**Student Assistance Act 1973**

**No. 155 of 1973**

**AN ACT**

To provide Benefits to Students by way of Senior Secondary
Scholarships, Tertiary Education Assistance and
Post-graduate Awards.

[Assented to 27 November 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Part I—Preliminary

**Short title.**

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

**Commencement.**

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

**Repeal.**

**3.** The following Acts are repealed:—

Education Act 1945;

Education Act 1959;

Scholarships Act 1969.

**Benefits provided under this Act.**

**4.**  The object of this Act is to make provision for and in relation to benefits to students by way of assistance in the form of Senior Secondary Scholarships of the kind provided for in Part II, Tertiary Education Assistance of the kind provided for in Part III and Post-graduate Awards of the kind provided for in Part IV.

**Definitions.**

**5.**  In this Act, unless the contrary intention appears—

“advanced education institution” means an educational institution in Australia that, under the regulations, is to be treated as an advanced education institution for the purposes of this Act;

“authorized person” means a person who is an authorized person by virtue of an appointment under section 6;

“full-time student” includes a student included in a class of students that, under the regulations, is to be treated, for the purposes of this Act, as a class of students engaged in full-time study;

“permanent resident of Australia” means a person included in a class of persons that, under the regulations, is to be treated, for the purposes of this Act, as a class of persons permanently resident in Australia;

“secondary school” means an educational institution in Australia that, under the regulations, is to be treated as a secondary school for the purposes of this Act;

“student assistance to which this Act applies” means assistance under this Act by way of a Senior Secondary Scholarship, Tertiary Education Assistance or a Post-graduate Award;

“technical college” means an educational institution in Australia that, under the regulations, is to be treated as a technical college for the purposes of this Act;

“tertiary education institution” means—

(a) a university;

(b) an advanced education institution; or

(c) a technical college,

and includes any other educational institution, or any other institution, authority or body, in Australia that, under the regulations, is to be treated as a tertiary education institution for the purposes of this Act;

“university” means a university in Australia, and includes any other educational institution in Australia that, under the regulations, is to be treated as a university for the purposes of this Act.

**Authorized persons.**

**6.** (1) The Minister may, by notice published in the Gazette, appoint persons to be authorized persons for the purposes of this Act.

**Grant of Scholarships.**

(2) An authorized person is, in the exercise of his powers and the performance of his functions under this Act, subject to the directions of the Minister.

PART II—SENIOR SECONDARY SCHOLARSHIPS

**7.** An authorized person may, subject to and in accordance with the of regulations, approve the grant of a Senior Secondary Scholarship to a person who is an Australian citizen or a permanent resident of Australia and is undertaking, or proposes to undertake, as a full-time student at a secondary school, a course of secondary education at a level approved the Minister for the purposes of this section.

**Benefit under Scholarships.**

**8.** Benefit under a Senior Secondary Scholarship shall consist of—

(a) the payment of a basic allowance at such rate as is prescribed for the purposes of this paragraph; and

(b) where a living allowance is payable under the regulations in respect of the holder of the Scholarship—the payment of a living allowance at such rate as is determined in accordance with the regulations.

**Existing Commonwealth Secondary Scholarships and Commonwealth Senior Secondary Scholarships.**

**9.** (1) If a Commonwealth Secondary Scholarship or a Commonwealth Senior Secondary Scholarship (in this section referred to as an “existing scholarship”) granted before the commencement of this Act has not expired or been terminated before the commencement of this Act, it is, by force of this sub-section, terminated.

(2) Where an existing scholarship is terminated by force of subsection (1), then, notwithstanding anything in section 7 or in the regulations, an authorized person may approve the grant of a Senior Secondary Scholarship, in respect of the course of secondary education to which the existing scholarship related, to the person who was the holder of the existing scholarship.

(3) Where a Senior Secondary Scholarship is, by virtue of sub-section (2), granted to a person who was the holder of an existing scholarship, being a Commonwealth Secondary Scholarship, then, notwithstanding section 8, benefit under the Senior Secondary Scholarship so granted shall be the same as the benefits that would have been applicable under the existing scholarship if that scholarship had not been terminated.

Part III—Tertiary Education Assistance

**Grant of Tertiary Education Assistance.**

**10.** An authorized person may, subject to and in accordance with the regulations, approve the grant of Tertiary Education Assistance to a person who is an Australian citizen or a permanent resident of Australia and is undertaking, or proposes to undertake, at a tertiary education institution a course of study or instruction approved by the Minister for the purposes of this section.

**Benefit under Tertiary Education Assistance Grants.**

**11.** Benefit under Tertiary Education Assistance granted to a person shall consist of—

(a) the payment of amounts equal to any fees of a prescribed kind paid or payable by or in respect of the person; and

(b) where the person is a full-time student and a living allowance is payable under the regulations in respect of the person, or in respect of the person and his dependants—the payment of—

(i) a living allowance at such rate as is determined in accordance with the regulations;

(ii) an allowance, to be known as an incidentals allowance, at such rate as is prescribed for the purposes of this paragraph in relation to the class of students in which the person is included; and

(iii) such amounts as are determined in accordance with the regulations in respect of fares paid or payable by or in respect of the person.

**Existing Commonwealth Advanced Education and Commonwealth University Scholarships.**

**12.** (1) If a Commonwealth Advanced Education Scholarship or a Commonwealth University Scholarship (in this section referred to as an “existing scholarship”) granted before the commencement of this Act has not expired or been terminated before the commencement of this Act, it is, by force of this sub-section, terminated.

(2) Where an existing scholarship is terminated by force of sub-section (1), then, notwithstanding anything in section 10 or in the regulations, an authorized person may approve the grant of Tertiary Education Assistance, in respect of the course of study or instruction to which the existing scholarship related, to the person who was the holder of the existing scholarship.

(3) Where Tertiary Education Assistance is, by virtue of sub-section (2), granted to a person who was the holder of an existing scholarship, but a living allowance is not payable under the regulations in respect of that person, or in respect of that person and his dependents, benefit under the Tertiary Education Assistance so granted shall, in addition to the payment of amounts in respect of fees under paragraph 11(a), include the payment of amounts in respect of other fees and the payment of amounts in respect of fares, being payments which were provided for under the benefits that were applicable to the existing scholarship.

**Existing Commonwealth Technical Scholarships.**

**13.** (1) If a Commonwealth Technical Scholarship (in this section referred to as an “existing scholarship”) granted before the commencement of this Act has not expired or been terminated before the commencement of this Act, then, subject to sub-section (2), it continues in force on the same terms and conditions that were applicable to it immediately before the commencement of this Act but, so long as the existing scholarship continues in force, the holder of the scholarship is not entitled to be granted Tertiary Education Assistance under section 10.

(2) Where, within a period of thirty days after the commencement of this Act or within such further period as an authorized person allows, the holder of an existing scholarship who is, for the purposes of the scholarship, a full-time student applies in writing to an authorized person for the grant of Tertiary Education Assistance under this Act in lieu of the existing scholarship, the authorized person to whom the application is made may terminate the existing scholarship and, notwithstanding anything in section 10 or in the regulations, approve the grant of Tertiary Education Assistance to that person in respect of the course of study or instruction to which the existing scholarship related.

Part IV—Post-graduate Awards

**Grant of Postgraduate Awards.**

**14.** An authorized person may, subject to and in accordance with the regulations, approve the grant of a Post-graduate Award to a person who is an Australian citizen or a permanent resident of Australia and is undertaking, or proposes to undertake, as a full-time student at a university or at an advanced education institution, a post-graduate course of study, instruction or research approved by the Minister for the purposes of this section.

**15.** Benefit under a Post-graduate Award granted to a person shall consist of—

(a) the payment, in relation to the cost of the course undertaken by the person, of such amounts as are payable in accordance with the regulations;

(b) the payment of a living allowance in respect of the person, or in respect of the person and his dependants, at such rate as is determined in accordance with the regulations;

(c) the payment of an allowance, to be known as an incidentals allowance, at such rate as is prescribed for the purpose of this paragraph in relation to the class of holders of Post-graduate Awards in which the person is included; and

(d) the payment of such other allowances, if any, as are payable in accordance with the regulations.

**16.** (1) If a Commonwealth Post-graduate Award (in this section referred to as an “existing award”) granted before the commencement of this Act has not expired or been terminated before the commencement of this Act, it is, by force of this sub-section, terminated.

(2) Where an existing award is terminated by force of sub-section (1), then, notwithstanding anything in section 14 or in the regulations, an authorized person may approve the grant of a Post-graduate Award, in respect of the course of study, instruction or research to which the existing award related, to the person who was the holder of the existing award.

Part V—Review of Decisions

Division 1—Preliminary

**Interpretation.**

**17.** (1) In this Part, unless the contrary intention appears—

“Chairman”, in relation to a Tribunal, means the Chairman of the Tribunal;

“member”, in relation to a Tribunal, includes the Chairman of the Tribunal;

“Tribunal” means a Student Assistance Review Tribunal.

(2) In this Part, unless the contrary intention appears, a reference to a decision of an authorized person shall be read as including—

(a) a reference to any approval, direction or determination of an authorized person;

(b) a reference to any variation or revocation by an authorized person of any such approval, direction or determination; and

(c) a reference to any refusal or failure of an authorized person to give any approval or direction, or make any determination, under this Act or the regulations.

(3) A reference in this Part to a party to proceedings before a Tribunal in relation to a decision of an authorized person shall be read as a reference to—

(a) the person who requested the review by a Tribunal of the decision; and

(b) the authorized person.

(4) For the purposes of this Part, a decision of an authorized person shall, if the authorized person dies or otherwise ceases to be an authorized person, be deemed to be a decision of such other authorized person as the Minister directs.

Division 2—Student Assistance Review Tribunals

**Establishment Review of Tribunals.**

**18.** (1) The Minister may establish one or more Student Assistance Review Tribunals for the purposes of this Act.

(2) A Tribunal shall consist of a Chairman and two other members.

(3) The Chairman and each other member of a Tribunal shall be appointed in writing by the Minister.

(4) A member of a Tribunal holds office until the expiration of such period, not exceeding three years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

**Allowances.**

**19.** A member of a Tribunal shall be paid such fees and allowances, if any, as are payable to him in accordance with the regulations.

**Termination of appointment**

**20.** The Minister may terminate the appointment of a member of a Tribunal for inefficiency, misbehavior or physical or mental incapacity.

**Resignation.**

**21.**  A member of a Tribunal may resign his office by writing under his hand addressed to the Minister, but the resignation does not have effect until it is accepted by the Minister.

Division 3—Requests for Reconsideration or Review of Decisions

**Request for reconsideration of decision.**

**22.** (1) Where a person who is an applicant for student assistance to which this Act applies, or a person to whom student assistance to which this Act applies has been granted, is dissatisfied with a decision of an authorized person relating to the application or to the student assistance

(including any decision with respect to benefit under the student assistance or with respect to any suspension or revocation of the student assistance), he may, by notice in writing given to the authorized person not later than thirty days after the date of the decision or the date on which the decision first comes to his notice (whichever is the later date), or within such further period as the authorized person allows, request the authorized person to reconsider the decision.

(2) There shall be set out in the request the grounds on which the request is made.

(3) Upon receipt of the request, the authorized person shall reconsider the decision and either confirm or vary it.

(4) The authorized person shall, by notice in writing to the person who made the request, inform the person of the result of the reconsideration of the decision, and give reasons for the decision reached on the reconsideration.

**Request for review by Tribunal.**

**23.** (1) If—

(a) upon receipt of a notice under section 22 informing him of the result of the reconsideration of a decision of an authorized person, the person who made the request under that section for the reconsideration of the decision is not satisfied with the result of the reconsideration; or

(b) within ninety days after making a request under section 22 for the reconsideration of a decision of an authorized person, the person who made the request has not received notice of the result of the reconsideration of the decision,

the person who made the request may, by notice in writing given to the authorized person within a period of thirty days after receiving the notice or the expiration of that period of ninety days, as the case may be, request him to refer the decision to a Tribunal for review.

(2) There shall be set out in the request under this section the grounds on which it is made.

**Records, &c., to be forwarded to Tribunal.**

**24.** Upon receipt by an authorized person of a request under section 23 for the review by a Tribunal of a decision of the authorized person, he shall forward the request to the Chairman of the Tribunal, together with all the records and other papers relevant to the decision and its reconsideration by the authorized person.

Division 4—Proceedings before the Tribunal

**Review of decisions.**

**25.** Where the Chairman of a Tribunal receives from an authorized person a request for a review of a decision of the authorized person by the Tribunal, the Chairman of the Tribunal shall arrange for the decision to be reviewed by the Tribunal.

**Powers of Tribunal with respect to decision under review.**

**26.** (1) A Review Tribunal that reviews a decision of an authorized person shall, after due consideration of the matter, give a decision in writing—

(a) affirming the decision;

(b) varying the decision; or

(c) setting aside the decision and making a decision in substitution for the decision so set aside.

(2) The Tribunal shall give reasons in writing for its decision and its reasons shall include its findings on material questions of fact.

(3) A decision of an authorized person as varied by a Tribunal, or a decision made by a Tribunal in substitution for a decision of an authorized person, shall, for the purposes of this Act, other than this Part, be deemed to be a decision of the authorized person, and shall, unless the Tribunal otherwise directs, have effect, or be deemed to have had effect, on and from the date on which the decision under review had effect.

**Procedure of Tribunal to be informal, &c.**

**27.** (1) In the exercise of its powers and functions in relation to the review by a Tribunal of a decision referred to it—

(a) the procedure of the Tribunal is, subject to this Act and to the regulations, within the discretion of the Tribunal;

(b) the proceedings shall be conducted with as little formality and technicality and with as much expedition as the requirements of this Act and the regulations, and a proper consideration of the matters and questions before the Tribunal, permit; and

(c) the Tribunal is not bound by rules of evidence.

(2) A party to proceedings before a Tribunal may, whether or not he is present or represented, make submissions to the Tribunal in writing.

(3) A copy of any submission so made shall be furnished to the other party to the proceedings.

(4) A question arising in proceedings before a Tribunal shall be determined in accordance with the opinion of the majority of the members of the Tribunal.

**Representation before Tribunal.**

**28.** A party to proceedings before the Tribunal may, if the Tribunal thinks fit, be represented by another person not being a legal practitioner.

**Proceedings to be in public except in special circumstances.**

**29.** (1) Subject to sub-section (2), proceedings before the Tribunal shall be in public.

(2) The Tribunal may, if it is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter, or for any other reason, direct that proceedings or a part of any proceedings before the Tribunal shall take place in private and may give directions as to the persons who may be present during the whole or any part of the proceedings.

**Protection of members of Tribunal, representatives and witnesses.**

**30.** (1) A member of a Tribunal has, in the performance of the duties of his office, the same protection and immunity as a Justice of the High Court.

(2) A person appearing before a Tribunal on behalf of a person has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3) Subject to this Act, a person appearing before a Tribunal as a witness has the same protection, and is, in addition to any penalties provided by the regulations, subject to the same liabilities, as a witness in proceedings in the High Court.

Part VI—Miscellaneous

**Advances on account of benefit.**

**31.** An authorized person may authorize the payment of an advance on account of any benefit that may become payable under student assistance to which this Act applies.

**Payment of benefits.**

**32.**(1) Any benefit payable under student assistance to which this Act applies shall be paid out of moneys appropriated by the Parliament for the purpose, and shall be paid at such time or times, and in such manner and to such persons, or to a person included in such class of persons, as the Minister determines.

(2) In sub-section (1), benefit includes an advance on account of benefit the payment of which is authorized under section 31.

**Suspension and termination of student assistance.**

**33.**  The regulations may make provision for and in relation to the suspension and termination of student assistance to which this Act applies.

**Approvals, directions and determinations.**

**34**. (1) An approval, direction or determination of an authorized person under this Act may be varied or revoked by the authorized person or by another authorized person.

(2) The Minister shall make such arrangements as he thinks proper for the giving of public notice of the giving or making under this Act of any approval, direction or determination or of any variation or revocation of such an approval, direction or determination.

**Annual report.**

**35.** (1) The Minister shall, as soon as practicable after the end of each year, prepare a report on the operation of this Act during the year (being a report that includes a statement with respect to student assistance granted under this Act during the year), and cause a copy of the report to be laid before each House of the Parliament.

(2) In sub-section (1), “year” means—

(a) the period commencing on the date on which this Act comes into operation and ending on 31 December 1974;

(a) the year commencing on 1 January 1975; and

(b) each succeeding year.

**Regulations.**

**36.** 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 for and in relation to the furnishing of information by applicants for student assistance under this Act and by persons to whom student assistance to which this Act applies has been granted;

(b) making provision for and in relation to the practice and procedure of Student Assistance Review Tribunals, including provision for and in relation to the giving of evidence before, and the production of documents and articles to, a Tribunal, and the summoning of persons to appear before a Tribunal to give evidence and to produce documents and articles; and

(c) prescribing penalties, by way of fines not exceeding $100 for offences against the regulations.

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