or more debts to be wholly paid; and

(c) the Secretary believes on reasonable grounds that it is desirable to make the order for the purpose of ensuring that the person does not depart from Australia for a foreign country without:

(i) having wholly paid the one or more debts; or

(ii) there being arrangements satisfactory to the Secretary for the one or more debts to be wholly paid.

Matters to be taken into account in making order

(2) Before making an order under this section, the Secretary must have regard to the following matters:

(a) the capacity of the person to pay the one or more debts;

(b) whether any action has been taken to recover any such debt, and the outcome of the recovery action;

(c) the length of time for which any such debt has remained unpaid after the day on which it became due and payable;

(d) such other matters as the Secretary considers appropriate.

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Form of order

(3) A departure prohibition order must be in a form approved by the Secretary.

Subdivision B—Departure from Australia of debtors prohibited

43H Departure from Australia of debtors prohibited

A person must not depart from Australia for a foreign country if:

(a) a departure prohibition order in respect of the person is in force, and the person knows that the order is in force, or is reckless as to whether the order is in force; and

(b) the person's departure is not authorised by a departure authorisation certificate, and the person knows that the departure is not authorised by such a certificate, or is reckless as to whether the departure is authorised by such a certificate.

Penalty: Imprisonment for 12 months.

Subdivision C—Other rules for departure prohibition orders

43J Notification requirements for departure prohibition orders

(1) This section applies if the Secretary makes a departure prohibition order in respect of a person.

Notifying person of order

(2) The Secretary must notify the person that the order has been made.

(3) The notice must be in a form approved by the Secretary and must be given as soon as practicable after making the order.

Notifying other persons of order

(4) Unless the Secretary is satisfied that the person is an Australian citizen, the Secretary must give the Secretary of the Department

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administered by the Minister administering the *Migration Act 1958* a copy of the order, and information likely to facilitate identification of the person, for the purposes of administering that Act.

(5) The Secretary must also give a copy of the order, and information likely to facilitate identification of the person for the purposes of this Division, to such other persons as the Secretary considers appropriate in the circumstances, being persons declared in an instrument under subsection (6).

(6) The Secretary may, by legislative instrument, declare persons for the purposes of subsection (5).

(7) The Secretary must give a copy of the order or information under subsection (4) or (5) as soon as practicable after making the order.

43K Operation of departure prohibition order

(1) A departure prohibition order comes into force when it is made, and continues in force until it is revoked, or until it is set aside by a court.

Note: Subdivision E deals with appeals to the Federal Court of Australia or the Federal Circuit and Family Court of Australia (Division 2) against the making of departure prohibition orders.

(2) However, a departure prohibition order in respect of a person is not in force during any period when a deportation order in respect of the person is in force under the *Migration Act 1958*.

43L Revocation and variation of departure prohibition orders

(1) The Secretary must revoke a departure prohibition order in respect of a person if:

(a) the person no longer has any debts to the Commonwealth under this Part; or

(b) there are arrangements satisfactory to the Secretary for the one or more debts the person has to the Commonwealth under this Part to be wholly paid; or

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(c) the Secretary is satisfied that the one or more debts the person has to the Commonwealth under this Part are completely irrecoverable.

(2) The Secretary may revoke or vary a departure prohibition order in respect of a person if the Secretary considers it desirable to do so.

(3) A revocation or variation, under this section, of a departure prohibition order may be:

(a) on application by the person in a form approved by the Secretary; or

(b) on the Secretary's own initiative.

43M Notification requirements for revocations and variations

(1) If the Secretary revokes or varies a departure prohibition order in respect of a person, the Secretary must give notice of the revocation or variation to:

(a) the person; and

(b) each person to whom a copy of the departure prohibition order was given under subsection 43J(4) or (5).

(2) If:

(a) a person makes an application under paragraph 43L(3)(a) for the revocation or variation of a departure prohibition order; and

(b) the Secretary refuses to revoke or vary the order;

the Secretary must give notice of the refusal to the person.

(3) A notice under this section must be in a form approved by the Secretary and must be given as soon as practicable after the decision concerned is made.

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Subdivision D—Departure authorisation certificates

43N Application for departure authorisation certificate

(1) A person in respect of whom a departure prohibition order is in force may apply for a certificate (a ***departure authorisation certificate***) authorising the person to depart from Australia for a foreign country.

(2) The application must be in a form approved by the Secretary.

43P When Secretary must issue departure authorisation certificate

(1) This section applies if a person makes an application under section 43N for a departure authorisation certificate.

(2) The Secretary must issue the departure authorisation certificate if the Secretary is satisfied:

(a) that, if the certificate is issued:

(i) it is likely that the person will depart from Australia and return to Australia within a period that the Secretary considers appropriate; and

(ii) it is likely that, within a period that the Secretary considers appropriate, the Secretary will be required by subsection 43L(1) to revoke the departure prohibition order in respect of the person; and

(b) that it is not necessary for the person to give security under section 43Q for the person's return to Australia.

(3) If the Secretary is not satisfied as mentioned in subsection (2), the Secretary must issue the departure authorisation certificate if:

(a) the person has given security under section 43Q for the person's return to Australia; or

(b) if the person is unable to give such security, the Secretary is satisfied:

(i) that the certificate should be issued on humanitarian grounds; or

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(ii) that refusing to issue the certificate will be detrimental to Australia's interests.

43Q Security for person's return to Australia

(1) A person may give such security as the Secretary considers appropriate by bond, deposit or any other means, for the person's return to Australia by such day as is agreed by the person and the Secretary and is specified in the departure authorisation certificate.

(2) The Secretary may substitute a later day for the day mentioned in subsection (1):

(a) on application by the person in a form approved by the Secretary; or

(b) on the Secretary's own initiative.

(3) The Secretary may refuse an application by a person to substitute a later day if:

(a) the person refuses to increase the value of the security already given to a level that the Secretary considers appropriate; or

(b) the person refuses to give such further security as the Secretary considers appropriate; or

(c) the Secretary considers that it would not be appropriate to substitute the later day.

43R What departure authorisation certificate must authorise

(1) A departure authorisation certificate in respect of a person must authorise the departure of the person on or before the seventh day after a day specified in the certificate.

(2) The day specified in the certificate must be a day that is after the day on which the certificate is issued, but not more than 7 days after that day.

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43S Notification requirements for departure authorisation certificates

(1) If the Secretary issues a departure authorisation certificate in respect of a person, the Secretary must, as soon as practicable, give a copy of the certificate to:

(a) the person; and

(b) each person to whom a copy of the departure prohibition order in respect of the person was given under subsection 43J(4) or (5).

(2) If:

(a) a person makes an application under section 43N for a departure authorisation certificate; and

(b) the Secretary refuses to issue the certificate;

the Secretary must give notice of the refusal to the person.

(3) The notice must be in a form approved by the Secretary and must be given as soon as practicable after the refusal.

43T Notification requirements for substituted days

(1) If, under section 43Q, the Secretary substitutes a later day for a person's return to Australia, the Secretary must give notice of that decision to:

(a) the person; and

(b) each person to whom a copy of the departure prohibition order in respect of the person was given under subsection 43J(4) or (5).

(2) If:

(a) a person makes an application under paragraph 43Q(2)(a) to substitute a later day for the person's return to Australia; and

(b) the Secretary refuses the application;

the Secretary must give notice of the refusal to the person.

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(3) A notice under this section must be in a form approved by the Secretary and must be given as soon as practicable after the decision concerned is made.

Subdivision E—Appeals and review in relation to departure prohibition orders and departure authorisation certificates

43U Appeals to courts against making of departure prohibition orders

(1) A person aggrieved by the making of a departure prohibition order may appeal to the Federal Court of Australia or the Federal Circuit and Family Court of Australia (Division 2) against the making of the order.

(2) This section has effect subject to Chapter III of the Constitution.

43V Jurisdiction of courts

The jurisdiction of a court under section 43U must be exercised by a single Judge.

43W Orders of court on appeal

A court hearing an appeal under section 43U against the making of a departure prohibition order may, in its discretion:

(a) make an order setting aside the order; or

(b) dismiss the appeal.

43X Review of decisions

(1) Applications may be made to the ART for review of a decision of the Secretary under section 43L, 43P or 43Q.

(2) Despite any provision of Part 9, that Part does not apply in relation to any decision of the Secretary under this Division.

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(3) In this section:

decision has the same meaning as in the ART Act.

Subdivision F—Enforcement

43Y Powers of officers of Customs and members of the Australian Federal Police

(1) This section applies if an officer (within the meaning of the *Customs Act 1901*), or a member of the Australian Federal Police, believes on reasonable grounds that:

(a) a person is about to depart from Australia for a foreign country; and

(b) a departure prohibition order in respect of the person is in force; and

(c) the person's departure is not authorised by a departure authorisation certificate.

(2) The officer or member may:

(a) take such steps as are reasonably necessary to prevent the person's departure, including, but not limited to, steps to prevent the person going on board, or to remove the person from, a vessel or aircraft in which the officer or member believes on reasonable grounds the departure will take place; and

(b) require the person to answer questions or produce documents to the officer or member for the purposes of working out whether:

(i) a departure prohibition order in respect of the person is in force; and

(ii) if such an order in respect of the person is in force—whether the person's departure is authorised by a departure authorisation certificate.

(3) A person commits an offence if:

(a) the person is subject to a requirement under paragraph (2)(b); and

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(b) the person refuses or fails to comply with the requirement.

Penalty: 30 penalty units.

(4) Subsection (3) does not apply if the person answers the question or produces the document to the extent that the person is capable of answering the question or producing the document.

Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

43Z Privilege against self-incrimination

(1) An individual is not excused from answering a question, or producing a document, under paragraph 43Y(2)(b) on the ground that the answer to the question or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

(2) However:

(a) the answer given or document produced; and

(b) answering the question or producing the document; and

(c) any information, document or thing obtained as a direct or indirect consequence of the answering of the question or producing the document;

are not admissible in evidence against the individual in any criminal proceedings, other than proceedings under section 137.1 or 137.2 of the *Criminal Code* in relation to answering the question or producing the document.

43ZA Production of authority to depart

(1) If:

(a) a departure prohibition order in respect of a person is in force; and

(b) the person is about to depart from Australia for a foreign country; and

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(c) the person's departure is authorised by a departure authorisation certificate;

an officer (within the meaning of the *Customs Act 1901*), or a member of the Australian Federal Police, may request the person to give a copy of the certificate to the officer or member for inspection.

(2) A person commits an offence of strict liability if:

(a) an officer (within the meaning of the *Customs Act 1901*), or a member of the Australian Federal Police, has made a request of the person under subsection (1); and

(b) the person refuses or fails to comply with the request.

Penalty for contravention of this subsection: 5 penalty units.

Subdivision G—Interpretation

43ZB Interpretation—departure from Australia for foreign country

A reference in this Division to the departure of a person from Australia for a foreign country is a reference to the departure of the person from Australia for a foreign country, whether or not the person intends to return to Australia.

43ZC Meaning of *Australia*

For the purposes of this Division, ***Australia***, when used in a geographical sense, includes the external Territories.

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Part 7—Miscellaneous

Division 1—Provision and use of tax file numbers

45 Requesting tax file numbers

(1) The Secretary may request, but not compel, a person in Australia to give the Secretary a statement of the person's tax file number if the person:

(a) is making, or has made, a claim for a benefit under a current special educational assistance scheme; or

(b) is receiving a benefit under a current special educational assistance scheme.

Note: For the consequences of not satisfying the request, see section 47.

(2) A request under this section may be made orally or in writing.

46 How request for tax file number is satisfied

Satisfying request for tax file number

(1) If the Secretary requests a person under section 45 to give the Secretary a statement of the person's tax file number, the person satisfies the request by giving the Secretary, within the period mentioned in subsection (2) of this section (if applicable):

(a) the statement of the person's tax file number; or

(b) both of the following:

(i) a TFN declaration that contains the statement required by subsection (3) of this section;

(ii) a document in which the person authorises the Commissioner of Taxation to tell the Secretary the matters mentioned in subsection (4) of this section.

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Period for satisfying request—person is receiving a benefit under a current special educational assistance scheme

(2) If the person is receiving a benefit under a current special educational assistance scheme, the material mentioned in paragraph (1)(a) or (b) must be given within 28 days after the making of the request.

Requirements for declarations

(3) For the purposes of subparagraph (1)(b)(i), the statement is:
  (a) a statement that the person:
    (i) has a tax file number but does not know what it is; and
    (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; or
  (b) a statement that an application by the person for a tax file number is pending.

Requirements for authorisation documents

(4) For the purposes of subparagraph (1)(b)(ii), the matters are as follows:
  (a) if the TFN declaration contains a statement mentioned in paragraph (3)(a):
    (i) whether the person has a tax file number; and
    (ii) if the person has a tax file number—that number;
  (b) if the TFN declaration contains a statement mentioned in paragraph (3)(b):
    (i) if a tax file number is issued to the person—that number; or
    (ii) if the application for a tax file number is refused or is withdrawn—that fact.

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47 Consequences of not giving tax file number

Consequences of not satisfying request for tax file number

(1) If the Secretary makes a request of a person under section 45, the consequences set out in the following table apply if the person does not satisfy the request in accordance with section 46.

Consequences of not satisfying request for tax file number

Item	If the request under section 45 was given to …	the consequence is …
1	a person: (a) who is making a claim for a benefit under a current special educational assistance scheme; or (b) who has made a claim for a benefit under a current special educational assistance scheme, but the claim has not been determined	the benefit is not payable
2	a person who is receiving a benefit under a current special educational assistance scheme	at the end of 28 days after the Secretary made the request, the benefit ceases to be payable

Note: The Secretary may exempt a person from the operation of this subsection: see subsection (3).

Consequences of person not having tax file number after giving declaration

(2) If:

(a) the Secretary makes a request of a person under section 45; and

(b) the person satisfies the request by giving the Secretary:

(i) a TFN declaration that contains the statement required by subsection 46(3); and

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(ii) a document in which the person authorises the Commissioner of Taxation to tell the Secretary the matters mentioned in subsection 46(4); and

(c) the Commissioner of Taxation tells the Secretary that the person does not have a tax file number or that any of the following apply in relation to the person:

(i) the person has not applied for a tax file number;

(ii) an application by the person for a tax file number has been refused;

(iii) the person has withdrawn an application for a tax file number;

the consequences set out in the following table apply.

Consequences of person not having tax file number after giving declaration

Item	If the request under section 45 was given to …	the consequence is …
1	a person: (a) who is making a claim for a benefit under a current special educational assistance scheme; or (b) who has made a claim for a benefit under a current special educational assistance scheme, but the claim has not been determined	the benefit is not payable
2	a person who is receiving a benefit under a current special educational assistance scheme	the benefit ceases to be payable

Note: The Secretary may exempt a person from the operation of this subsection: see subsection (3).

Exemptions

(3) The Secretary may exempt a person who has been given a request under section 45 from the operation of subsection (1) or (2) of this section.

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47A Use of tax file numbers

(1) For the purposes of a current special educational assistance scheme, the Secretary may require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, that was contained in TFN declarations lodged with the Commissioner under Division 3 of Part VA of the *Income Tax Assessment Act 1936*.

(2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the following purposes:

(a) to detect cases in which amounts of benefits under a current special educational assistance scheme have been paid when they should not have been paid;

(b) to verify, in respect of persons who have made claims for benefits under a current special educational assistance scheme, the qualification of those persons for those benefits;

(c) to establish whether the rates or amounts of benefits under a current special educational assistance scheme that are being, or have been, paid are, or were, correct.

48 Obligation to notify happening of certain events

(1) If a prescribed event happens in relation to a person who is receiving, or entitled to receive, an amount under a financial supplement contract or a current special educational assistance scheme, the person must notify the Department, in accordance with the regulations, of the happening of the event within 14 days.

(2) Despite section 14 of the *Legislation Act 2003*, regulations for the purposes of subsection (1) relating to notifying the Department may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time.

49 Offences

(1) A person must not contravene subsection 48(1).

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Penalty: Imprisonment for 12 months.

(1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

(2) Where a person is convicted of an offence against subsection (1) of this section or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act, the court may, in addition to imposing a penalty, order the person to pay to the Commonwealth an amount equal to any amount paid under this Act, or a current special educational assistance scheme, as a result of the act, failure or omission in respect of which the person was convicted.

(3) For the purposes of subsection (2), a certificate by the Secretary stating that a specified amount is the amount paid to a specified person under this Act, or a current special educational assistance scheme, as a result of a specified act, failure or omission is prima facie evidence of the matters stated in the certificate.

(4) A reference in this section to payment of an amount under this Act or to an amount paid under this Act includes a reference to payment of an amount or to an amount paid, as the case may be, under a financial supplement contract.

50 Proceedings against corporations

(1) Where, in proceedings for an offence against this Act or regulations made for the purposes of this Act in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, employee or agent of the corporation, being a director, employee or agent who engaged in the conduct within the scope of his or her actual or apparent authority, had the state of mind.

(2) Any conduct engaged in on behalf of a corporation:

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(a) by a director, employee or agent of the corporation within the scope of his or her actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee or agent of the corporation, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, employee or agent;

shall be deemed, for the purposes of this Act and regulations made for the purposes of this Act, to have been engaged in by the corporation.

(3) A reference in subsection (1) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

51 Evidentiary certificates

(1) A certificate by the Secretary stating:

(a) that specified amounts have been paid, as a specified kind of payment, to or in relation to a specified person under this Act (including an amount that was paid as a student assistance benefit under this Act as in force before 1 July 1998), a current special educational assistance scheme, or a former special educational assistance scheme, in relation to a specified period; or

(b) that, on a specified day, a notice, to a specified effect, under subsection 40(1) was given to a specified person by the Secretary;

is prima facie evidence of the matters stated in the certificate.

(2) A certificate given by the Secretary stating:

(a) that a specified amount was the principal sum at a particular time under a specified financial supplement contract; or

(b) that a specified amount was the sum of the actual repayments, or the sum of the notional repayments, made

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before a particular time or during a particular period in respect of a specified financial supplement contract; or

(c) that a specified amount was the amount, or the total of the amounts, of subsidy paid by the Commonwealth to a specified participating corporation in respect of a specified financial supplement contract in lieu of interest on the principal sum or in lieu of interest on the principal sum in relation to a specified period; or

(d) that a specified amount was, at a particular time, the amount outstanding under a specified financial supplement contract; or

(e) that a specified amount was, at a particular time, the indexation amount in relation to a specified financial supplement contract; or

(f) that the rights, or specified rights, of a specified participating corporation in respect of a specified person under a specified financial supplement contract were assigned by the corporation to the Commonwealth on a specified date; or

(g) that, on a specified day, a person had an FS debt or FS debts to the Commonwealth of a specified amount or specified amounts; or

(h) that, on a specified day, a notice, to a specified effect, under a provision of Part 4A was given to a specified person by the Secretary;

is prima facie evidence of the matters stated in the certificate.

(3) In any proceeding, a document purporting to be a certificate by the Secretary under this section is taken, unless the contrary is established, to be such a certificate and to have been duly given.

55 Time for instituting criminal proceedings

Notwithstanding anything in any other law, proceedings for an offence against the regulations may be instituted within the period of 2 years after the commission of the offence.

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55A Appropriation

(1) Payment of benefit in relation to:

(b) the Assistance for Isolated Children Scheme; and

(c) the ABSTUDY Scheme (also known as the Aboriginal Study Assistance Scheme), other than in relation to the away-from-base element of that Scheme for mixed mode study;

is to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

(1AAA) Payments in relation to ABSTUDY student start-up loans are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

(1A) The following payments, namely:

(a) payments of subsidy to a participating corporation under an agreement entered into under section 12D;

(b) payments to a participating corporation under paragraph 12QB(2)(c), 12QC(2)(c), 12S(2)(c), 12U(2)(b) or 12V(2)(b), subsection 12ZA(11) or paragraph 12ZB(b);

are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

(1AA) The Consolidated Revenue Fund is appropriated as necessary for the purposes of Part 2 of Schedule 11 to the *Social Security Legislation (Youth Allowance Consequential and Related Measures) Act 1998.*

Note: Part 2 of Schedule 11 to the *Social Security Legislation (Youth Allowance Consequential and Related Measures) Act 1998* makes various transitional provisions, with effect from 1 July 1998, that relate to the abolition of the Youth Training Allowance, AUSTUDY and Financial Supplement relating to AUSTUDY. Subsection (1AA) of this section enables money to be appropriated for purposes such as the payment of a benefit under the AUSTUDY scheme after 1 July 1998 following a review under a transitional provision in that Part of that Schedule.

(2) In this section:

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benefit includes an advance on account of benefit that is expected to become payable under a scheme mentioned in subsection (1).

56 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular:

(a) making provision in relation to the furnishing of information by applicants for benefits under a current special educational assistance scheme and by persons to whom such benefits have been granted; and

(aa) making provision in relation to the furnishing of information by applicants under the Student Financial Supplement Scheme or by persons who are parties to financial supplement contracts; and

(ab) making provision in relation to the furnishing of information relating to persons whose income or assets are required to be taken into account for the purpose of calculating a benefit under a current special educational assistance scheme; and

(ac) making provision in relation to the furnishing of information relating to persons whose income or assets are required to be taken into account for the purpose of determining the eligibility of a person to obtain financial supplement; and

(b) making provision for and in relation to the giving of notices and other documents under this Act; and

(d) prescribing penalties, of imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both, for offences against the regulations.

(2) Regulations may also be made under this section to prescribe matters in relation to any transitional matters (including prescribing any saving or application provisions) arising out of:

(a) the abolition of:

(i) the youth training allowance; and

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(ii) the AUSTUDY scheme; and

(iii) that part of the Student Financial Supplement Scheme that is connected with the AUSTUDY scheme; and

(b) their replacement by allowances, benefits or payments under the *Social Security Act 1991*.

(3) Without limiting subsection (2), and in spite of any other provisions in this Act or any other Act, regulations under subsection (2) may modify the effect of a provision in Part 2 of Schedule 11 to the *Social Security Legislation (Youth Allowance Consequential and Related Measures) Act 1998* so as to:

(a) enable a payment of a benefit under the AUSTUDY scheme (as previously in force under this Act) to be made to a person in respect of a period ending at the end of 3 July 1998 in specified circumstances; and

(b) enable such a payment, to the extent that it relates to the period beginning on 1 July 1998 and ending at the end of 3 July 1998, to be disregarded in determining the person's entitlement to any youth allowance or austudy payment under the *Social Security Act 1991*; and

(c) enable the receipt by the person of any youth allowance or austudy payment under the *Social Security Act 1991*, to the extent that it relates to the period referred to in paragraph (b), to be disregarded in determining the person's entitlement to the payment referred to in paragraph (a).

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Part 9—Review of decisions

Division 1—Internal review

302 Application of Division

(1) Unless otherwise stated, this Division applies to:

(b) all decisions of an officer under this Act relating to the Student Financial Supplement Scheme; or

(c) all decisions of an officer under this Act relating to the recovery of amounts paid under a current or former special educational assistance scheme.

Note: For ***officer*** see subsection 3(1).

(2) This Division does not apply to:

(a) a decision to give a notice under subsection 11D(1) or 11F(1) (decision by Commissioner to notify Secretary that incorrect or cancelled tax file number has been given in relation to ABSTUDY student start-up loan); or

(b) a decision that is a reviewable decision under section 308A (decision by Commissioner about deferring or amending assessment relating to ABSTUDY student start-up loans); or

(c) a decision under section 308D or 308F (decision following reconsideration of a decision that is a reviewable decision under section 308A).

303 Secretary may review decisions

Decisions that Secretary may review

(1) The Secretary may review a decision to which this Division applies if satisfied that there is sufficient reason to review the decision.

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Decisions that are not reviewed

(2) Subsection (1) does not apply to a decision of the Secretary that relates to the Secretary's powers under section 327 to settle proceedings before the ART.

(2A) Subsection (1) does not apply to a decision made by the Employment Secretary approving an activity under the CSP.

Applications to ART

(3) The Secretary may review a decision even if an application has been made to the ART for a review in relation to the decision.

Secretary may affirm, vary or substitute

(4) The Secretary may:
(a) affirm the decision; or
(b) vary the decision; or
(c) set the decision aside and substitute a new decision.

Notice to ART Principal Registrar

(6) If the Secretary makes a decision under subsection (4) after a person has applied to the ART for a review in relation to the decision, the Secretary must give written notice of the Secretary's decision to the ART Principal Registrar.

Event taken to have occurred

(7) If:
(a) the Secretary sets a decision aside under subsection (4); and
(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;
the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of this Act.

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304 Application for review

People affected may apply for review

(1) A person affected by a decision to which this Division applies may apply to the Secretary for review of the decision.

No application to decisions by Secretary

(3) Subsection (1) does not apply to a decision made by the Secretary himself or herself.

Review following application

(4) If a person applies under subsection (1) for review of a decision, the Secretary or an authorised review officer may review the decision under section 306.

Application taken to have been made

(5) If:

(a) a person who may apply to the Secretary for review of a decision under subsection (1) has not so applied; and

(b) the person applies to the ART for review of the decision;

the person is taken to apply to the Secretary for review of the decision under subsection (1) on the day on which the person applies to the ART.

305 Secretary may continue payment pending outcome of application for review

Declaration that payment to continue

(1) If:

(a) a decision to which this Division applies is an adverse decision; and

(b) the adverse decision depends on:

(i) the exercise of a discretion by a person; or

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(ii) the holding of an opinion by a person; and

(c) a person applies to the Secretary under subsection 304(1) for review of the adverse decision;

the Secretary may, by writing, declare that payment of Financial Supplement to which the decision relates is to continue, pending the determination of the review, as if the adverse decision had not been made.

Application of Act

(2) While a declaration under subsection (1) is in force in relation to the adverse decision, this Act (other than this Part) applies as if the adverse decision had not been made.

Start and cessation of declaration

(3) A declaration under subsection (1) in relation to an adverse decision:

(a) starts to have effect on the day on which the declaration is made or on the earlier day (if any) stated in the declaration; and

(b) stops having effect if:

(i) the application to the Secretary for review of the adverse decision is withdrawn; or

(ii) the review of the adverse decision is determined by the Secretary; or

(iii) the declaration is revoked by the Secretary.

Holding of an opinion

(4) A reference in subsection (1) to a person's ***holding of an opinion*** is a reference to the person's holding the opinion whether or not this Act expressly requires the opinion to be held before making the decision concerned.

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*Meaning of **adverse decision***

(5) In this section:

adverse decision means a decision under section 12R or 12T to stop the payment of Financial Supplement to a person.

306 Powers of Secretary or authorised review officer if application for review

Secretary or review officer may affirm, vary or substitute

(1) If an application for review of a decision is made under subsection 304(1), the Secretary or an authorised review officer must:

(a) affirm the decision; or

(b) vary the decision; or

(c) set the decision aside and substitute a new decision.

Notice to applicant

(2) If a person makes a decision under subsection (1), the person must give the applicant written notice of the decision.

Note: Meaning of ***given***—sections 28A and 29 of the *Acts Interpretation Act 1901* provide that a notice is given:

(a) to a natural person if the notice is:

- delivered personally; or
- left at the last known address of the person; or
- sent by prepaid post to the last known address of the person; and

(b) to a body corporate if the notice is left at, or sent by prepaid post to, the head office or a registered office or a principal office of the body corporate.

Event taken to have occurred

(3) If:

(a) a person sets a decision aside under subsection (1); and

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(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of this Act.

308 Notification of further rights of review

Contents of notice

(1) If a person gives the applicant notice under subsection 306(2), the notice must include:

(a) a statement to the effect that the applicant may, subject to this Act and the ART Act, apply to the ART for review of the person's decision; and

(b) a statement about the person's decision that:

(i) sets out the reasons for the decision; and

(ii) sets out the findings by the person on material questions of fact; and

(iii) refers to the evidence or other material on which those findings were based.

Validity not affected

(2) A contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

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Division 1A—Internal review of certain Commissioner decisions relating to ABSTUDY student start-up loans

308A Decisions reviewable under this Division

Each of the following is a ***reviewable decision*** for the purposes of this Division:

(a) a decision by the Commissioner under section 10K (Commissioner may defer making assessments);

(b) a decision by the Commissioner under section 10L (Commissioner may amend assessments).

308B Commissioner must give reasons for reviewable decisions

(1) The Commissioner's notice to a person of the making of a reviewable decision must include reasons for the decision.

(2) Subsection (1) does not affect an obligation, imposed upon the Commissioner by any other law, to give reasons for a decision.

308C Reviewer of decisions

(1) The Commissioner is the ***reviewer*** of a reviewable decision for the purposes of this Division, subject to subsection (2).

(2) If:

(a) the reviewable decision was made by a delegate of the Commissioner; and

(b) the decision is to be reconsidered by a delegate of the Commissioner;

then the delegate who reconsiders the decision must be a person who:

(c) was not involved in making the decision; and

(d) occupies a position that is senior to that occupied by any person involved in making the decision.

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308D Reviewer may reconsider reviewable decisions

(1) The reviewer of a reviewable decision may reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so.

(2) The reviewer may reconsider the decision even if:
  (a) an application for reconsideration of the decision has been made under section 308F; or
  (b) the decision has been confirmed, varied or set aside under section 308F and an application has been made under section 308H for review of the decision.

(3) Subject to subsection 308H(2), after reconsidering the decision, the reviewer must:
  (a) confirm the decision; or
  (b) vary the decision; or
  (c) set the decision aside and substitute a new decision.

(4) The reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
  (a) on the day specified in the decision on review; or
  (b) if a day is not specified—on the day on which the decision on review was made.

(5) The reviewer must give written notice of the decision on review to the person to whom that decision relates.

(6) The notice:
  (a) must be given within a reasonable period after the decision is made; and
  (b) must contain a statement of the reasons for the reviewer's decision on review.

Note: Section 266 of the ART Act requires the person to be notified of the person's review rights.

308E Notice to ART Principal Registrar

If:

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(a) a reviewer makes a decision under subsection 308D(3); and
(b) at the time of the reviewer's decision, a person has applied to the ART for review of the decision reviewed by the reviewer;

the reviewer must give the ART Principal Registrar written notice of the reviewer's decision under subsection 308D(3).

308F Reconsideration of reviewable decisions on request

(1) A person whose interests are affected by a reviewable decision may request the reviewer to reconsider the decision.

(2) The person's request must be made by written notice given to the reviewer within 28 days, or such longer period as the reviewer allows, after the day on which the person first received notice of the decision.

(3) The notice must set out the reasons for making the request.

(4) After receiving the request, the reviewer must reconsider the decision and:
(a) confirm the decision; or
(b) vary the decision; or
(c) set the decision aside and substitute a new decision.

(5) The reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
(a) on the day specified in the decision on review; or
(b) if a day is not specified—on the day on which the decision on review was made.

(6) The reviewer must give the person written notice of the decision on review.

(7) The notice:
(a) must be given within a reasonable period after the decision on review is made; and
(b) must contain a statement of the reasons for the decision on review.

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Note: Section 266 of the ART Act requires the person to be notified of the person's review rights.

(8) The reviewer is taken, for the purposes of this Division, to have confirmed the decision if the reviewer does not give notice of a decision to the person within 45 days after receiving the person's request.

308G Withdrawal of request

(1) A person who has requested the reviewer to reconsider a reviewable decision may, by written notice given to the reviewer, withdraw the request at any time before the review has been completed.

(2) If a request is withdrawn, the request is taken never to have been made.

308H ART review of reviewable decisions

(1) An application may be made to the ART for the review of a reviewable decision that has been confirmed, varied or set aside under section 308D (Reviewer may reconsider reviewable decisions) or 308F (Reconsideration of reviewable decisions on request).

(2) If the President of the Administrative Review Tribunal refers such an application to the guidance and appeals panel under section 122 of the *Administrative Review Tribunal Act 2024*, section 31 (decision cannot be altered outside Tribunal process) of that Act applies to the decision after the referral is made.

308J Decision changed before ART review completed

Decision varied

(1) If the reviewer varies a reviewable decision under subsection 308D(3) after an application has been made to the ART for review of that decision but before the determination of the

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application, the application is taken to be an application for review of the decision as varied.

Decision set aside and a new decision substituted

(2) If the reviewer sets aside a reviewable decision under subsection 308D(3) and substitutes a new decision, after an application has been made to the ART for review of the reviewable decision but before the determination of the application, the application is taken to be an application for review of the new decision.

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Division 2—Review by ART

Subdivision A—Preliminary

309 Simplified outline of this Division

If a person is dissatisfied with a decision made on internal review under Division 1, the person may apply to the ART for review of the decision (an "ART review") (certain decisions are excepted).

If a person is dissatisfied with a decision of the ART on ART review, the person may apply to the ART for second review.

The rules relating to reviews by the ART are mainly in the ART Act, but the operation of that Act is modified in some ways by this Division.

The ART Act allows a person to appeal to the Federal Court on a question of law from a decision of the ART.

310 Application of Division

(1) Unless otherwise stated, this Division applies to:
  (a) all decisions of an officer under this Act relating to the Student Financial Supplement Scheme; or
  (b) all decisions of an officer under this Act relating to the recovery of amounts paid under a current or former special educational assistance scheme.

Note: For ***officer*** see subsection 3(1).

(2) However, despite any other provision of this Division, the ART cannot review a decision:
  (a) under section 305 or 314 (continuation of payment pending review of adverse decision); or

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(b) under Division 2 of Part 10 (notice requiring information from any person).

Subdivision B—ART review

311 Application for ART review

(1) Subject to subsection 310(2), if:

(a) a decision has been reviewed by the Secretary or an authorised review officer under section 306; and

(b) the decision has been affirmed, varied or set aside;

application may be made to the ART for review (***ART review***) of that decision.

(2) For the purposes of subsection (1), the decision made by the Secretary or authorised review officer is taken to be:

(a) if the Secretary or authorised review officer affirms a decision—the decision as affirmed; and

(b) if the Secretary or authorised review officer varies a decision—the decision as varied; and

(c) if the Secretary or authorised review officer sets a decision aside and substitutes a new decision—the new decision.

311A Person who made the decision

For the purposes of ART review of a decision, a reference in the ART Act to the decision-maker for the decision is taken to be a reference to the Secretary.

311B Decision-maker taken to have elected not to participate in ART review proceeding

For the purposes of ART review of a decision, the decision-maker for the decision is taken to have given the ART an election notice (within the meaning of the ART Act) in relation to a kind of proceeding that is a proceeding for ART review of the decision.

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312 No time limit for application for certain ART reviews

Section 18 of the ART Act (which deals with when applications for review may be made) does not apply to applications for ART review.

313 Operation and implementation of decision under ART review

Subsection 32(2) (ART may stay operation or implementation) of the ART Act does not apply in relation to a proceeding for ART review.

313A Remitting decisions for reconsideration

Section 85 (ART may remit decision to decision-maker for reconsideration) of the ART Act does not apply in relation to a proceeding for ART review.

313B Requesting reasons for decision

Section 268 (requesting reasons for reviewable decision from decision-maker) of the ART Act does not apply in relation to a decision for which an application for ART review may be made.

313C Legal or financial assistance

(1) Subsection 294(1) (legal or financial assistance for applicants) of the ART Act does not apply in relation to:

(a) a person who proposes to apply to the ART for ART review; or

(b) a person who applies to the ART for ART review, unless the proceeding in relation to the application is a guidance and appeals panel proceeding.

(2) Subsection 294(3) (legal or financial assistance for other parties) of the ART Act does not apply in relation to a proceeding for ART review unless the proceeding is a guidance and appeals panel proceeding.

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(3) Subsection 294(4) (legal or financial assistance for court proceedings) of the ART Act does not apply in relation to a matter that relates to a proceeding for ART review unless the proceeding is a guidance and appeals panel proceeding.

314 Secretary may continue payment pending outcome of application for ART review

Secretary may declare payment to continue

(1) If:

(a) a decision to which this Division applies is an adverse decision; and

(b) the adverse decision depends on:

(i) the exercise of a discretion by a person; or

(ii) the holding of an opinion by a person; and

(c) a person makes an application for ART review of the adverse decision;

the Secretary may declare that payment of financial supplement to which the decision relates is to continue, pending the determination of the ART review, as if the adverse decision had not been made.

Written declaration

(2) A declaration under subsection (1) is to be in writing.

Act applies as if decision not made

(3) While a declaration under subsection (1) is in force in relation to the adverse decision, this Act (other than this Part) applies as if the adverse decision had not been made.

Start and cessation of declaration

(4) A declaration under subsection (1) in relation to an adverse decision:

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(a) starts to have effect on the day on which the declaration is made or on the earlier day (if any) stated in the declaration; and

(b) stops having effect if:

(i) the ART dismisses the application for ART review of the adverse decision; or

(ii) the ART determines the ART review of the adverse decision; or

(iii) the Secretary revokes the declaration.

Holding of an opinion

(5) A reference in subsection (1) to a person's ***holding of an opinion*** is a reference to the person's holding that opinion whether or not this Act expressly requires the opinion to be held before making the decision concerned.

Adverse decision

(6) In this section:

adverse decision means a decision under section 12R or 12T to stop the payment of financial supplement to a person.

315 Variation of original decision after application is made for ART review

(1) If an officer varies or substitutes a decision after an application has been made for ART review of the decision, the application is taken to be an application for ART review of the decision as varied or substituted.

(2) However, if the President of the ART refers the application to the guidance and appeals panel under section 122 of the ART Act, section 31 (decision cannot be altered outside Tribunal process) of that Act applies to the decision after the referral is made.

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315A Hearing of certain ART reviews in private

(1) This section applies in relation to a proceeding for ART review if the ART is constituted for the purposes of the proceeding otherwise than by the guidance and appeals panel.

(2) The hearing of the proceeding must be in private.

(3) The ART may give directions, in writing or otherwise, as to the persons who may be present at the hearing of the proceeding.

(4) In giving directions, the ART must have regard to the wishes of the parties and the need to protect their privacy.

(5) Section 69 (hearings to be in public unless practice directions or ART order requires otherwise) of the ART Act does not apply in relation to the hearing of the proceeding.

316 Powers of ART for purposes of ART review

Despite section 54 of the ART Act, the ART must not, for the purposes of an ART review, exercise a power or discretion conferred by any of the following provisions of this Act:

(a) a provision dealing with the form and place of lodgement of a claim;

(b) a provision dealing with the manner of payment of financial supplement;

(c) subsection 42(3) (notice requiring payment to the Commonwealth);

(d) sections 343 to 345 (notice requiring information from any person);

(e) section 305 or 314 (continuation of payment pending review of adverse decision).

317 Certain decisions on ART review

If, on ART review of a decision, the ART sets the decision aside under section 105 of the ART Act and substitutes for it a decision that the person is entitled to financial supplement, the ART must:

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(a) assess the rate at which financial supplement is to be paid to the person; or

(b) ask the Secretary to assess the rate at which financial supplement is to be paid to the person.

319 Secretary or ART may treat event as having occurred if decision set aside on ART review

If:

(a) on ART review of a decision, the ART sets the decision aside under section 105 of the ART Act; and

(b) the Secretary or the ART, as the case may be, is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary or the ART may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of this Division.

Subdivision D—Matters relating to reviews by the ART

327 Settlement of proceedings before the ART

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the ART if the proceedings are an ART review and they relate to the recovery of a debt.

(2) If the proceedings are settled and the Secretary gives the ART a copy of the agreement to settle the proceedings, the application for review of the decision that was the subject of the proceedings is taken to have been dismissed.

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Part 10—Administration

Division 1—General administration

338 Delegation

Secretary may delegate powers

(1) Subject to this section, the Secretary may, by signed writing, delegate to an officer all or any of the powers of the Secretary under this Act.

Secretary may not delegate power under paragraph 355(1)(b)

(2) The Secretary must not delegate the Secretary's power under paragraph 355(1)(b) to anyone except the Chief Executive Centrelink.

CEO may not subdelegate power under paragraph 355(1)(b)

(2A) If the Secretary delegates to the Chief Executive Centrelink the Secretary's power under paragraph 355(1)(b), the Chief Executive Centrelink cannot, despite section 12 of the *Human Services (Centrelink) Act 1997*, delegate the power to a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).

339 Authorised review officers

Secretary may authorise officer

(1) The Secretary may authorise an officer to perform duties as an authorised review officer for the purposes of this Act.

Written authorisation

(3) The Secretary's authorisation must be in writing.

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340 Decisions to be in writing

Written decision

(1) A decision of an officer under this Act must be in writing.

Entry in computer

(2) A decision under this Act is taken to be in writing if it is entered into, or recorded with the use of, a computer.

341 Notice of decisions

Notices other than notices under Part 8 taken to have been given

(1) If notice of a decision under a Part of this Act is:
   (a) delivered to a person personally; or
   (b) left at the address of the place of residence or business of the person last known to the Secretary; or
   (c) sent by pre-paid post to the address of the place of residence or business of the person last known to the Secretary;

notice of the decision is taken, for the purposes of this Act, to have been given to the person even if the Secretary is satisfied that the person did not actually receive the notice.

Note: Compare section 28A of the *Acts Interpretation Act 1901.*

Notice by post

(3) Notice of a decision under this Act may be given to a person by properly addressing, prepaying and posting the notice as a letter.

Note: Compare the first limb of section 29 of the *Acts Interpretation Act 1901.*

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When notice by post given

(4) If a notice of a decision under this Act is given in accordance with subsection (3), notice of the decision is taken to have been given to the person at the time when the letter would be delivered in the ordinary course of the post unless the contrary is proved.

Note: Compare the second limb of section 29 of the *Acts Interpretation Act 1901*.

Effect of section

(5) This section only applies to notices of decisions and nothing in this section affects the operation of sections 28A and 29 of the *Acts Interpretation Act 1901* in relation to other notices under this Act.

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Division 2—Information gathering

342 Application

Extraterritorial application

(1) This Division extends to:
  (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
  (b) all people irrespective of their nationality.

Crown to be bound

(2) This Division other than section 348 binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

Operation of section 12ZU unaffected

(4) Nothing in this Division affects the operation of section 12ZU.

342A Reasonable belief needed to require information or documents

The Secretary can only require a person to:
  (a) give information; or
  (b) produce a document;
under this Division if the Secretary reasonably believes that the person will be able to give the information or produce the document.

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343 General power to obtain information

Secretary may require information concerning student assistance benefits

(1) The Secretary may require a person to give information, or to produce a document, to the Department if the Secretary considers that the information or document may be relevant to:

(a) whether a person who has made a claim for a student assistance benefit under this Act is or was qualified for a student assistance benefit under this Act; or

(b) whether a student assistance benefit under this Act is payable to a person who is receiving it; or

(c) whether a student assistance benefit under this Act was payable to a person who has received it; or

(d) the rate of a student assistance benefit that applies or applied to a person; or

(e) for the purposes of the administration of a current special educational assistance scheme—a child's past or present enrolment, or attendance, at a school; or

(f) an inquiry or investigation into a matter mentioned in any of the above paragraphs.

(2) In subsection (1), the following terms have the same meaning as in Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999* (see section 124A of that Act):

(a) ***attendance*** (at a school);

(b) ***enrolment*** (at a school).

344 Power to obtain information from a person who owes a debt to the Commonwealth

Information from persons owing debts under Parts of Act

(1) The Secretary may require a person who owes a debt to the Commonwealth under this Act in relation to a student assistance benefit:

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(a) either to:
(i) give to the Department information that is relevant to the person's financial situation; or
(ii) produce to the Department a document that is relevant to the person's financial situation; and
(b) if the person's address changes—to notify the Department of the new address within 14 days of the change.

Section 343 not affected

(3) This section does not limit section 343.

345 Power to obtain information about a person who owes a debt to the Commonwealth

The Secretary may require a person to give information, or produce a document, to the Department if the Secretary considers the information or document:
(a) would help the Department locate another person (the ***debtor***) who owes a debt to the Commonwealth under this Act in relation to a student assistance benefit; or
(b) is relevant to the debtor's financial situation.

347 Provisions relating to requirements

Requirement by written notice

(1) A requirement made to a person under section 343, 344 or 345 must be by written notice given to the person.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901*, and section 9 of the *Electronic Transactions Act 1999*, set out methods by which the notice may be given.

Contents of notice

(2) The notice must specify:
(a) a description of the information or document to which the requirement relates; and

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(b) how the person is to give the information or produce the document to which the requirement relates; and

(c) the period within which the person is to give the information or produce the document; and

(d) the officer (if any) to whom the information is to be given or the document is to be produced; and

(e) that the notice is given under this section.

Note: The notice may describe the information or documents by class (see subsection 33(3AB) of the *Acts Interpretation Act 1901*).

Time limit for providing information or document

(4) For the purposes of paragraph (2)(c), the period must not end earlier than 14 days after the notice is given, unless the Secretary is satisfied that it is reasonable in the circumstances, for the purposes of the effective administration of this Act, to specify a shorter period.

Appearance before officer

(5) The notice may require the person to give the information by appearing (or, if the person is a body corporate, to arrange for a person to appear) before a particular officer to answer questions.

Time and place for appearance

(6) If the notice requires the person to appear before an officer, the notice must specify:

(a) a time and place at which the person is to appear; and

(b) that the person may be accompanied by a lawyer.

(7) For the purposes of subsection (6), the time must be at least 14 days after the notice is given, unless the Secretary is satisfied that it is reasonable in the circumstances, for the purposes of the effective administration of this Act, to specify an earlier time.

(10) A person must not refuse or fail to comply with a requirement made under section 343, 344 or 345.

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Penalty: Imprisonment for 12 months.

(11) Subsection (10) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (11) (see subsection 13.3(3) of the *Criminal Code*).

(12) Subsection (10) does not apply to the extent that the person is not capable of complying with the requirement.

Note: A defendant bears an evidential burden in relation to the matter in subsection (12) (see subsection 13.3(3) of the *Criminal Code*).

(13) For the purposes of an offence against subsection (10), strict liability applies to the physical element of circumstance, that the requirement was made under section 343, 344 or 345.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

347A Self-incrimination

(1) A person is not excused from giving information, or producing a document, under this Division on the ground that the information, or production of the document, might tend to incriminate the person or expose the person to a penalty.

(2) However, in the case of an individual:

(a) the information given or document produced; and

(b) giving the information or producing the document; and

(c) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document;

are not admissible in evidence against the individual in any criminal proceedings, other than:

(d) proceedings for an offence against subsection 347(10); or

(e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division; or

(f) proceedings for an offence against Division 145 of the *Criminal Code*.

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347B Use of information in investigations etc.

Subject to subsection 347A(2), nothing in this Division prevents information given, or a document produced, under this Division by a person from being used in:

(a) an inquiry or investigation into a matter; or

(b) criminal proceedings.

348 Relationship with other laws

(1) Nothing contained in any law of a State or a Territory operates to prevent a person from:

(a) giving information; or

(b) producing documents; or

(c) giving evidence;

that the person is required to give or produce to the Department or to an officer for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme).

(2) This Division does not require a person to give information or produce a document to the extent that in doing so the person would contravene a law of the Commonwealth (other than a law of a Territory).

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Division 3—Confidentiality

350 Operation of section 12ZU unaffected

(1) Nothing in this Division affects the operation of section 12ZU.

Publishing reasons for ART decisions

(2) Nothing in this Division prevents the ART from publishing in written or electronic form the reasons for a decision of the ART on ART review if the publication does not identify:

(a) a party to the review concerned (other than the Secretary); or

(b) a person (other than the Secretary) who is related to, or associated with, a party to the review concerned or is, or is alleged to be, in any other way concerned in the matter to which the review concerned relates; or

(c) a witness in the review concerned.

(3) Without limiting subsection (2), a publication of reasons for a decision of the ART is taken to identify a person if it contains any particulars of:

(a) the name, title, pseudonym or alias of the person; or

(b) the address of any premises at which the person resides or works, or the locality in which any such premises are situated; or

(c) the physical description or the style of dress of the person; or

(d) any employment or occupation engaged in, profession practised or calling pursued, by the person or any official or honorary position held by the person; or

(e) the relationship of the person to identified relatives of the person or the association of the person with identified friends or identified business, official or professional acquaintances of the person; or

(f) the recreational interests, or the political, philosophical or religious beliefs or interests, of the person; or

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(g) any real or personal property in which the person has an interest or with which the person is otherwise associated;

and the particulars are sufficient to identify that person to a member of the public, or to a member of the section of the public to which the publication is disseminated, as the case requires.

350A Definitions

In this Division:

taxation information means information (including protected information within the meaning of subsection 355-30(1) in Schedule 1 to the *Taxation Administration Act 1953* but not including a tax file number) that is held by a taxation officer.

taxation officer means the following:

(a) a person who is a taxation officer within the meaning of subsection 355-30(2) in Schedule 1 to the *Taxation Administration Act 1953*;

(b) an entity covered by section 355-15 in that Schedule.

351 Permitted obtaining of, making a record of, disclosure of or use of protected information

Obtaining protected information

(1) A person may obtain protected information if the information is obtained for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme) or the *Dental Benefits Act 2008*.

Note 1: For an example of obtaining protected information for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme), see section 351A.

Note 2: In certain circumstances it is an offence for a person to obtain protected information without authority (see section 352).

Making a record of, disclosure of or use of protected information

(2) A person may:

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(a) make a record of protected information; or
(b) disclose such information to any person; or
(c) otherwise use such information;

if the record, disclosure or use made of the information by the person is made:

(d) for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme); or
(da) for the purposes of the *Dental Benefits Act 2008*; or
(db) for the purposes of the family assistance law; or
(dc) for the purposes of the social security law; or
(dd) for the purposes of the *Paid Parental Leave Act 2010*; or
(e) for the purpose for which the information was disclosed to the person under section 354 or 355; or
(f) with the express or implied authorisation of the person to whom the information relates.

Note 1: For an example of a disclosure of, making a record of or the use of protected information for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme), see section 351A.

Note 2: In certain circumstances it is an offence for a person to use protected information without authority (see section 353).

(2A) A person may use protected information to produce information in an aggregated form that does not disclose, either directly or indirectly, information about a particular person.

Child support

(3) Nothing in this Part prevents a person from disclosing information to another person if the information is disclosed for the purposes of the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*.

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Protected information about schooling requirements

(4) If protected information relates to the enrolment (or non-enrolment) or the attendance (or non-attendance) of a child at a school, a person may do any of the following:
  (a) obtain the information;
  (b) make a record of the information;
  (c) disclose the information to a person responsible for the operation of the school, or any other school;
  (d) otherwise use the information.

(5) In subsection (4), the following terms have the same meaning as in Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999* (see section 124A of that Act):
  (a) ***attendance*** (at a school);
  (b) ***enrolment*** (at a school);
  (c) ***person responsible*** (for the operation of a school).

351A Obtaining of, making a record of, disclosure of or use of protected information relating to taxation information

Disclosure to taxation officers for matching against taxation information

(1) A disclosure of protected information by an officer is made for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme) if:
  (a) the disclosure is to a taxation officer; and
  (b) the disclosure is for the purposes of a taxation officer matching that information against taxation information to facilitate the performance of functions, or the exercise of powers, under this Act or a current special educational assistance scheme.

(2) The obtaining of, making of a record of or the use of protected information by an officer is for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme) if the obtaining of, making of the record of or

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the use of the protected information is in connection with a disclosure referred to in subsection (1).

Authorised collection of personal information that is taxation information

(3) The collection of personal information about a person is authorised by this Act for the purposes of the *Privacy Act 1988* if:
  (a) the personal information is taxation information; and
  (b) the collection is from a taxation officer; and
  (c) the collection is for the purposes of this Act (including the purposes of the administration of a current special educational assistance scheme).

Interpretation

(4) This section does not limit section 351.

351B Secretary may arrange for use of computer programs to make decisions

(1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which an officer may make a decision that is the doing of a thing under subsection 351(1) or (2).

(2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

352 Offence—unauthorised obtaining of protected information

If:
  (a) a person intentionally obtains information; and
  (c) the person knows or ought reasonably to know that the information is protected information;

the person commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

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Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Note 2: A person, including an officer, is authorised to obtain protected information for the purposes of this Act (see subsection 351(1)).

Note 3: For ***protected information*** see subsection 3(1).

353 Offence—unauthorised making a record of, disclosure of or use of protected information

If:

(a) a person intentionally:

(i) makes a record of; or

(ii) discloses to any other person; or

(iii) otherwise makes use of;

information; and

(c) the person knows or ought reasonably to know that the information is protected information;

the person commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Note 2: A person, including an officer, is authorised to use information only if it is used for certain purposes (see subsection 351(2)). In certain circumstances an officer is required under this Act to disclose information (see section 354). The Secretary can disclose certain information (see section 355).

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354 Protection extends to court, tribunal etc. proceedings

An officer must not, except for the purposes of this Act, be required:

(a) to produce any document in his or her possession; or

(b) to disclose any matter or thing of which he or she had notice;

because of the performance or exercise of his or her duties, functions or powers under this Act to:

(c) a court; or

(d) any of the following:

(i) a tribunal; or

(ii) an authority; or

(iii) a person;

that has power to require the production of documents or the answering of questions.

355 Secretary's certificate

Secretary may disclose information

(1) Despite sections 353 and 354, the Secretary may:

(a) if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases—disclose information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under this Act to any persons and for any purposes that the Secretary determines; or

(b) disclose any such information:

(i) to the Secretary of a Department of State of the Commonwealth for the purposes of that Department; or

(ii) to the head of an authority of the Commonwealth for the purposes of that authority; or

(iii) to the Chief Executive Centrelink for the purposes of a centrelink program; or

(iv) to the Chief Executive Medicare for the purposes of a medicare program; or

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(d) disclose any such information to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it.

Note: A person to whom information is disclosed may commit an offence if the person uses the information without authority (see section 353).

Secretary to act according to guidelines

(2) In giving certificates for the purposes of paragraph (1)(a), the Secretary must act in accordance with guidelines (if any) from time to time in force under section 356.

Disclosure to be in accordance with guidelines

(3) In disclosing information under paragraph (1)(b), the Secretary must act in accordance with guidelines (if any) from time to time in force under section 356.

356 Guidelines for exercise of Secretary's disclosure powers

The Minister may, by legislative instrument, make guidelines for the exercise of either or both of the following:

(a) the Secretary's power to give certificates for the purposes of paragraph 355(1)(a);

(b) the Secretary's power under paragraph 355(1)(b).

357 Offence—soliciting disclosure of protected information

(1) If:

(a) a person solicits the disclosure of protected information from an officer or another person; and

(b) the disclosure would be in contravention of this Division; and

(c) the first-mentioned person knows or ought reasonably to know that the information is protected information;

then, whether or not any protected information is actually disclosed, the first-mentioned person commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

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Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Note 2: For ***protected information*** see subsection 3(1).

Note 3: For ***officer*** see subsection 3(1).

(2) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance, that the contravention is a contravention of this Division.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

358 Making untrue representations for purpose of soliciting disclosure of protected information

If:

(a) a person solicits the disclosure of protected information from an officer; and

(b) makes representations that the person knows or ought reasonably to know are untrue with the intention of soliciting the disclosure of the information from the officer;

then, whether or not any protected information is actually disclosed, the person commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Note 2: For ***protected information*** see subsection 3(1).

Note 3: For ***officer*** see subsection 3(1).

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359 Offences—offering to supply protected information

Person offering to supply information

(1) A person who:

(a) offers to supply (whether to a particular person or otherwise) information about another person; and

(b) knows that the information is protected information;

commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Person holding out that he or she is able to supply information

(2) A person who:

(a) holds himself or herself out as being able to supply (whether to a particular person or otherwise) information about another person; and

(b) knows that the information is protected information;

commits an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court that convicts an individual of an offence to impose a fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on the individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

Note 2: For ***protected information*** see subsection 3(1).

Exception

(3) Nothing in subsection (1) or (2) has the effect that an officer acting in the exercise or performance of his or her duties, functions or powers under this Act commits an offence.

Note: For ***officer*** see subsection 3(1).

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360 Officer's oath or declaration

An officer must make an oath or declaration in a form approved by the Minister or the Secretary if required to do so by the Minister or the Secretary.

Note: For ***officer*** see subsection 3(1).

361 Freedom of Information Act not affected

The provisions of this Part that relate to the disclosure of information do not affect the operation of the *Freedom of Information Act 1982*.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Student Assistance Act 1973	155, 1973	27 Nov 1973	15 Oct 1974 (gaz 1974, No 82 p. 4)	
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982	26, 1982	7 May 1982	s 219–237: 4 June 1982 (s 2(12))	—
Public Service Reform Act 1984	63, 1984	25 June 1984	s 151(5): 1 July 1985 (s 2(4) and gaz 1985, No S221)	—
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32), 6(1) and Sch 1: 1 July 1985 (s 2(21))	s 2(32) and 6(1)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1984	72, 1984	25 June 1984	s 2(24), 6 and Sch: 1 Aug 1984 (s 2(23) and gaz 1984, No S288)	s 2(24) and 6
Christmas Island Administration (Miscellaneous Amendments) Act 1984	120, 1984	18 Oct 1984	Part VIII (s 27–31): 1 Oct 1984 Remainder: Royal Assent	—
Student Assistance Amendment Act 1985	137, 1985	28 Nov 1985	s 1–3, 11, 12 and 14: Royal Assent s 4–10, 15 and 16: 1 Jan 1986 (gaz 1986, No S526) s 13: 26 Dec 1985	s 3(2), 13(2) and 16

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Student Assistance Amendment Act 1986	114, 1986	4 Nov 1986	1 Jan 1987 (gaz 1986, No S650)	s 8 and 9
Student Assistance Amendment Act 1987	125, 1987	16 Dec 1987	16 Dec 1987	s 4
Social Security and Veterans' Entitlements Amendment Act (No. 2) 1987	130, 1987	16 Dec 1987	s 123: 1 Jan 1988 (s 2)	—
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1), (20) and Sch 1: 18 Dec 1987 (s 2(1))	s 5(1) and (20)
Student Assistance Legislation Amendment Act 1988	35, 1988	22 May 1988	22 May 1988	—
Student Assistance Amendment Act 1989	76, 1989	21 June 1989	s 1 and 2: Royal Assent Remainder: 1 Jan 1990	s 27
Student Assistance Amendment Act (No. 2) 1989	171, 1989	19 Dec 1989	s 1 and 2: Royal Assent s 17: 3 Jan 1990 Remainder: 2 Jan 1990	s 9(2)–(8), 15(2), (3) and 17(9)
Social Security (Rewrite) Transition Act 1991	70, 1991	25 June 1991	1 July 1991 (s. 2)	—
Student Assistance Amendment Act 1991	95, 1991	26 June 1991	s 16(b): 2 Jan 1990 Remainder: Royal Assent	s 6(2), 23 and 24
Student Assistance Amendment Act (No. 2) 1991	147, 1991	21 Oct 1991	s 1 and 2: 21 Oct 1991 s 4(a)–(c): 18 Nov 1991 Remainder: 1 Jan 1992	s 3

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Student Assistance Amendment Act 1992	138, 1992	19 Nov 1992	s 4–23: 19 Nov 1992 (s 2(1))	s 22(2)
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 3 (item 74): 19 Nov 1992 (s 2(3))	—
Commonwealth Reciprocal Recovery Legislation Amendment Act 1994	68, 1994	30 May 1994	s 7(a) and (c): 30 May 1994 (s 2(1)) s 7(b): 1 July 1994 (s 2(2))	—
Student Assistance (Youth Training Allowance) Amendment Act 1994	183, 1994	23 Dec 1994	1 Jan 1995 (s 2)	s 37–41
Social Security Legislation Amendment Act (No. 1) 1995	104, 1995	29 Sept 1995	Sch 12 (items 8–24): 29 Sept 1995 (s 2(1))	—
Student and Youth Assistance Amendment (Youth Training Allowance) Act (No. 2) 1995	155, 1995	16 Dec 1995	Sch 1, 4, 6 and 8: 12 Dec 1995 (s 2(2)) Sch 2, Sch 3 (items 2, 3) and Sch 5: 1 Jan 1996 (s 2(3)) Sch 7 (items 1, 2, 4): 20 Mar 1996 (s 2(4)) Sch 7 (item 3): 1 Jan 1995 (s 2(5)) Remainder: 16 Dec 1995 (s 2(1))	Sch 5 (item 5)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Student and Youth Assistance Amendment (Youth Training Allowance) Act (No. 3) 1995	156, 1995	16 Dec 1995	Sch 1 (Pt 2): 1 July 1996 (s 2(3)) Sch 2 and 3: 20 Mar 1996 (s 2(2)) Sch 4: 20 Sept 1996 (s 2(4)) Remainder: 16 Dec 1995 (s 2(1))	Sch 1 (items 3, 7, 8), Sch 2 (item 25) and Sch 3 (item 4)
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (items 104–106): 1 Jan 1995 (s 2(2))	—
Social Security Legislation Amendment (Further Budget and Other Measures) Act 1996	83, 1996	23 Dec 1996	Sch 2 (items 17, 18): 1 July 1997 (s 2(3)) Sch 3 (items 9, 10): 23 Dec 1996 (s 2(1))	—
Social Security Legislation Amendment (Budget and Other Measures) Act 1996	84, 1996	23 Dec 1996	Sch 2 (item 12): 1 July 1997 (s 2(4)) Sch 3 (items 10–13), Sch 5 (items 2, 8–11, 135), Sch 6 (items 7, 8) and Sch 21 (item 2): 1 Jan 1997 (s 2(2)) Sch 4 (items 2–4), Sch 7 (items 45–64, 73–77) and Sch 21 (item 6): 20 Sept 1997 (s 2(5)) Sch 5 (items 77–119, 129–132), Sch 8 (items 9, 10, 27), Sch 9 (item 4), Sch 10 (items 36–40), Sch 12 (items 40–64), Sch 17	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
			(items 9–14) and Sch 21 (item 4): 20 Mar 1997 (s 2(3)) Sch 13: 1 July 1995 (s 2(7)) Sch 18 (items 36–38, 44–47, 80–96, 99, 100, 106–109) and Sch 21 (item 8): 1 Oct 1997 (s 2(6))	
as amended by				
Social Security Legislation Amendment (Activity Test Penalty Periods) Act 1997	106, 1997	30 June 1997	Sch 3 (item 3): 1 Jan 1997 (s 2(6)) Sch 3 (items 4–8: 20 Mar 1997 (s 2(7), (8)) Sch 3 (item 10): 1 Oct 1997 (s 2(1))	—
Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Act 1997	5, 1997	4 Mar 1997	s 3, Sch 1 (items 47–50) and Sch 2 (item 2): 4 Mar 1997 (s 2(1))	s 3
Student and Youth Assistance Amendment (Waiting Period) Act 1997	6, 1997	4 Mar 1997	4 Mar 1997 (s 2)	—
Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997	29, 1997	17 Apr 1997	Sch 2 (items 81–99): 1 July 1997 (s 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Income Tax (Consequential Amendments) Act 1997	39, 1997	17 Apr 1997	Sch 3 (items 120–123): 1 July 1997 (s 2)	—
as amended by				
Tax Law Improvement Act 1997	121, 1997	8 July 1997	s 4: 8 July 1997 (s 2(1)) Sch 12 (item 30): 1 July 1997 (s 2(4))	s 4
Social Security Legislation Amendment (Activity Test Penalty Periods) Act 1997	106, 1997	30 June 1997	Sch 1 (items 43–71): 10 July 1997 (s 2(2) and gaz 1997, No S279) Sch 2 (items 3, 4): 20 Oct 1997 (s 2(4)) Sch 3 (item 2): 20 Mar 1997 (s 2(5))	—
Aged Care (Consequential Provisions) Act 1997	114, 1997	7 July 1997	Sch 5 (item 32): 1 Oct 1997 (s 2(1))	—
Tax Law Improvement Act 1997	121, 1997	8 July 1997	s 4: 8 July 1997 (s 2(1)) Sch 6 (item 141) and Sch 12 (item 34): 1 July 1997 (s 2(2), (3), (5))	s 4
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 1227–1234): 1 Jan 1998 (s 2(2))	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Social Security Legislation Amendment (Parenting and Other Measures) Act 1997	197, 1997	11 Dec 1997	Sch 1 (items 347–361): 20 Mar 1998 (s 2(2)) Sch 4 (Part 3): 1 July 1998 (s 2(7)) Sch 4 (Part 4): 1 July 1999 (s 2(6))	Sch 1 (item 361) and Sch 4 (items 22, 24)
Social Security and Veterans' Affairs Legislation Amendment (Family and Other Measures) Act 1997	202, 1997	16 Dec 1997	Sch 3 (item 11): 1 Jan 1996 (s 2(4)) Sch 20 (items 29–35): 16 Dec 1997 (s 2(1)) Sch 22: 15 Dec 1997 (s 2(17))	—
Student and Youth Assistance Amendment Act 1998	40, 1998	4 June 1998	Sch 1 (item 7): 1 Jan 1999 (s 2(3)) Remainder: 4 June 1998 (s 2(1))	—
Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998	45, 1998	17 June 1998	Sch 11: 1 July 1998 (s 2(1))	Sch 11 (items 40, 130–135)
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Sch 1 (item 169): 1 July 1998 (s 2(2) and gaz 1998, No S316)	—
Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998	93, 1998	15 July 1998	Sch 6 (items 111–139, 144, 145, 147–167): 15 July 1998 (s 2(1)) Sch 6 (items 140–143, 146): 16 Dec 1997 (s 2(8))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 841): 5 Dec 1999 (s 2(1), (2) and gaz 1999, No S584)	—
Indigenous Education (Supplementary Assistance) Amendment Act 1999	157, 1999	8 Dec 1999	8 Dec 1999	—
A New Tax System (Tax Administration) Act (No. 1) 2000	44, 2000	3 May 2000	Sch 3 (items 49, 50): 22 Dec 1999 (s 2(1))	—
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 380, 381, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)
Education, Training and Youth Affairs Legislation Amendment (Application of Criminal Code) Act 2001	147, 2001	1 Oct 2001	2 Oct 2001 (s 2)	s 4
Student Assistance Amendment Act 2002	31, 2002	30 May 2002	30 May 2002 (s 2)	—
Bankruptcy Legislation Amendment Act 2004	80, 2004	23 June 2004	Sch 1 (items 205–208, 212, 213, 215): 1 Dec 2004 (s 2(1) item 2 and gaz 2004, No GN34)	Sch 1 (items 212, 213, 215)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s 4 and Sch 1 (items 368–372, 496): 22 Feb 2005 (s 2(1) items 1, 2)	s 4 and Sch 1 (item 496)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Student Assistance Legislation Amendment Act 2006	47, 2006	22 May 2006	Sch 2 (items 1–11): 22 May 2006 (s 2(1) item 4) Sch 2 (items 12–25, 27): 1 July 2006 (s 2(1) item 5)	Sch 2 (item 27)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 2 (items 920–924) and Sch 6 (items 1, 6–11): 14 Sept 2006 (s 2(1) items 2, 4)	Sch 6 (items 1, 6–11)
Social Security Legislation Amendment (2007 Budget Measures for Students) Act 2007	184, 2007	28 Sept 2007	Sch 1: 28 Sept 2007 (s 2(1) item 2)	—
Dental Benefits (Consequential Amendments) Act 2008	42, 2008	25 June 2008	Sch 1 (items 21, 22): 26 June 2008 (s 2(1) item 2)	—
Tax Laws Amendment (Education Refund) Act 2008	141, 2008	9 Dec 2008	Sch 1 (items 7, 10): 9 Dec 2008 (s 2)	Sch 1 (item 10)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 5 (items 40, 41): 10 Dec 2008 (s 2(1) item 12)	—
Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Act 2008	149, 2008	11 Dec 2008	Sch 1 (items 22–28, 34): 11 Dec 2008 (s 2)	Sch 1 (item 34)
Tax Laws Amendment (2009 Measures No. 1) Act 2009	27, 2009	26 Mar 2009	Sch 3 (items 84–87, 102(1)): 27 Mar 2009 (s 2(1) item 5)	Sch 3 (item 102(1))

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Tax Laws Amendment (Transfer of Provisions) Act 2010	79, 2010	29 June 2010	Sch 1 (item 35): 1 July 2010 (s 2(1) item 2)	—
Financial Framework Legislation Amendment Act 2010	148, 2010	17 Dec 2010	Sch 11 (items 19–22): 18 Dec 2010 (s 2(1) item 10)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 1 (item 112): 22 Mar 2011 (s 2(1) item 2) Sch 7 (item 130): 19 Apr 2011 (s 2(1) item 18)	—
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Sch 4 (items 607–617B, 657): 1 July 2011 (s 2(1) item 3)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 1070–1072) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 7, 12)	Sch 3 (items 10, 11)
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011	79, 2011	25 July 2011	Sch 4 (item 12): never commenced (s 2(1) item 10) Sch 4 (items 13–15): 26 July 2011 (s 2(1) item 5)	—
as amended by				
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Sch 4 (item 658): 25 July 2011 (s 2(1) item 7B)	—
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 3 (items 190–195, 343): 29 June 2013 (s 2(1) item 16)	Sch 3 (item 343)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Social Services and Other Legislation Amendment Act 2014	14, 2014	31 Mar 2014	Sch 12 (items 7–14): 1 Apr 2014 (s 2(1) item 8)	Sch 12 (item 14)
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (items 63–66): 24 June 2014 (s 2(1) item 2)	—
Social Services and Other Legislation Amendment (Seniors Health Card and Other Measures) Act 2014	98, 2014	11 Sept 2014	Sch 2 (items 3–28): 12 Sept 2014 (s 2(1) item 2)	Sch 2 (item 28)
Omnibus Repeal Day (August 2014) Act 2014	109, 2014	16 Oct 2014	Sch 10 (item 17): 17 Oct 2014 (s 2(1) (item 8)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (item 180): 25 Mar 2015 (s 2(1) item 10)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 336, 337): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
as amended by				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2, items 1–3 (s 2(1) item 2)	—
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 7 (items 1–12) and Sch 9: 1 July 2015 (s 2(1) items 17, 22) Sch 7 (item 13): never commenced (s 2(1) item 18)	Sch 9

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 537): 5 Mar 2016 (s 2(1) item 2)	—
Civil Law and Justice (Omnibus Amendments) Act 2015	132, 2015	13 Oct 2015	Sch 1 (item 70): 14 Oct 2015 (s 2(1) item 2)	—
Labor 2013-14 Budget Savings (Measures No. 2) Act 2015	169, 2015	11 Dec 2015	Sch 1 (items 45–81, 111): 1 Jan 2016 (s 2(1) item 2)	Sch 1 (item 111)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 290–293, 430): 10 Mar 2016 (s 2(1) item 6)	—
Omnibus Repeal Day (Autumn 2015) Act 2016	47, 2016	5 May 2016	Sch 5 (items 4, 5, 66): 6 May 2016 (s 2(1) items 5, 7)	Sch 5 (items 5, 66)
Budget Savings (Omnibus) Act 2016	55, 2016	16 Sept 2016	Sch 11 (items 20–24): 1 July 2017 (s 2(1) item 13) Sch 12 (items 39–44, 46–49) and Sch 13 (items 14–17, 38–42): 1 Jan 2017 (s 2(1) items 14, 15)	Sch 11 (item 24), Sch 12 (items 46–49) and Sch 13 (items 17, 39–42)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 481, 482): 21 Oct 2016 (s 2(1) item 1)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Higher Education Support Legislation Amendment (2016 Measures No. 1) Act 2016	74, 2016	23 Nov 2016	Sch 1 (items 27, 28, 33): 1 Jan 2017 (s 2(1) items 2, 4) Sch 1 (item 31): never commenced (s 2(1) item 3) Sch 1 (item 34): 1 July 2017 (s 2(1) item 5)	—
Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017	132, 2017	13 Dec 2017	Sch 1 (item 35): 1 July 2018 (s 2(1) item 2)	—
Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Act 2018	17, 2018	28 Mar 2018	Sch 2 (items 214, 215): 1 May 2018 (s 2(1) item 3)	—
Social Services Legislation Amendment (Welfare Reform) Act 2018	26, 2018	11 Apr 2018	Sch 17 (items 59–78): 1 July 2018 (s 2(1) item 21)	Sch 17 (item 78)
Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018	76, 2018	24 Aug 2018	Sch 1 (items 6, 7, 17, 18) and Sch 2 (items 2, 4): 1 July 2019 (s 2(1) items 2, 3)	Sch 1 (items 17, 18) and Sch 2 (item 4)
Social Services Legislation Amendment (Student Reform) Act 2018	111, 2018	21 Sept 2018	Sch 2: 19 Oct 2018 (s 2(1) item 5)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018	116, 2018	25 Sept 2018	Sch 1 (items 41–43, 45, 46): 1 July 2019 (s 2(1) items 6, 8, 9) Sch 1 (item 44): never commenced (s 2(1) item 7)	—
Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020	17, 2020	6 Mar 2020	Sch 1 (items 93–102): 7 Dec 2020 (s 2(1) item 1)	—
as amended by				
Coronavirus Economic Response Package Omnibus Act 2020	22, 2020	24 Mar 2020	Sch 11 (item 41): 25 Mar 2020 (s 2(1) item 7)	—
Services Australia Governance Amendment Act 2020	104, 2020	20 Nov 2020	Sch 1 (items 64–66): 1 Feb 2020 (s 2(1) item 2)	Sch 1 (item 66)
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 748, 749): 1 Sept 2021 (s 2(1) item 5)	—
Social Services and Other Legislation Amendment (Student Assistance and Other Measures) Act 2021	42, 2021	27 May 2021	Sch 1 and Sch 2 (items 3–13): 28 May 2021 (s 2(1) item 1)	Sch 1 (item 5)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Education Legislation Amendment (Startup Year and Other Measures) Act 2023	36, 2023	28 June 2023	Sch 1 (item 94): 29 June 2023 (s 2(1) item 2)	Sch 1 (item 95)
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024	38, 2024	31 May 2024	Sch 3 (items 183–189, 192–196, 198–207B, 219): 14 Oct 2024 (s 2(1) item 2)	—
Universities Accord (Student Support and Other Measures) Act 2024	108, 2024	5 Dec 2024	Sch 1 (items 40–46, 65–67): 5 Dec 2024 (s 2(1) items 4, 6) Sch 1 (items 51–55): 1 June 2025 (s 2(1) item 5)	Sch 1 (item 55) and Sch 1 (items 65–67)
Administrative Review Tribunal (Miscellaneous Measures) Act 2025	14, 2025	20 Feb 2025	Sch 2 (items 106–112): 21 Feb 2025 (s 2(1) item 2)	—
Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025	17, 2025	20 Feb 2025	Sch 8 (items 70, 71): 1 July 2026 (s 2(1) item 6)	Sch 8 (item 71)

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Endnote 4—Amendment history

Provision affected	How affected
Title	rs No 26, 1982
	am No 171, 1989; No 183, 1994; No 45, 1998
Part 1	
s 1	am No 183, 1994; No 45, 1998
s 3	am No 26, 1982; No 72, 1984; No 120, 1984; No 137, 1985; No 114, 1986; No 35, 1988; No 76, 1989; No 171, 1989; No 70, 1991; No 95, 1991; No 147, 1991; No 138, 1992; No 68, 1994; No 183, 1994; No 155, 1995; No 6, 1997; No 29, 1997; No 152, 1997; No 40, 1998; No 45, 1998; No 48, 1998; No 146, 1999; No 31, 2002; No 8, 2005; No 47, 2006; No 184, 2007; No 149, 2008; No 27, 2009; No 148, 2010; No 5, 2011; No 32, 2011; No 103, 2013; No 31, 2014; No 98, 2014; No 59, 2015; No 60, 2015; No 169, 2015; No 55, 2016; No 74, 2016; No 17, 2018; No 116, 2018; No 42, 2021
	ed C57
	am No 104, 2020; No 38, 2024; No 108, 2024
s 4	ad No 35, 1988
	rep No 183, 1994
s 5	ad No 171, 1989
	am No 183, 1994; No 45, 1998
s 5A	ad No 147, 1991
	am No 59, 2015
s 5B	ad No 183, 1994
	am No 14, 2014
s 5C	ad No 183, 1994
	am No 60, 2015; No 38, 2024
s 5D	ad No 45, 1998
	am No 103, 2013; No 111, 2018; No 36, 2023
s 5E	ad No 147, 2001
Part 2	
Part 2 heading	rs No 76, 1989

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Provision affected	How affected
	rep No 45, 1998
	ad No 169, 2015
Part 2	rs No 114, 1986
	rep No 45, 1998
	ad No 169, 2015
s 6	rep No 26, 1982
	ad No 76, 1989
	rep No 45, 1998
Division 1	
s 6A	ad No 6, 1997
	rep No 45, 1998
	ad No 169, 2015
	am No 116, 2018
s 6B	ad No 6, 1997
	rep No 45, 1998
s 6C	ad No 6, 1997
	rep No 45, 1998
s 6D	ad No 6, 1997
	rep No 45, 1998
s 6E	ad No 6, 1997
	rep No 45, 1998
s 6F	ad No 6, 1997
	rep No 45, 1998
s 6G	ad No 6, 1997
	rep No 45, 1998
s 6H	ad No 6, 1997
	rep No 45, 1998
s 6J	ad No 6, 1997
	rep No 45, 1998
s 7	am No 26, 1982
	rs No 114, 1986; No 125, 1987

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Endnote 4—Amendment history

Provision affected	How affected
	am No 76, 1989; No 95, 1991; No 138, 1992; No 183, 1994; No 6, 1997; No 40, 1998
	rep No 45, 1998
Division 2	
s 7A	ad No 169, 2015
s 7B	ad No 169, 2015
s 7C	ad No 169, 2015
	am No 74, 2016
s 7D	ad No 169, 2015
	am No 55, 2016; No 74, 2016; No 17, 2025
s 7E	ad No 169, 2015
Part 3	rep No 95, 1991
s 8	am No 26, 1982; No 114, 1986; No 76, 1989
	rep No 95, 1991
	ad No 6, 1997
	rep No 45, 1998
Division 3	
s 8A	ad No 169, 2015
s 8B	ad No 169, 2015
s 8C	ad No 169, 2015
s 8D	ad No 169, 2015
s 9	am No 26, 1982; No 72, 1984
	rep No 95, 1991
	ad No 6, 1997
	rep No 45, 1998
Division 4	
s 9A	ad No 169, 2015
s 9B	ad No 169, 2015
s 9C	ad No 169, 2015
s 9D	ad No 169, 2015
s 9E	ad No 169, 2015

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Provision affected	How affected
s 9F	ad No 169, 2015
Part 4 heading	am No 147, 1991
	rep No 45, 1998
Part 4	ad No 171, 1989
	rep No 45, 1998
s 10	rep No 26, 1982
	ad No 171, 1989
	am No 95, 1991
	rep No 147, 1991
Division 5	
Subdivision A	
s 10A	ad No 169, 2015
	am No 116, 2018
s 10B	ad No 169, 2015
Subdivision B	
s 10C	ad No 169, 2015
s 10D	ad No 169, 2015
s 10E	ad No 169, 2015
Subdivision C	
s 10F	ad No 169, 2015
	am No 76, 2018; No 116, 2018
s 10G	ad No 169, 2015
Subdivision D	
s 10H	ad No 169, 2015
s 10J	ad No 169, 2015
s 10K	ad No 169, 2015
s 10L	ad No 169, 2015
s 11	ad No 171, 1989
	am No 95, 1991; No 147, 1991; No 183, 1994
	rep No 45, 1998

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Endnote 4—Amendment history

Provision affected	How affected
Division 6	
s 11A	ad No 169, 2015
s 11B	ad No 169, 2015
s 11C	ad No 169, 2015
s 11D	ad No 169, 2015
s 11E	ad No 169, 2015
s 11F	ad No 169, 2015
s 11G	ad No 169, 2015
s 11H	ad No 169, 2015
s 11J	ad No 169, 2015
s 11K	ad No 169, 2015
s 11L	ad No 169, 2015
s 12	ad No 171, 1989
	rep No 45, 1998
Part 4A	
Part 4A	ad No 138, 1992
Division 1	
s 12A	ad No 138, 1992
	am No 40, 1998; No 45, 1998
s 12B	ad No 138, 1992
s 12C	ad No 138, 1992
	am No 40, 1998; No 45, 1998; No 47, 2006; No 103, 2013
s 12D	ad No 138, 1992
Division 2	
s 12E	ad No 138, 1992
	am No 45, 1998
s 12F	ad No 138, 1992
	am No 183, 1994; No 40, 1998; No 47, 2006
s 12G	ad No 138, 1992
	rs No 40, 1998
s 12GA	ad No 40, 1998

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Provision affected	How affected
s 12H	ad No 138, 1992
	am No 45, 1998
Division 3	
s 12J	ad No 138, 1992
s 12K	ad No 138, 1992
s 12KA	ad No 40, 1998
s 12KB	ad No 40, 1998
s 12L	ad No 138, 1992
s 12M	ad No 138, 1992
	rs No 152, 1997; No 8, 2005
	rep No 148 2010
s 12N	ad No 138, 1992
	am No 152, 1997; No 8, 2005
	rep No 148, 2010
Division 4	
s 12P	ad No 138, 1992
	rs No 40, 1998
s 12Q	ad No 138, 1992
s 12QA	ad No 40, 1998
s 12QB	ad No 40, 1998
	am No 31, 2002; No 47, 2006
s 12QC	ad No 40, 1998
s 12R	ad No 138, 1992
	am No 183, 1994
s 12S	ad No 138, 1992
	am No 183, 1994; No 31, 2002; No 47, 2006
s 12T	ad No 138, 1992
	am No 183, 1994
s 12U	ad No 138, 1992
	am No 183, 1994
s 12V	ad No 138, 1992

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Endnote 4—Amendment history

Provision affected	How affected
	am No 183, 1994; No 40, 1998
Division 5	
s 12W	ad No 138, 1992
s 12X	ad No 138, 1992
	am No 45 1998; No 108, 2024 (Sch 1 items 51, 52)
s 12Y	ad No 138, 1992
s 12Z	ad No 138, 1992
s 12ZA	ad No 138, 1992
	am No 40, 1998
s 12ZB	ad No 138, 1992
s 12ZC	ad No 138, 1992
s 12ZD	ad No 138, 1992
Division 6	
Subdivision A	
s 12ZE	ad No 138, 1992
s 12ZEA	ad No 14, 2014
s 12ZF	ad No 138, 1992
	am No 45, 1998; No 108, 2024 (Sch 1 items 53, 54)
s 12ZG	ad No 138, 1992
s 12ZH	ad No 138, 1992
	am No 183, 1994
Subdivision B	
s 12ZJ	ad No 138, 1992
s 12ZJA	ad No 47, 2006
Subdivision C	
Subdivision C	rs No 47, 2006
s 12ZK	ad No 138, 1992
	am No 40, 1998
	rs No 47, 2006
s 12ZL	ad No 47, 2006
	am No 27, 2009; No 132, 2017

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Provision affected	How affected
s 12ZLA	ad No 47, 2006
s 12ZLB	ad No 47, 2006
s 12ZLC	ad No 47, 2006
	rs No 76, 2018
	am No 116, 2018
s 12ZLD	ad No 47, 2006
	rep No 76, 2018
Subdivision D	
s 12ZL	ad No 138, 1992
	rep No 40, 1998
s 12ZM	ad No 138, 1992
s 12ZN	ad No 138, 1992
	am No 44, 2000; No 101, 2006; No 79, 2010
s 12ZNA	ad No 47, 2006
s 12ZNB	ad No 47, 2006
s 12ZNC	ad No 47, 2006
	rep No 14, 2014
s 12ZND	ad No 47, 2006
s 12ZO	ad No 138, 1992
s 12ZP	ad No 138, 1992
	am No 14, 2014
s 12ZQ	ad No 138, 1992
	am No 38, 2024
Subdivision E	
s 12ZR	ad No 138, 1992
s 12ZS	ad No 138, 1992
s 12ZT	ad No 138, 1992
	am No 147, 2001; No 14, 2014
s 12ZU	am No 61, 2016; No 38, 2024
Division 7	
s 12ZV	ad No 138, 1992

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Endnote 4—Amendment history

Provision affected	How affected
	am No 183, 1994
s 12ZW	ad No 138, 1992
	am No 40, 1998; No 80, 2004
s 12ZX	ad No 138, 1992
	am No 183, 1994
s 12ZY	ad No 138, 1992
s 12ZZ	ad No 138, 1992
Part 4B	ad No 138, 1992
	rep No 45, 1998
s 12ZZA	ad No 138, 1992
	rep No 45, 1998
s 12ZZB	ad No 138, 1992
	rep No 45, 1998
Part 5	rep No 183, 1994
s 13	am No 72, 1984; No 137, 1985; No 76, 1989; No 95, 1991; No 138, 1992
	rep No 183, 1994
s 14	ad No 72, 1984
	am No 137, 1985
	rs No 76, 1989
	am No 138, 1992
	rep No 183, 1994
Division 2 heading	am No 137, 1985
	rep No 183, 1994
s 15	am No 72, 1984
	rs No 137, 1985
	rep No 183, 1994
s 16	rs No 26, 1982
	am No 137, 1985
	rep No 183, 1994
s 17	am No 26, 1982; No 72, 1984; No 137, 1985

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Provision affected	How affected
	rep No 183, 1994
s 18	rs No 26, 1982; No 72, 1984
	am No 137, 1985
	rep No 183, 1994
s 19	ad No 137, 1985
	rep No 183, 1994
Division 3 heading	rs No 72, 1984
	am No 138, 1992
	rep No 183, 1994
s 20	rs No 72, 1984
	am No 76, 1989; No 138, 1992
	rep No 183, 1994
Division 4 heading	ad No 72, 1984
	rep No 183, 1994
s 21	am No 26, 1982; No 72, 1984; No 137, 1985; No 76, 1989; No 138, 1992
	rep No 183, 1994
s 22	rs No 72, 1984
	am No 137, 1985; No 76, 1989
	rep No 183, 1994
s 23	ad No 137, 1985
	am No 76, 1989
	rep No 183, 1994
s 24	rs No 72, 1984
	am No 137, 1985; No 76, 1989
	rep No 183, 1994
Division 5 heading	rs No 72, 1984
	rep No 183, 1994
s 25	ad No 26, 1982
	am No 72, 1984
	rs No 137, 1985

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 183, 1994
s 26	ad No 26, 1982
	am No 72, 1984; No 137, 1985
	rep No 183, 1994
s 27	ad No 72, 1984
	am No 137, 1985; No 95, 1991
	rep No 183, 1994
s 28	am No 26, 1982; No 72, 1984; No 137, 1985; No 76, 1989; No 95, 1991
	rep No 183, 1994
s 29	am No 26, 1982; No 72, 1984; No 137, 1985
	rep No 183, 1994
s 30	am No 72, 1984; No 76, 1989
	rep No 183, 1994
s 31	rs No 26, 1982
	am No 72, 1984; No 137, 1985
	rep No 183, 1994
s 32	ad No 26, 1982
	am No 72, 1984; No 137, 1985
	rep No 183, 1994
s 33	ad No 137, 1985
	rep No 183, 1994
s 34	am No 72, 1984; No 137, 1985
	rep No 183, 1994
Division 6	ad No 72, 1984
	rep No 183, 1994
s 35	ad No 72, 1984
	am No 137, 1985; No 76, 1989; No 138, 1992
	rep No 183, 1994
s 36	ad No 72, 1984
	rep No 183, 1994

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Provision affected	How affected
s 37	ad No 72, 1984
	am No 63, 1984 (as am by No 165, 1984); No 76, 1989; No 138, 1992
	rep No 183, 1994
Part 6	
Part 6 heading	rs No 45, 1998
Part 6	ad No 171, 1989
	am No 45, 1998
Division 1	
Division 1 heading	ad No 45, 1998
Division 1	ad No 45, 1998
s 38	ad No 171, 1989
	am No 95, 1991; No 183, 1994; No 155, 1995
	rep No 45, 1998
	ad No 45, 1998
	am No 169, 2015; No 55, 2016
s 38A	ad No 169, 2015
s 39	ad No 171, 1989
	rep No 95, 1991
	ad No 45, 1998
	am No 169, 2015
s 39AA	ad No 31, 2002
	am No 169, 2015
Division 2	
Division 2 heading	ad No 45, 1998
s 39A	ad No 45, 1998
	rep No 55, 2016
s 40	ad No 171, 1989
	am No 95, 1991; No 183, 1994; No 45, 1998
	rs No 55, 2016
s 41	ad No 171, 1989
	am No 95, 1991; No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	rs No 55, 2016
s 41A	ad No 55, 2016
s 41B	ad No 55, 2016
s 41C	ad No 55, 2016
s 41D	ad No 55, 2016
	am No 17, 2018
s 41E	ad No 55, 2016
s 41F	ad No 55, 2016
s 41G	ad No 55, 2016
s 42	ad No 171, 1989
	am No 95, 1991; No 138, 1992; No 183, 1994; No 45, 1998; No 147, 2001
s 42A	ad No 184, 2007
s 42B	ad No 55, 2016
Division 3	
Division 3 heading	ad No 45, 1998
s 43	ad No 171, 1989
	am No 95, 1991; No 183, 1994; No 155, 1995
	rs No 45, 1998
s 43A	ad No 45, 1998
s 43B	ad No 45, 1998
	am No 144, 2008
s 43C	ad No 45, 1998
s 43D	ad No 45, 1998
s 43E	ad No 45, 1998
	am No 103, 2013; No 38, 2024
s 43F	ad No 45, 1998
s 44	ad No 171, 1989
	rep No 183, 1994
Division 4	
Division 4	ad No 55, 2016

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Provision affected	How affected
Subdivision A	
s 43G	ad No 55, 2016
Subdivision B	
s 43H	ad No 55, 2016
Subdivision C	
s 43J	ad No 55, 2016
s 43K	ad No 55, 2016
	am No 13, 2021
s 43L	ad No 55, 2016
s 43M	ad No 55, 2016
Subdivision D	
s 43N	ad No 55, 2016
s 43P	ad No 55, 2016
s 43Q	ad No 55, 2016
s 43R	ad No 55, 2016
s 43S	ad No 55, 2016
s 43T	ad No 55, 2016
Subdivision E	
s 43U	ad No 55, 2016
	am No 13, 2021
s 43V	ad No 55, 2016
s 43W	ad No 55, 2016
s 43X	ad No 55, 2016
	am No 38, 2024
Subdivision F	
s 43Y	ad No 55, 2016
s 43Z	ad No 55, 2016
s 43ZA	ad No 55, 2016
Subdivision G	
s 43ZB	ad No 55, 2016
s 43ZC	ad No 55, 2016

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Endnote 4—Amendment history

Provision affected	How affected
Part 7	
Division 1	
Division 1 heading	ad No 42, 2021
s 44A	ad No 95, 1991
	am No 138, 1992; No 39, 1997; No 45, 1998; No 169, 2015
	rep No 42, 2021
s 45	ad No 35, 1988
	am No 76, 1989; No 171, 1989; No 95, 1991; No 138, 1992
	rep No 183, 1994
	ad No 42, 2021
s 46	ad No 35, 1988
	rep No 183, 1994
	ad No 42, 2021
s 47	ad No 35, 1988
	rep No 183, 1994
	ad No 42, 2021
s 47A	ad No 42, 2021
s 48	ad No 171, 1989
	am No 138, 1992; No 183, 1994; No 45, 1998; No 31, 2002; No 47, 2006; No 126, 2015
s 49	ad No 35, 1988
	am No 76, 1989; No 171, 1989; No 138, 1992; No 183, 1994; No 45, 1998; No 137, 2000; No 147, 2001; No 47, 2006
	ed C53
s 50	ad No 35, 1988
	am No 183, 1994; No 45, 1998; No 5, 2015
s 51	ad No 35, 1988
	rs No 171, 1989
	am No 95, 1991; No 138, 1992; No 183, 1994; No 45, 1998; No 55, 2016
	ed C53

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Endnote 4—Amendment history

Provision affected	How affected
s 52	am No 72, 1984; No 137, 1985
	rs No 95, 1991
	rep No 183, 1994
s 53	ad No 137, 1985
	am No 35, 1988; No 76, 1989
	rs No 171, 1989; No 95, 1991
	rep No 183, 1994
s 54	am No 72, 1984; No 138, 1992
	rep No 183, 1994
s 55	ad No 137, 1985
s 55A	ad No 147, 1991
	am No 138, 1992; No 183, 1994; No 40, 1998; No 45, 1998; No 157, 1999; No 169, 2015
s 55B (prev s 55A)	ad No 95, 1991 renum No 138, 1992 (as am by No 43, 1996)
	rep No 183, 1994
s 56	am No 72, 1984; No 137, 1985; No 35, 1988; No 95, 1991; No 138, 1992; No 183, 1994; No 152, 1997; No 45, 1998; No 8, 2005; No 148, 2010; No 61, 2016
Part 8	ad No 183, 1994
	rep No 45, 1998
s 57	ad No 183, 1994
	rep No 45, 1998
s 58	ad No 183, 1994
	am No 156, 1995; No 84, 1996; No 106, 1997; No 197, 1997
	rep No 45, 1998
s 59	ad No 183, 1994
	rep No 84, 1996
ss 60–64	ad No 183, 1994
	rep No 45, 1998
s 65	ad No 183, 1994
	am No 155, 1995; No 156, 1995; No 202, 1997

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 45, 1998
s 66	ad No 183, 1994
	rep No 156, 1995
s 67	ad No 183, 1994
	rep No 45, 1998
s 68	ad No 183, 1994
	rep No 45, 1998
s 69	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 70	ad No 183, 1994
	rep No 45, 1998
s 71	ad No 183, 1994
	rep No 45, 1998
s 72	ad No 183, 1994
	am No 156, 1995; No 84, 1996
	rep No 45, 1998
s 73	ad No 183, 1994
	rep No 45, 1998
s 74	ad No 183, 1994
	am No 156, 1995
	rep No 45, 1998
s 75	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 75A	ad No 84, 1996
	rep No 45, 1998
s 76	ad No 183, 1994
	rep No 45, 1998
s 77	ad No 183, 1994
	rs No 84, 1996

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Provision affected	How affected
	rep No 45, 1998
s 78	ad No 183, 1994
	am No 106, 1997
	rep No 45, 1998
s 78AA	ad No 106, 1997
	rep No 45, 1998
Subdivision BAA	ad No 156, 1995
	rep No 45, 1998
s 78AAA	ad No 202, 1997
	rep No 45, 1998
s 78A	ad No 156, 1995
	rep No 45, 1998
s 78B	ad No 156, 1995
	rep No 45, 1998
s 78C	ad No 156, 1995
	rep No 84, 1996
s 78D	ad No 156, 1995
	rep No 45, 1998
s 78E	ad No 156, 1995
	am No 84, 1996
	rep No 45, 1998
s 78F	ad No 156, 1995
	rep No 84, 1996
s 78G	ad No 156, 1995
	rep No 84, 1996
s 79	ad No 183, 1994
	am No 156, 1995; No 202, 1997
	rep No 45, 1998
ss 80–84	ad No 183, 1994
	rep No 45, 1998
s 85	ad No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	am No 156, 1995; No 84, 1996
	rep No 45, 1998
ss 86–88	ad No 183, 1994
	rep No 45, 1998
s 89	ad No 183, 1994
	am No 156, 1995
	rep No 45, 1998
s 90	ad No 183, 1994
	rep No 45, 1998
s 90A	ad No 202, 1997
	rep No 45, 1998
s 91	ad No 183, 1994
	am No 156, 1995; No 84, 1996; No 106, 1997; No 202, 1997
	rep No 45, 1998
s 91A	ad No 84, 1996
	am No 202, 1997; No 93, 1998
	rep No 45, 1998
s 92	ad No 183, 1994
	am No 156, 1995; No 84, 1996
	rep No 45, 1998
s 92A	ad No 156, 1995; No 84, 1996
	rep No 45, 1998
s 92B	ad No 156, 1995
	rep No 45, 1998
s 93	ad No 183, 1994
	rep No 84, 1996
s 94	ad No 183, 1994
	rep No 84, 1996
s 95	ad No 183, 1994
	am No 155, 1995
	rep No 84, 1996

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Endnote 4—Amendment history

Provision affected	How affected
s 96	ad No 183, 1994
	rep No 45, 1998
s 97	ad No 183, 1994
	am No 155, 1995; No 84, 1996
	rep No 45, 1998
s 98	ad No 183, 1994
	rep No 45, 1998
s 99	ad No 183, 1994
	am No 155, 1995; No 156, 1995
	rep No 45, 1998
s 100	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 101	ad No 183, 1994
	am No 5, 1997
	rep No 45, 1998
s 102	ad No 183, 1994
	am No 5, 1997
	rep No 45, 1998
Subdivision F heading	rs No 106, 1997
	rep No 45, 1998
s 103	ad No 183, 1994
	am No 106, 1997
	rep No 45, 1998
s 104	ad No 183, 1994
	am No 106, 1997
	rep No 45, 1998
s 105	ad No 183, 1994
	am No 106, 1997
	rep No 45, 1998
s 106	ad No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	am No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 107	ad No 183, 1994
	rs No 106, 1997
	rep No 45, 1998
s 108	ad No 183, 1994
	rs No 84, 1996; No 106, 1997
	rep No 45, 1998
s 108A	ad No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 109	ad No 183, 1994
	am No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 110	ad No 183, 1994
	am No 84, 1996 (as am by No 106, 1997); No 106, 1997
	rep No 45, 1998
s 111	ad No 183, 1994
	am No 84, 1996; No 106, 1997
	rep No 45, 1998
s 111A	ad No 106, 1997
	rep No 45, 1998
s 112	ad No 183, 1994
	am No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 113	ad No 183, 1994
	rs No 84, 1996
	am No 106, 1997

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Provision affected	How affected
	rep No 45, 1998
s 113A	ad No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 114	ad No 183, 1994
	am No 156, 1995; No 84, 1996
	rep No 45, 1998
s 115	ad No 183, 1994
	rs No 84, 1996
	rep No 45, 1998
s 116–119	ad No 183, 1994
	rep No 84, 1996
s 120	ad No 183, 1994
	rep No 45, 1998
s 121	ad No 183, 1994
	rep No 45, 1998
s 122	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 123–132	ad No 183, 1994
	rep No 45, 1998
s 133	ad No 183, 1994
	am No 84, 1996; No 106, 1997; No 202, 1997
	rep No 45, 1998
s 134	ad No 183, 1994
	rep No 45, 1998
Subdivision A heading	ad No 84, 1996
	rep No 45, 1998
s 135	ad No 183, 1994
	am No 104, 1995; No 84, 1996
	rep No 45, 1998

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Endnote 4—Amendment history

Provision affected	How affected
s 136	ad No 183, 1994
	rep No 45, 1998
Subdivision AA	ad No 106, 1997
	rep No 45, 1998
s 136AA–136AE	ad No 106, 1997
	rep No 45, 1998
Subdivision B	ad No 84, 1996
	rep No 45, 1998
s 136A	ad No 84, 1996
	rep No 45, 1998
s 136B	ad No 84, 1996
	am No 106, 1997
	rep No 45, 1998
s 136C	ad No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 136D	ad No 84, 1996
	rs No 106, 1997
	rep No 45, 1998
s 136DA	ad No 106, 1997
	rep No 45, 1998
s 136E	ad No 84, 1996
	rep No 45, 1998
s 136F	ad No 84, 1996
	rep No 45, 1998
s 136G	ad No 84, 1996
	rep No 45, 1998
s 137–141	ad No 183, 1994
	rep No 45, 1998
s 142	ad No 183, 1994
	am No 155, 1995

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 45, 1998
s 143–148	ad No 183, 1994
	rep No 45, 1998
s 149	ad No 183, 1994
	am No 155, 1995
s 150	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 151	ad No 183, 1994
	am No 84, 1996; No 202, 1997
	rep No 45, 1998
s 151A	ad No 202, 1997
	rep No 45, 1998
s 152	ad No 183, 1994
	rep No 45, 1998
s 153	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 154	ad No 183, 1994
	rep No 45, 1998
s 155	ad No 183, 1994
	rep No 45, 1998
s 156	ad No 183, 1994
	rep No 45, 1998
s 156A	ad No 84, 1996
	rep No 45, 1998
s 157	ad No 183, 1994
	rep No 45, 1998
s 158	ad No 183, 1994
	rep No 84, 1996
s 159–173	ad No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 45, 1998
Subdivision A	rs No 156, 1995
	rep No 45, 1998
s 174	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 175	ad No 183, 1994
	rs No 156, 1995
	am No 84, 1996
	rep No 45, 1998
s 176	ad No 183, 1994
	rep No 156, 1995
Subdivision B	rs No 156, 1995
	rep No 45, 1998
s 176	ad No 156, 1995
	rep No 45, 1998
s 177	ad No 183, 1994
	rs No 156, 1995
	am No 121, 1997
	rep No 45, 1998
Subdivision C	rs No 156, 1995
	rep No 45, 1998
s 178	ad No 183, 1994
	rs No 156, 1995
	am No 84, 1996
	rep No 45, 1998
s 179	ad No 183, 1994
	am No 156, 1995
	rs No 156, 1995
	am No 84, 1996
	rep No 45, 1998

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Provision affected	How affected
s 181	ad No 183, 1994
	rs No 156, 1995
	rep No 84, 1996
s 181	ad No 183, 1994
	rs No 156, 1995
	rep No 84, 1996
s 182	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 183	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 184	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 185	ad No 183, 1994
	rs No 156, 1995
	am No 84, 1996
	rep No 45, 1998
Subdivision D	rs No 156, 1995
s 186	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 187	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 188	ad No 183, 1994
	rs No 156, 1995
	rep No 45, 1998
s 189–193	ad No 183, 1994
	rep No 156, 1995

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Provision affected	How affected
Subdivision E	rep No 156, 1995
s 194	ad No 183, 1994
	rep No 156, 1995
Subdivision F	ad No 183, 1994
	rep No 45, 1998
s 195	ad No 183, 1994
	rep No 45, 1998
s 196	ad No 183, 1994
	rep No 45, 1998
Subdivision G	ad No 183, 1994
	rep No 156, 1995
s 197–203	ad No 183, 1994
	rep No 156, 1995
Subdivision H	ad No 183, 1994
	rep No 156, 1995
s 204–211	ad No 183, 1994
	rep No 156, 1995
Subdivision I	ad No 183, 1994
	rep No 156, 1995
s 212	ad No 183, 1994
	rep No 156, 1995
s 213	ad No 183, 1994
	am No 43, 1996
	rep No 156, 1995
s 214	ad No 183, 1994
	rep No 156, 1995
Subdivision J	ad No 183, 1994
	rep No 45, 1998
s 215	ad No 183, 1994
	rep No 45, 1998
s 216	ad No 183, 1994

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Provision affected	How affected
	rep No 45, 1998
s 217	ad No 183, 1994
	rep No 45, 1998
s 218	ad No 183, 1994
	am No 104, 1995
	rep No 45, 1998
s 219	ad No 183, 1994
	rep No 45, 1998
s 220	ad No 183, 1994
	rep No 45, 1998
Subdivision K	ad No 183, 1994
	rep No 84, 1996
s 221	ad No 183, 1994
	am No 104, 1995; No 156, 1995
	rep No 84, 1996
s 222	ad No 183, 1994
	am No 104, 1995
	rep No 84, 1996
s 223	ad No 183, 1994
	rep No 84, 1996
s 224	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 225	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 226	ad No 183, 1994
	rep No 45, 1998
s 227	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998

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Provision affected	How affected
s 228	ad No 183, 1994
	am No 84, 1996 (as am by No 106, 1997)
	rep No 45, 1998
s 229	ad No 183, 1994
	am No 155, 1995; No 84, 1996; No 197, 1997
	rep No 45, 1998
s 230	ad No 183, 1994
	rs No 84, 1996
	rep No 45, 1998
s 231	ad No 183, 1994
	rs No 84, 1996
	am No 155, 1995; No 84, 1996; No 197, 1997
	rep No 45, 1998
s 232	ad No 183, 1994
	rep No 45, 1998
s 233	ad No 183, 1994
	am No 155, 1995; No 84, 1996; No 197, 1997
	rep No 45, 1998
s 234	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 235	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 236	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 237	ad No 183, 1994
	am No 155, 1995; No 84, 1996; No 197, 1997
	rep No 45, 1998
s 238	ad No 183, 1994

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Provision affected	How affected
	rep No 45, 1998
s 239	ad No 183, 1994
	rep No 45, 1998
s 240	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 241	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 242	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 243	ad No 183, 1994
	am No 84, 1996; No 197, 1997
	rep No 45, 1998
s 244	ad No 183, 1994
	rep No 45, 1998
s 245	ad No 183, 1994
	rep No 45, 1998
s 246	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 247	ad No 183, 1994
	rep No 45, 1998
s 248	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 249	ad No 183, 1994
	rep No 45, 1998
Division 13 heading	am No 155, 1995
	rep No 45, 1998

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Endnote 4—Amendment history

Provision affected	How affected
s 250	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 251	ad No 183, 1994
	am No 155, 1995; No 156, 1995; No 84, 1996
	rep No 45, 1998
s 252	ad No 183, 1994
	am No 156, 1995; No 84, 1996
	rep No 45, 1998
s 253	ad No 183, 1994
	am No 156, 1995
	rep No 45, 1998
s 254	ad No 183, 1994
	rep No 45, 1998
s 255	ad No 183, 1994
	rep No 45, 1998
s 256	ad No 183, 1994
	rep No 45, 1998
Subdivision C	ad No 155, 1995
	rep No 45, 1998
s 256A	ad No 155, 1995
	rep No 45, 1998
s 257	ad No 183, 1994
	rep No 45, 1998
s 258	ad No 183, 1994
	rep No 45, 1998
s 259	ad No 183, 1994
	rep No 45, 1998
s 260	ad No 183, 1994
	rep No 45, 1998
s 261	ad No 183, 1994

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Provision affected	How affected
	am No 43, 1996; No 84, 1996
	rep No 45, 1998
s 262	ad No 183, 1994
	am No 83, 1996; No 84, 1996
	rep No 45, 1998
s 263	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 264	ad No 183, 1994
	rep No 84, 1996
s 265	ad No 183, 1994
	rep No 84, 1996
s 266	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 267	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 268	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 269	ad No 183, 1994
	rep No 84, 1996
s 270	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 271	ad No 183, 1994
	rep No 45, 1998
s 272	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998

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Endnote 4—Amendment history

Provision affected	How affected
s 273	ad No 183, 1994
	rs No 84, 1996
	rep No 45, 1998
s 274	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 275	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 276	ad No 183, 1994
	rep No 45, 1998
s 277	ad No 183, 1994
	rep No 45, 1998
s 278	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 279	ad No 183, 1994
	rep No 45, 1998
s 279A	ad No 84, 1996
	rep No 45, 1998
s 280	ad No 183, 1994
	rep No 45, 1998
s 281	ad No 183, 1994
	rep No 45, 1998
s 282	ad No 183, 1994
	rep No 45, 1998
s 283	ad No 183, 1994
	am No 155, 1995; No 84, 1996
	rep No 45, 1998
s 284	ad No 183, 1994
	rep No 45, 1998

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Endnote 4—Amendment history

Provision affected	How affected
s 285	ad No 183, 1994
	rep No 45, 1998
s 286	ad No 183, 1994
	rep No 45, 1998
s 287	ad No 183, 1994
	am No 84, 1996
	rep No 45, 1998
s 288	ad No 183, 1994
	rs No 155, 1995
	rep No 45, 1998
s 289	ad No 183, 1994
	rs No 155, 1995
	am No 84, 1996
	rep No 45, 1998
s 290	ad No 183, 1994
	rs No 155, 1995
	rep No 45, 1998
s 290A	ad No 155, 1995
	rep No 45, 1998
s 290B	ad No 155, 1995
	rep No 45, 1998
s 290C	ad No 155, 1995
	rep No 45, 1998
s 291	ad No 183, 1994
	rep No 45, 1998
s 292	ad No 183, 1994
	rep No 45, 1998
s 293–297	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
s 298–301	ad No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 45, 1998
Part 9	
Part 9	ad No 183, 1994
Division 1	
s 302	ad No 183, 1994
	am No 45, 1998; No 169, 2015
s 303	ad No 183, 1994
	am No 155, 1995; No 45, 1998; No 93, 1998; No 98, 2014; No 60, 2015; No 38, 2024
s 304	ad No 183, 1994
	am No 45, 1998; No 60, 2015; No 38, 2024; No 14, 2025
	ed C65
s 305	ad No 183, 1994
	am No 40, 1998; No 45, 1998
s 306	ad No 183, 1994
s 307	ad No 183, 1994
	rep No 45, 1998
s 308	ad No 183, 1994
	am No 60, 2015; No 38, 2024
Division 1A	
Division 1A	ad No 169, 2015
s 308A	ad No 169, 2015
s 308B	ad No 169, 2015
s 308C	ad No 169, 2015
s 308D	ad No 169, 2015
	am No 38, 2024; No 14, 2025
s 308E	ad No 169, 2015
	am No 38, 2024
s 308F	ad No 169, 2015
	am No 38, 2024
s 308G	ad No 169, 2015

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Provision affected	How affected
s 308H	ad No 169, 2015
	am No 38, 2024; No 14, 2025
s 308J	ad No 169, 2015
	am No 38, 2024
Division 2	
Division 2 heading	am No 38, 2024
Division 2	rs No 60, 2015
Subdivision A	
s 309	ad No 183, 1994
	am No 45, 1998
	rs No 60, 2015
	am No 38, 2024
s 310	ad No 183, 1994
	am No 98, 2014
	rs No 60, 2015
	am No 26, 2018; No 38, 2024
Subdivision B	
Subdivision B heading	am No 38, 2024
s 311	ad No 183, 1994
	am No 45, 1998
	rs No 60, 2015
	am No 38, 2024
s 311A	ad No 60, 2015
	am No 38, 2024
s 311B	ad No 38, 2024
s 312	ad No 183, 1994
	rep No 45, 1998
	ad No 60, 2015
	am No 38, 2024; No 14, 2025
s 313	ad No 183, 1994
	rs No 45, 1998; No 60, 2015; No 38, 2024

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Endnote 4—Amendment history

Provision affected	How affected
s 313A	ad No 38, 2024
s 313B	ad No 38, 2024
s 313C	ad No 38, 2024
s 314	ad No 183, 1994
	am No 40, 1998; No 45, 1998
	rs No 60, 2015
	am No 38, 2024
s 315	ad No 183, 1994
	rep No 45, 1998
	ad No 60, 2015
	am No 38, 2024
s 315A	ad No 38, 2024
s 316	ad No 183, 1994
	am No 45, 1998; No 98, 2014
	rs No 60, 2015
	am No 38, 2024
s 317	ad No 183, 1994
	rep No 45, 1998
	ad No 60, 2015
	am No 38, 2024
s 318	ad No 183, 1994
	am No 45, 1998
	rs No 60, 2015
	rep No 38, 2024
s 319	ad No 183, 1994
	rep No 45, 1998
	ad No 60, 2015
	am No 38, 2024
Subdivision C	rep No 38, 2024
s 320	ad No 183, 1994
	am No 45, 1998

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Provision affected	How affected
	rs No 60, 2015
	rep No 38, 2024
s 321	ad No 183, 1994
	am No 98, 2014
	rs No 60, 2015
	rep No 132, 2015
s 322	ad No 183, 1994
	am No 45, 1998; No 98, 2014
	rs No 60, 2015
	rep No 38, 2024
s 322A	ad No 98, 2014
	rep No 60, 2015
s 322B	ad No 98, 2014
	rep No 60, 2015
s 322C	ad No 98, 2014
	rep No 60, 2015
Division 3	rep No 60, 2015
s 323	ad No 183, 1994
	am No 45, 1998
	rs No 60, 2015
	rep No 38, 2024
s 324	ad No 183, 1994
	rs No 60, 2015
	rep No 38, 2024
s 325	ad No 183, 1994
	rs No 60, 2015
	rep No 38, 2024
s 326	ad No 183, 1994
	am No 43, 1996
	rep No 45, 1998
	ad No 60, 2015

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 38, 2024
s 326A	ad No 155, 1995
	rep No 60, 2015
Division 4	rep No 60, 2015
Subdivision D	
Subdivision D heading	am No 38, 2024
s 327	ad No 183, 1994
	rs No 60, 2015
	am No 38, 2024
s 328	ad No 183, 1994
	rep No 98, 2014
s 329	ad No 183, 1994
	rep No 60, 2015
s 330	ad No 183, 1994
	rep No 60, 2015
s 331	ad No 183, 1994
	am No 45, 1998; No 98, 2014
	rep No 60, 2015
s 332	ad No 183, 1994
	am No 98, 2014
	rep No 60, 2015
s 333	ad No 183, 1994
	rep No 60, 2015
s 334	ad No 183, 1994
	am No 45, 1998
	rep No 60, 2015
Part 10	
Part 10	ad No 183, 1994
Division 1	
s 335	ad No 183, 1994
	am No 45, 1998; No 98, 2014

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Provision affected	How affected
	rep No 60, 2015
s 336	ad No 183, 1994
	am No 98, 2014
	rep No 60, 2015
s 337	ad No 183, 1994
	rep No 45, 1998
s 338	ad No 183, 1994
	am No 29, 1997; No 45, 1998; No 32, 2011
s 338A	ad No 29, 1997
	rep No 45, 1998
s 339	ad No 183, 1994
	am No 45, 1998
s 340	ad No 183, 1994
s 341	ad No 183, 1994
	am No 45, 1998
Division 2	
s 342	ad No 183, 1994
	am No 26, 2018
s 342A	ad No 26, 2018
s 343	ad No 183, 1994
	am No 45, 1998; No 149, 2008; No 46, 2011; No 26, 2018; No 42 2021
s 344	ad No 183, 1994
	am No 45, 1998; No 46, 2011; No 26, 2018
s 345	ad No 183, 1994
	am No 45, 1998; No 46, 2011
	rs No 26, 2018
s 346	ad No 183, 1994
	am No 5, 1997
	rep No 45, 1998
s 347	ad No 183, 1994

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Endnote 4—Amendment history

Provision affected	How affected
	am No 155, 1995; No 45, 1998; No 147, 2001; No 184, 2007; No 26, 2018
s 347A	ad No 26, 2018
s 347B	ad No 26, 2018
s 348	ad No 183, 1994
	am No 45, 1998; No 149, 2008; No 26, 2018; No 42 2021
s 349	ad No 183, 1994
	am No 155, 1995
	rep No 45, 1998
Division 3	
s 350	ad No 183, 1994
	am No 38, 2024
s 350A	ad No 17, 2020
s 351	ad No 183, 1994
	am No 155, 1995; No 29, 1997; No 45, 1998; No 42, 2008; No 149, 2008; No 32, 2011; No 47, 2016; No 17, 2020; No 42 2021
s 351A	ad No 17, 2020
	am No 42 2021
s 351B	ad No 17, 2020
s 352	ad No 183, 1994
	am No 155, 1995; No 29, 1997; No 45, 1998; No 147, 2001; No 31, 2014; No 4, 2016; No 17, 2020
s 353	ad No 183, 1994
	am No 155, 1995; No 29, 1997; No 45, 1998; No 147, 2001; No 4, 2016; No 17, 2020
s 354	ad No 183, 1994
	am No 29, 1997; No 45, 1998
s 355	ad No 183, 1994
	am No 29, 1997; No 45, 1998; No 5, 2011; No 32, 2011; No 79, 2011
s 356	ad No 183, 1994
	rs No 79, 2011
s 356A	ad No 141, 2008

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 109, 2014
s 357	ad No 183, 1994
	am No 155, 1995; No 147, 2001; No 31, 2014; No 4, 2016
s 358	ad No 183, 1994
	am No 155, 1995; No 45, 1998; No 147, 2001; No 4, 2016
s 359	ad No 183, 1994
	am No 155, 1995; No 29, 1997; No 45, 1998; No 4, 2016
s 360	ad No 183, 1994
s 361	ad No 183, 1994
Schedule 1	ad No 183, 1994
	am No 104, 1995; No 156, 1995; No 83, 1996; No 84, 1996; No 39, 1997; No 114, 1997; No 197, 1997; No 202, 1997
	rep No 45, 1998
Schedule 2	ad No 183, 1994
	am No 84, 1996; No 197, 1997
	rep No 45, 1998
Schedule 3	ad No 183, 1994
	rep No 45, 1998
Schedule 4	ad No 183, 1994
	am No 104, 1995; No156, 1995
	rep No 84, 1996
Schedule 5	ad No 84, 1996
	am No 84, 1996; No 106, 1997
	rep No 45, 1998

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Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subsection 304(5)

Kind of editorial change

Give effect to the misdescribed amendment as intended

Details of editorial change

Schedule 2 item 107 of the *Administrative Review Tribunal (Miscellaneous Measures) Act 2025* provides as follows:

107 Subsection 304(5)

Omit “, if the application to the AAT is made within any applicable time limit under subsection (2),”.

The text “, if the application to the AAT is made within any applicable time limit under subsection (2),” does not appear in subsection 304(5). However, the text “, if the application to the ART is made within any applicable time limit under subsection (2),” does appear.

This compilation was editorially changed to omit “, if the application to the ART is made within any applicable time limit under subsection (2),” from subsection 304(5) to give effect to the misdescribed amendment as intended.

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Endnote 6—Repeal table

The amendment history of the repealed provisions of the *Student Assistance Act 1973* up to and including the *Student Assistance Amendment Act (No. 2) 1989* (No. 171, 1989) appears in the table below.

Provision affected	How affected
s. 4	am. No. 26, 1982; No. 114, 1986; No. 76, 1989
	rep. No. 171, 1989
s. 6	rs. No. 72, 1984
	rep. No. 76, 1989
Part II (ss. 7–9)	rep. No. 26, 1982
ss. 7–9	rep. No. 26, 1982
s. 11	am. No. 26, 1982; No. 72, 1984
	rs. No. 114, 1986
	rep. No. 76, 1989
ss. 12, 13	rep. No. 26, 1982
Heading to Div. 4 of Part V	rep. No. 72, 1984
s. 30A	ad. No. 26, 1982
	rep. No. 72, 1984
s. 31	am. No. 72, 1984
	rep. No. 171, 1989
s. 31A	ad. No. 114, 1986
	am. Nos. 130 and 141, 1987
	rs. No. 35, 1988
	rep. No. 171, 1989
ss. 31B, 31C	ad. No. 35, 1988
	am. No. 76, 1989
	rep. No. 171, 1989
s. 31H	ad. No. 35, 1988
	rep. No. 171, 1989
s. 32	am. No. 72, 1984; No. 141, 1987
	rep. No. 171, 1989

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Endnote 6—Repeal table

Provision affected	How affected
s. 33.....	am. No. 72, 1984
	rep. No. 171, 1989

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Endnote 7—Renumbering table

The renumbering of provisions of the *Student Assistance Act 1973*, made by the *Student Assistance Amendment Act (No. 2) 1989* (No. 171, 1989) appears in the table below.

Old number	New number
Part I	Part 1
Section	Section
1	1
2	2
5	3
7	4
8	5
Part III	Part 2
Section	Section
9	6
10	7
Part IV	Part 3
Section	Section
14	8
15	9
Part IVA	Part 4
Section	Section
16	10
16A	11
16B	12
Part V	Part 5
Division 1	Division 1
Section	Section
17	13
17A	14
Division 2	Division 2
Section	Section
18	15

Old number	New number
Section	Section
19	16
20	17
21	18
21A	19
Division 3	Division 3
Section	Section
22	20
Division 3A	Division 4
Section	Section
23	21
24	22
24A	23
25	24
Division 4	Division 5
Section	Section
25A	25
25B	26
25C	27
26	28
27	29
28	30
29	31
29A	32
29B	33
30	34
Division 5	Division 6
Section	Section
30AA	35
30AB	36
30AC	37

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Endnote 7—Renumbering table

Old number	New number
Part VA	Part 6
Section	Section
30B	38
30C	39
30D	40
30	41
30F	42
30G	43
30H	44

Old number	New number
Part VI	Part 7
Section	Section
31D	45
31E	46
31F	47
31FA	48
31G	49
31J	50
31K	51
34	52
34A	53
35	54
35A	55
36	56

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