



Social Security and Other Legislation Amendment (Income Support for Students) Act 2010

No. 17, 2010

**An Act to amend the law relating to social security,
veterans' affairs and higher education, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Social Security Act 1991

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Social Security and Other Legislation Amendment (Income Support for Students) Act 2010

No. 17, 2010 *ii*



Social Security and Other Legislation Amendment (Income Support for Students) Act 2010

No. 17, 2010

**An Act to amend the law relating to social security,
veterans' affairs and higher education, and for
related purposes**

[Assented to 24 March 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Other Legislation
Amendment (Income Support for Students) Act 2010*.

Social Security and Other Legislation Amendment (Income Support for Students) Act 2010

No. 17, 2010 1

2 Commencement

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

| Commencement information | | |
|---|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 24 March 2010 |
| 2. Schedule 1, items 1 and 1A | 1 April 2010. | 1 April 2010 |
| 3. Schedule 1, items 2 to 3A | 1 July 2010. | 1 July 2010 |
| 4. Schedule 1, Part 1, Division 2 | 1 April 2010. | 1 April 2010 |
| 5. Schedule 1, Part 2, Divisions 1 and 2 | 1 July 2010. | 1 July 2010 |
| 6. Schedule 1, Part 2, Divisions 3 and 4 | 1 July 2012. | 1 July 2012 |
| 7. Schedule 2, Part 1 | 1 April 2010. | 1 April 2010 |
| 8. Schedule 2, items 5 to 16 | 1 April 2010. | 1 April 2010 |
| 9. Schedule 2, item 17 | Immediately after the commencement of the provision(s) covered by table item 2. | 1 April 2010 |
| 10. Schedule 2, items 18 to 34 | 1 April 2010. | 1 April 2010 |
| 11. Schedule 3 | Immediately after the commencement of Schedule 1 to the <i>Social Security Amendment (Training Incentives) Act 2009</i> . | 1 July 2009 |
| 12. Schedule 4 | The day after this Act receives the Royal | 25 March 2010 |

2 *Social Security and Other Legislation Amendment (Income Support for Students) Act*
2010 *No. 17, 2010*

| Commencement information | | |
|---------------------------------|---------------------|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| | Assent. | |

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

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

4 Review of impact of student income arrangements

- (1) The Minister must cause a comprehensive review to be undertaken of the impact of the student income arrangements implemented by this Act on equity, with a particular focus on the impact on rural and regional students.
- (2) The review must:
- (a) start not later than 30 June 2012; and
 - (b) be completed within 3 months.
- (3) The Minister must cause a written report about the review to be prepared.
- (4) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Schedule 1—Youth allowance

Part 1—Independence criteria

Division 1—Main amendments

Social Security Act 1991

1 Subsection 1067A(4)

Repeal the subsection, substitute:

Person at least a certain age

- (4) For the purposes of Part 2.11, this Part and section 1070G, a person is independent at a time in a period specified in an item of the table if at the time the person is at least the age specified in the item:

| Age when person becomes independent | | |
|-------------------------------------|--|----------|
| Item | Period | Age |
| 1 | The period starting at the start of 1 April 2010 and ending at the end of 31 December 2010 | 24 years |
| 2 | The year 2011 | 23 years |
| 3 | A year after 2011 | 22 years |

- (4A) For the purposes of Parts 3.4A, 3.4B and 3.7, except section 1070G, a person is independent if the person is at least 25 years old.

1A Application of amendment affecting independence age

Subsection 1067A(4) of the *Social Security Act 1991* as amended by item 1 applies for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 April 2010.

2 Paragraph 1067A(10)(a)

Omit “at least 30 hours per week”, substitute “on average 30 hours per week”.

⁴ *Social Security and Other Legislation Amendment (Income Support for Students) Act 2010 No. 17, 2010*

3 After subsection 1067A(10)

Insert:

- (10A) Paragraphs (10)(b) and (c) do not apply for the purposes of determining whether a person is to be regarded as independent for the purposes of Part 2.11, this Part or section 1070G, unless subsection (10B), (10C) or (10E) applies to the person.
- (10B) This subsection applies to a person if, before 1 July 2010, the person was:
- (a) receiving youth allowance; and
 - (b) regarded as independent because of paragraph (10)(b) or (c).
- (10C) This subsection applies to a person if the Secretary is satisfied that:
- (a) in 2008 the person completed a course of education determined under section 5D of the *Student Assistance Act 1973* to be a secondary course for the purposes of that Act; and
 - (b) disregarding subparagraph 541B(1)(a)(iii), the person did not undertake full-time study in 2009; and
 - (c) throughout 2009 the person intended to start undertaking full-time study in 2010 because of his or her intended enrolment at a higher education institution in a course of education; and
 - (d) on a day (the **higher education start day**) in the period starting on 1 January 2010 and ending at the end of 31 December 2010 the person starts undertaking full-time study because of his or her enrolment at a higher education institution in a course of education determined under section 592N to be an approved scholarship course; and
 - (e) if the person would not be taken by section 1067D to be required to live away from home on the higher education start day, assuming he or she were not independent then—the person's combined parental income (as defined in point 1067G-F10 of the Youth Allowance Rate Calculator in section 1067G) for the tax year described in subsection (10D) is less than \$150,000; and
 - (f) disregarding subsection (10A) of this section, the person is independent because of paragraph (10)(b) or (c) of this section before 1 January 2011.

Note: For **undertaking full-time study** see section 541B.

Schedule 1 Youth allowance
Part 1 Independence criteria

- (10D) For the purposes of paragraph (10C)(e), the tax year is:
- (a) the tax year ending on 30 June 2009; or
 - (b) the tax year ending on 30 June 2010 if:
 - (i) the person requests, in writing in accordance with a form approved by the Secretary, the Secretary to determine that paragraph (10C)(e) apply to the person's combined parental income for that tax year and the Secretary does so; or
 - (ii) under point 1067G-F6 of the Youth Allowance Rate Calculator in section 1067G that tax year would be the appropriate tax year for the purpose of applying Module F of that Rate Calculator to the person in respect of a youth allowance payment period including the higher education start day (assuming youth allowance is or may be payable to the person).
- (10E) This subsection applies to a person if:
- (a) the person's family home is in a location categorised under the Remoteness Structure as Outer Regional Australia, Remote Australia or Very Remote Australia; and
 - (b) the person is required to live away from home (see section 1067D); and
 - (c) the person is undertaking full-time study (see section 541B); and
 - (d) the person's combined parental income (as defined in point 1067G-F10 of the Youth Allowance Rate Calculator in section 1067G) for the appropriate tax year (see Submodule 3 of Module F of that Calculator) is less than \$150,000.
- (10F) For the purposes of paragraph (10E)(a), **Remoteness Structure** means the Remoteness Structure described in:
- (a) the document entitled "Statistical Geography Volume 1 Australian Standard Geographical Classification (ASGC) July 2006", published by the Australian Statistician, that was effective 1 July 2006; or
 - (b) a document specified in a determination under subsection (10G) to be a replacement document.
- (10G) The Secretary may, by written determination, specify a document for the purposes of paragraph (10F)(b). The document must be one published by the Australian Statistician.
-

(10H) A determination under subsection (10G) is not a legislative instrument.

3A Application of amendments about workforce participation

- (1) Subsections 1067A(10), (10A), (10B), (10C) and (10D) of the *Social Security Act 1991* as amended by items 2 and 3 apply for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 July 2010.
- (2) Subsections 1067A(10E) and (10F) of the *Social Security Act 1991* as amended by item 3 apply for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 January 2011.

Division 2—Related amendment

Social Security Act 1991

4 Subsection 19A(2) (definition of *independent*)

Omit “, 3.4A, 3.4B, 3.5 and 3.7”, substitute “and 3.5”.

5 Application of amendment

The amendment made by this Division applies for the purposes of working out a person's eligibility for, or amount of, fares allowance for a journey on a day that is on or after 1 April 2010.

Part 2—Income tests

Division 1—Single reduction because of income tests

Social Security Act 1991

6 Point 1067G-A1 (method statement, step 8)

Omit “and take the reduction away from the maximum payment rate: the result is the *parental income test reduced rate*”.

7 Point 1067G-A1 (method statement, step 9)

Repeal the step.

8 Point 1067G-A1 (method statement, step 10)

Omit “and take the reduction away from the maximum payment rate: the result is the *actual means test reduced rate*”.

9 Point 1067G-A1 (method statement, step 11)

Repeal the step.

10 Point 1067G-A1 (method statement, step 13)

Repeal the step, substitute:

Step 13. Take away from the maximum payment rate the greatest of the following that apply:

- (a) the person’s reduction for parental income;
- (b) the person’s reduction for actual means;
- (c) the person’s income reduction.

(If a reduction described in paragraph (a) or (b) applies, and is not less than any other reduction that applies, take away from the maximum payment rate the first-mentioned reduction.) The result is the *provisional fortnightly payment rate*. If that rate is nil because of the

taking away of a reduction described in paragraph (a) or (b) then youth allowance is not payable to the person.

Note: If a person's maximum payment rate is reduced under this step, section 1210 sets the order in which the components of that rate are to be reduced.

11 Application of amendments

The amendments made by this Division apply for the purposes of working out the rate of youth allowance payable to a person for a day that is on or after 1 July 2010.

Division 2—Parental income test and family actual means test

Social Security Act 1991

12 Paragraph 1067G-F3(c)

Repeal the paragraph, substitute:

(c) is receiving a payment under the ABSTUDY Scheme; or

13 Points 1067G-F22, 1067G-F23, 1067G-F24 and 1067G-F25

Repeal the points, substitute:

Parental income free area

1067G-F22 For the purposes of this Module, a person's *parental income free area* for a time in a calendar year is an amount equal to the income free area under clause 38N of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999*, as affected by indexation under Schedule 4 to that Act, on 1 January in the calendar year.

Note: The parental income free area is not indexed under this Act because it is affected by indexation under the *A New Tax System (Family Assistance) Act 1999*.

14 Points 1067G-F26, 1067G-F27 and 1067G-F28

Repeal the points, substitute:

Schedule 1 Youth allowance

Part 2 Income tests

Having parental income in common

1067G-F26 For the purposes of this Submodule, 2 or more persons have parental income in common if:

- (a) the parental income test applies to each of them; and
- (b) a parent of one of the persons is also a parent of each of the other persons.

Note: Point 1067G-F30 affects whether a person to whom the parental income test applies has parental income in common with someone qualified for a payment under the ABSTUDY Scheme or for a payment under the Assistance for Isolated Children Scheme.

Person who does not have parental income in common with anyone else

1067G-F27 Work out a person's reduction for parental income using the following formula and point 1067G-F29 if:

- (a) the person does not have parental income in common with anyone else; and
- (b) the person's combined parental income (see Submodule 4) for the appropriate tax year exceeds the person's parental income free area (see Submodule 5):

The excess

130

Note: Dividing by 130 is equivalent to dividing by 26 (for 26 fortnights in a year) and dividing again by 5 (so that the reduction for parental income is only 20 cents for each dollar of the excess).

Person who has parental income in common with someone else

1067G-F28 Work out a person's reduction for parental income using the following formula and point 1067G-F29 if:

- (a) the person has parental income in common with one or more other persons; and
- (b) the person's combined parental income (see Submodule 4) for the appropriate tax year exceeds the person's parental income free area (see Submodule 5):

$$\frac{\text{The excess}}{130} \times \frac{\text{Person's maximum payment rate under Module A}}{\text{Total of maximum payment rate of each person who has parental income in common}}$$

Note: Dividing by 130 is equivalent to dividing by 26 (for 26 fortnights in a year) and dividing again by 5.

Rounding the reduction for parental income

1067G-F29 If the result of the formula in whichever of points 1067G-F27 and 1067G-F28 applies is not a multiple of 10 cents, round the result to the nearest 10 cents (rounding a multiple of 5 cents upwards).

Extension to recipients under ABSTUDY or Assistance for Isolated Children Scheme

1067G-F30 This Submodule applies in relation to a person in respect of whom a payment is made under the ABSTUDY Scheme or the Assistance for Isolated Children Scheme and to whom a parental income test under that scheme applies as if:

- (a) the parental income test under this Module applied to the person; and
- (b) the total of the amounts described in the following table as relevant to the person were the maximum payment rate for the person for the purposes of this Submodule.

Amounts included in total treated as maximum payment rate

| Item | If this allowance is being paid in respect of the person | This amount is relevant to the person |
|-------------|---|--|
| 1 | Living allowance under the ABSTUDY Scheme | The person's maximum payment rate of the living allowance |
| 2 | Group 2 school fees allowance under the ABSTUDY Scheme | $\frac{1}{26}$ of the school fees allowance amount subject to income testing |
| 3 | Additional boarding allowance under the Assistance for Isolated Children Scheme | $\frac{1}{26}$ of the maximum rate of the additional boarding allowance |

Note: This Submodule does not (of its own force) affect the amount payable to the person under the ABSTUDY Scheme or the Assistance for Isolated Children Scheme.

15 Point 1067G-G15

Repeal the point, substitute:

Schedule 1 Youth allowance

Part 2 Income tests

Having parental income in common

1067G-G15 For the purposes of this Submodule, 2 or more persons have parental income in common if:

- (a) the parental income test applies to each of them; and
- (b) a parent of one of the persons is also a parent of each of the other persons.

Note: Point 1067G-G19 affects whether a person to whom the parental income test applies has parental income in common with someone qualified for a payment under the ABSTUDY Scheme or for a payment under the Assistance for Isolated Children Scheme.

Person who does not have parental income in common with anyone else

1067G-G16 Work out a person's reduction for family actual means using the following formula and point 1067G-G18 if:

- (a) the person does not have parental income in common with anyone else; and
- (b) the actual means of the person's family (see Submodule 4) for the appropriate tax year exceeds the person's family actual means free area (see Submodule 5):

The excess

130

Note: Dividing by 130 is equivalent to dividing by 26 (for 26 fortnights in a year) and dividing again by 5 (so that the reduction for family actual means is only 20 cents for each dollar of the excess).

Person who has parental income in common with someone else

1067G-G17 Work out a person's reduction for family actual means using the following formula and point 1067G-G18 if:

- (a) the person has parental income in common with one or more other persons; and
- (b) the actual means of the person's family (see Submodule 4) for the appropriate tax year exceeds the person's family actual means free area (see Submodule 5):

$$\frac{\text{The excess}}{130} \times \frac{\text{Person's maximum payment rate under Module A}}{\text{Total of maximum payment rate of each person who has parental income in common}}$$

Note: Dividing by 130 is equivalent to dividing by 26 (for 26 fortnights in a year) and dividing again by 5.

Rounding the reduction for family actual means

1067G-G18 If the result of the formula in whichever of points 1067G-16 and 1067G-G17 applies is not a multiple of 10 cents, round the result to the nearest 10 cents (rounding a multiple of 5 cents upwards).

Extension to recipients under ABSTUDY or Assistance for Isolated Children Scheme

1067G-G19 This Submodule applies in relation to a person in respect of whom a payment is made under the ABSTUDY Scheme or the Assistance for Isolated Children Scheme and to whom a parental income test under that scheme applies as if:

- (a) the parental income test under this Module applied to the person; and
- (b) the total of the amounts described in the following table as relevant to the person were the maximum payment rate for the person for the purposes of this Submodule.

Amounts included in total treated as maximum payment rate

| Item | If this allowance is being paid in respect of the person | This amount is relevant to the person |
|-------------|---|--|
| 1 | Living allowance under the ABSTUDY Scheme | The person's maximum payment rate of the living allowance |
| 2 | Group 2 school fees allowance under the ABSTUDY Scheme | $\frac{1}{26}$ of the school fees allowance amount subject to income testing |
| 3 | Additional boarding allowance under the Assistance for Isolated Children Scheme | $\frac{1}{26}$ of the maximum rate of the additional boarding allowance |

Note: This Submodule does not (of its own force) affect the amount payable to the person under the ABSTUDY Scheme or the Assistance for Isolated Children Scheme.

16 Section 1190 (table item 41)

Repeal the item.

17 Subsection 1191(1) (table item 30)

Repeal the item.

18 Application of amendments

The amendments made by this Division apply for the purposes of working out the rate of youth allowance payable to a person for a day that is on or after 1 July 2010.

Division 3—Income test for youth allowance and austudy payment

Social Security Act 1991

19 Paragraphs 1067G-H29(a) and (aa)

Omit “\$236”, substitute “\$400”.

20 Point 1067L-D28

Omit “\$236”, substitute “\$400”.

21 Section 1190 (after table item 20)

Insert:

| | | | |
|-------|---|--|---|
| 20AA. | Ordinary income free area for youth allowance and austudy payment | YA and austudy ordinary income free area | [Youth Allowance Rate Calculator—paragraphs 1067G-H29(a) and (aa)] [Austudy Payment Rate Calculator—point 1067L-D28] |
|-------|---|--|---|

YA and austudy range reduction boundary

| | | | |
|-------|---|---|--|
| 20AB. | Dollar amount of boundary between lower and upper range reduction for ordinary income reduction | YA and austudy range reduction boundary | [Youth Allowance Rate Calculator—paragraphs 1067G-H32(a) and (b) and 1067G-H33(a) and (b)] [Austudy Payment Rate Calculator—points 1067L-D31 and 1067L-D32] |
|-------|---|---|--|

22 Subsection 1191(1) (after table item 14)

Insert:

| | | | | | |
|-------|-------------------------|-----------|------|-----------------------------|--------|
| 14AA. | YA and austudy ordinary | 1 January | June | highest June quarter before | \$1.00 |
|-------|-------------------------|-----------|------|-----------------------------|--------|

| | income free area | | | reference quarter (but not earlier than June quarter 2011) | |
|-------|--|-----------|------|--|--------|
| | YA and austudy range reduction boundary | | | | |
| 14AB. | YA and austudy range reduction boundary | 1 January | June | highest June quarter before reference quarter (but not earlier than June quarter 2011) | \$1.00 |

23 After subsection 1192(4)

Insert:

(4AA) The first indexation of the amounts to which items 14AA and 14AB of the CPI Indexation Table in subsection 1191(1) relate is to take place on 1 January 2013.

24 Application of amendments

The amendments of points 1067G-H29 and 1067L-D28 of the *Social Security Act 1991* made by this Division apply for the purposes of working out the rate of youth allowance or austudy payment payable to a person for a day that is on or after 1 July 2012.

Division 4—Student income bank

Social Security Act 1991

25 Point 1067G-J3 (method statement, step 3, paragraph (a))

Omit “\$6,000”, substitute “\$10,000”.

Schedule 1 Youth allowance

Part 2 Income tests

26 Points 1067G-J4 and 1067G-J5

Omit “\$236” (wherever occurring), substitute “the ordinary income free area (see paragraph 1067G-H29(a) or (aa))”.

27 Point 1067L-E2 (method statement, step 3, paragraph (a))

Omit “\$6,000”, substitute “\$10,000”.

28 Points 1067L-E3 and 1067L-E4

Omit “\$236” (wherever occurring), substitute “the ordinary income free area (see point 1067L-D28)”.

29 Section 1190 (after table item 20A)

Insert:

| | Student income bank balance limit | | |
|-----|--|---|--|
| 21. | Student income bank balance limit | student income bank balance limit | [Youth Allowance Rate Calculator—point 1067G-J3— method statement—step 3— paragraph (a)] [Austudy Payment Rate Calculator—point 1067L-E2— method statement—step 3— paragraph (a)] |

30 Subsection 1191(1) (after table item 14A)

Insert:

| | | | | | |
|-----|---|-----------|------|--|----------|
| 15. | student income bank balance limit | 1 January | June | highest June quarter before reference quarter (but not earlier than June quarter 2011) | \$100.00 |
|-----|---|-----------|------|--|----------|

31 Subsection 1192(4A)

Repeal the subsection, substitute:

- (4A) The first indexation of the amounts to which item 15 of the CPI Indexation Table in subsection 1191(1) relates is to take place on 1 January 2013.

32 Application of amendments

The amendments of points 1067G-J3, 1067G-J4, 1067G-J5, 1067L-E2, 1067L-E3 and 1067L-E4 of the *Social Security Act 1991* made by this Division apply for the purposes of working out the rate of youth allowance or austudy payment payable to a person for a day that is on or after 1 July 2012.

Schedule 2—Scholarship payments for students

Part 1—Main amendments

Social Security Act 1991

1 Paragraph 8(8)(zja)

Omit “provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003*;”.

2 Subsection 23(1)

Insert:

Commonwealth Accommodation Scholarship means a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003*.

3 Subsection 23(1)

Insert:

Commonwealth Education Costs Scholarship means a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003*.

4 After Part 2.11A of Chapter 2

Insert:

Part 2.11B—Scholarship payments for students

Division 1—Student start-up scholarship payment

592F Qualification for student start-up scholarship payment

Receiving youth allowance

- (1) A person is qualified for a student start-up scholarship payment at a time (the **qualification time**) if:
 - (a) at the qualification time, the person is qualified for youth allowance and youth allowance is payable to the person; and
 - (b) at the qualification time, the person is receiving youth allowance and would be receiving youth allowance if steps 2 and 3 of the method statement in point 1067G-A1 of the Youth Allowance Rate Calculator were disregarded for the purposes of working out the person's rate of that allowance; and
 - (c) the person is receiving youth allowance because the person is undertaking full-time study in an approved scholarship course; and
 - (d) the Secretary is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and
 - (e) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after the qualification time.

Note: For **approved scholarship course**, see section 592M.

Receiving austudy payment

- (2) A person is qualified for a student start-up scholarship payment at a time (the **qualification time**) if:
 - (a) at the qualification time, the person is qualified for austudy payment and austudy payment is payable to the person; and
 - (b) at the qualification time, the person is receiving austudy payment and would be receiving austudy payment if steps 2 and 2A of the method statement in point 1067L-A1 of the

Austudy Payment Rate Calculator were disregarded for the purposes of working out the person's rate of that payment; and

- (c) the person is receiving austudy payment because the person is undertaking an approved scholarship course; and
- (d) the Secretary is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and
- (e) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after the qualification time.

Note: For *approved scholarship course*, see section 592M.

592G Circumstances in which person is not qualified for student start-up scholarship payment

Previous qualification for, or receipt of, same or similar payment

- (1) Despite section 592F, a person is not qualified for a student start-up scholarship payment if 1 or more of the circumstances listed in subsection (2) apply to the person in the period of 6 months (or shorter period determined under subsection (3)) ending immediately before the person's qualification time.
- (2) The circumstances are:
 - (a) the person has qualified for a student start-up scholarship payment; or
 - (b) the person has qualified for a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment; or
 - (c) the person has qualified for a payment known as a student start-up scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act; or
 - (d) the person has qualified for 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; or
 - (e) the person has received the amount or value of a Commonwealth Education Costs Scholarship; or

- (f) the person was entitled to the amount or value of a Commonwealth Education Costs Scholarship but has not received the full entitlement only because the scholarship was suspended.

Secretary may determine period of less than 6 months

- (3) For the purposes of subsection (1), the Secretary may determine a period in relation to a person that is at least 2 months but less than 6 months if the Secretary considers that the determination would enable the person to qualify for a student start-up scholarship payment on or near the day on which the approved scholarship course concerned started or starts.
- (4) However, the Secretary must not make a determination under subsection (3) if the effect of the determination would be to enable the person to receive more than 2 student start-up scholarship payments in a calendar year.

592H Amount of student start-up scholarship payment

Payment for which person is qualified in 2010

- (1) The amount of a student start-up scholarship payment for which a person is qualified in 2010 is \$650.

Payment for which person is qualified in 2011 or later

- (2) The amount of a student start-up scholarship payment for which a person is qualified on or after 1 January 2011 is \$1,064.

Note: The amount of a student start-up scholarship payment for which a person is qualified on or after 1 January 2011 is indexed annually in line with CPI increases (see sections 1190 to 1194).

Division 2—Relocation scholarship payment

592J Qualification for relocation scholarship payment

A person is qualified for a relocation scholarship payment at a time (the *qualification time*) if:

- (a) at the qualification time, the person is qualified for youth allowance and youth allowance is payable to the person; and

- (b) at the qualification time, the person is receiving youth allowance and would be receiving youth allowance if steps 2 and 3 of the method statement in point 1067G-A1 of the Youth Allowance Rate Calculator were disregarded for the purposes of working out the person's rate of that allowance; and
- (c) the person:
 - (i) is independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11); or
 - (ii) is not independent (see section 1067A) but is required to live away from home (see section 1067D); and
- (d) the person is receiving youth allowance because the person is undertaking full-time study in an approved scholarship course; and
- (e) the Secretary is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and
- (f) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Accommodation Scholarship in the period of 12 months starting immediately after the qualification time.

Note: For *approved scholarship course*, see section 592M.

592K Circumstances in which person is not qualified for relocation scholarship payment

Previous qualification for, or receipt of, same or similar payment

- (1) Despite section 592J, a person is not qualified for a relocation scholarship payment if 1 or more of the circumstances listed in subsection (2) apply to the person in the period of 12 months (or shorter period determined under subsection (3)) ending immediately before the person's qualification time.
- (2) The circumstances are:
 - (a) the person has qualified for a relocation scholarship payment; or
 - (b) the person has qualified for a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship payment; or

- (c) the person has qualified for a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act; or
 - (d) the person has qualified for a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act; or
 - (e) the person has received the amount or value of a Commonwealth Accommodation Scholarship; or
 - (f) the person was entitled to the amount or value of a Commonwealth Accommodation Scholarship but has not received the full entitlement only because the scholarship was suspended.
- (3) For the purposes of subsection (1), the Secretary may determine a period in relation to a person that is at least 3 months but less than 12 months if the Secretary considers that the determination would enable the person to qualify for a relocation scholarship payment on or near 1 January in a year.
- (4) However, the Secretary must not make a determination under subsection (3) if the effect of the determination would be to enable the person to receive more than 2 relocation scholarship payments in a period of 2 successive calendar years.

Independent but did not receive same or similar payment

- (5) Despite section 592J, a person is not qualified for a relocation scholarship payment if:
- (a) at the person's qualification time, the person has attained the age at which the person is independent (see subsection 1067A(4)); and
 - (b) before the qualification time, the person has not received any of the following:
 - (i) a relocation scholarship payment;
 - (ii) a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship;
 - (iii) a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act;

- (iv) a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act;
- (v) the amount or value of a Commonwealth Accommodation Scholarship.

592L Amount of relocation scholarship payment

Initial payment

- (1) The amount of a relocation scholarship payment to a person is \$4,000, unless subsection (2) or (3) applies to the person.

Note: The amount of a relocation scholarship payment is indexed annually in line with CPI increases (see sections 1190 to 1194).

Previously undertaken approved scholarship course and independent or required to live away from home

- (2) The amount of a relocation scholarship payment to a person is \$1,000 if:
- (a) in the calendar year before the calendar year in which the person's qualification time falls, the person undertook a course that, had the person undertaken it at the qualification time, would have been an approved scholarship course at that time; and
 - (b) either of the following applied to the person at a time that was more than 6 months before the person's qualification time:
 - (i) the person was independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11);
 - (ii) the person was not independent (see section 1067A) but was required to live away from home (see section 1067D).

Note: The amount of a relocation scholarship payment is indexed annually in line with CPI increases (see sections 1190 to 1194).

Subsequent payment

- (3) The amount of a relocation scholarship payment to a person is \$1,000 if the person has received any of the following before the period described in subsection 592K(1):
- (a) a relocation scholarship payment;
-

- (b) a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship payment;
- (c) a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act;
- (d) a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act;
- (e) the amount or value of a Commonwealth Accommodation Scholarship.

Note: The amount of a relocation scholarship payment is indexed annually in line with CPI increases (see sections 1190 to 1194).

Division 3—Approved scholarship course

592M Definition

In this Part:

approved scholarship course means:

- (a) a course of study or instruction approved by the Minister under a determination made for the purposes of section 592N; or
- (b) if no determination is in force—a course determined to be a tertiary course under section 5D of the *Student Assistance Act 1973* for the purposes of that Act.

592N Approved scholarship course

- (1) The Minister may, by legislative instrument, determine that a course of study or instruction is an *approved scholarship course* for the purposes of this Part.
- (2) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, a determination made for the purposes of subsection (1) may make provision for, or in relation to, a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.

4A Transitional rule for student scholarship start-up payment

- (1) Subsection 592G(1) of the *Social Security Act 1991* does not prevent a person from being qualified exactly twice in 2010 for a student start-up scholarship payment if:
 - (a) the person undertakes full-time study in an approved scholarship course on 1 April 2010; and
 - (b) the person becomes qualified for youth allowance on or after 1 July 2010 but before 29 July 2010; and
 - (c) when the person becomes qualified for youth allowance, the person is not independent (see section 1067A of that Act).
- (2) To avoid doubt, subitem (1) does not allow a person to qualify more than twice in 2010 for a student start-up scholarship payment.

4B Transitional rule for relocation scholarship payment

- (1) This item applies if:
 - (a) a person qualifies for a relocation scholarship payment on or after 1 July 2010 but before 29 July 2010 because the person is not independent (see section 1067A of the *Social Security Act 1991*) but is required to live away from home (see section 1067D of that Act); and
 - (b) the person undertakes full-time study in an approved scholarship course on 1 April 2010; and
 - (c) the earliest time at which the person was required to live away from home (see section 1067D of that Act) in connection with the course was not more than 6 months before the person started full-time study in the course in 2010.
- (2) Subsection 592L(2) of the *Social Security Act 1991* does not apply to affect the amount of the first relocation scholarship payment to the person.

Note: The amount of that relocation scholarship payment to the person will therefore be \$4,000 (under subsection 592L(1) of the *Social Security Act 1991*) unless subsection 592L(3) of that Act applies.

Part 2—Related amendments

Higher Education Support Act 2003

5 At the end of subsection 46-20(2)

Add:

- ; (m) information that providers are to give the Minister or the Chief Executive Officer, or an *employee, of *Centrelink;
- (n) information that providers are to give to:
 - (i) the Repatriation Commission; or
 - (ii) the Military Rehabilitation and Compensation Commission; or
 - (iii) the Secretary, or an employee, of the Department administered by the Minister who administers the *Veterans' Entitlements Act 1986*; or
 - (iv) the Secretary, or an employee, of the Department administered by the Minister who administers the *Military Rehabilitation and Compensation Act 2004*.

6 Subclause 1(1) of Schedule 1

Insert:

Centrelink means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

7 Subclause 1(1) of Schedule 1

Insert:

employee of Centrelink means an employee within the meaning of the *Commonwealth Services Delivery Agency Act 1997*.

8 Subclause 1(1) of Schedule 1

Military Rehabilitation and Compensation Commission means the Military Rehabilitation and Compensation Commission established by section 361 of the *Military Rehabilitation and Compensation Act 2004*.

9 Subclause 1(1) of Schedule 1

Insert:

Repatriation Commission means the body corporate continued in existence by section 179 of the *Veterans' Entitlements Act 1986*.

Military Rehabilitation and Compensation Act 2004

10 After paragraph 258(3)(a)

Insert:

- (aa) the payment of scholarships for eligible young persons who are being provided with education or training under the scheme;

Social Security Act 1991

11 Subsection 5(1) (definition of *independent*)

After "2.11," insert "2.11B".

12 After subparagraph 8(8)(y)(vii)

Insert:

- (viiia) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 117 of the *Veterans' Entitlements Act*; or
- (viiab) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 258 of the *Military Rehabilitation and Compensation Act*; or

13 After paragraph 8(8)(zjc)

Insert:

- (zjd) a payment of a scholarship to a person during a calendar year (other than an excluded payment):
- (i) for the person to study, or to undertake research, at an educational institution; or
- (ii) for the person's achievement in studying, or in undertaking research, at an educational institution;

to the extent that the payment does not exceed the person's threshold amount for that year;

Note: For *excluded payment* see subsection (8AA). For *educational institution* see subsection 23(1). For *threshold amount* see subsection (8AB).

14 After subsection 8(8)

Insert:

(8AA) For the purposes of paragraph (8)(zjd), each of the following is an *excluded payment*:

- (a) a payment of a scholarship referred to in paragraph (8)(zia), (zj) or (zja);
- (b) a scholarship payment under Part 2.11B;
- (c) a scholarship payment under the ABSTUDY Scheme;
- (d) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 117 of the Veterans' Entitlements Act;
- (e) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act.

(8AB) For the purposes of paragraph (8)(zjd), a person's *threshold amount*, for a calendar year, means \$6,762 less the amount of any payment made to that person during that year that is not income for the purposes of this Act because of that paragraph.

Note: The dollar amount mentioned in this subsection is indexed annually in line with CPI increases (see sections 1190 to 1194).

Example: On 15 April 2010 a person is paid a scholarship of \$3,000 to study at an educational institution. The threshold amount is \$6,762 (as no other payment has been excluded under paragraph (8)(zjd) for 2010). The \$3,000 is not income under that paragraph and the threshold amount is reduced to \$3,762.

On 1 May 2010 the person is paid a scholarship of \$5,000 to study at an educational institution. Of the \$5,000, \$3,762 is not income under that paragraph. The threshold amount is reduced to zero.

There can be no further payments excluded under that paragraph for that person for 2010.

15 Subsection 1067(1) (note to the definition of *independent*)

After "2.11," insert "2.11B,".

Schedule 2 Scholarship payments for students
Part 2 Related amendments

16 Subsection 1067A(1)

After “2.11,”, insert “2.11B,”.

17 Subsection 1067A(4)

Omit “Part 2.11”, substitute “Parts 2.11 and 2.11B”.

18 Subsections 1067B(1) and 1067D(1)

After “for the purposes of”, insert “Part 2.11B and”.

19 Section 1190 (at the end of the table)

Add:

| | Amounts related to scholarships | | | |
|-----|---|---|--|----------------------------------|
| 67. | threshold amount | scholarship threshold amount | | subsection 8(8AB) |
| 68. | student start-up scholarship payment amount | student start-up scholarship payment amount | | subsection 592H(2) |
| 69. | relocation scholarship payment amount | relocation scholarship payment amount | | subsections 592L(1), (2) and (3) |

20 Subsection 1191(1) (at the end of the table)

Add:

| | Amounts related to scholarships | | | | |
|-----|---|-----------|------|--|--------|
| 39. | scholarship threshold amount | 1 January | June | highest June quarter before reference quarter (but not earlier than June quarter 2009) | \$1.00 |
| 40. | student start-up scholarship payment amount | 1 January | June | highest June quarter before reference quarter (but not earlier than June quarter 2009) | \$1.00 |
| 41. | relocation | 1 January | June | highest June | \$1.00 |

| | |
|----------------------------------|---|
| scholarship payment amount | quarter before reference quarter (but not earlier than June quarter 2009) |
|----------------------------------|---|

21 At the end of section 1192

Add:

- (8) The first indexation of the amounts to which items 39, 40 and 41 of the CPI Indexation Table in subsection 1191(1) relate is to take place on 1 January 2011.

22 Subsection 1222(2) (after table item 4C)

Insert:

| | | | |
|----|-----------------------|--------------------------|-------------|
| 4D | 1223ABE | deductions | 1231, 1234A |
| | (debts in respect of | legal proceedings | 1232 |
| | scholarship payments) | garnishee notice | 1233 |
| | | repayment by instalments | 1234 |

23 After section 1223ABD

Insert:

1223ABE Debts in respect of scholarship payments

Person does not start to undertake course

- (1) If a person:
- (a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is proposing to undertake an approved scholarship course; and
 - (b) the person does not start to undertake the course;
- then:
- (c) the amount of the payment is a debt due to the Commonwealth; and
 - (d) the debt is taken to have arisen when the person receives the payment.

However, this subsection does not apply if, in the Secretary's opinion, the person does not start to undertake the course because of exceptional circumstances beyond the person's control.

Schedule 2 Scholarship payments for students
Part 2 Related amendments

Note: For *approved scholarship course*, see section 592M.

Person not continuing to undertake course

- (2) If a person:
- (a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is proposing to undertake an approved scholarship course; and
 - (b) the person starts to undertake the course; and
 - (c) the person is not undertaking the course at the end of 35 days after the course commences;

then:

- (d) the amount of the payment is a debt due to the Commonwealth; and
- (e) the debt is taken to have arisen when the person receives the payment.

Note: For *approved scholarship course*, see section 592M.

- (3) If a person:
- (a) has received a student start-up scholarship payment or a relocation scholarship payment because the person is undertaking an approved scholarship course; and
 - (b) is not undertaking the course at the end of 35 days after qualifying for the payment;

then:

- (c) the amount of the payment is a debt due to the Commonwealth; and
- (d) the debt is taken to have arisen when the person receives the payment.

Note: For *approved scholarship course*, see section 592M.

- (4) Subsections (2) and (3) do not apply if, in the Secretary's opinion, the person is not undertaking the course as mentioned in those subsections because of exceptional circumstances beyond the person's control.

Social Security (Administration) Act 1999

24 After section 12G

Insert:

12H Student start-up scholarship payment and relocation scholarship payment

A claim is not required for a student start-up scholarship payment or a relocation scholarship payment.

25 Subsection 47(1) (after paragraph (b) of the definition of lump sum benefit)

Insert:

- (ba) student start-up scholarship payment; or
- (bb) relocation scholarship payment; or

26 Subsection 47(4)

After “and (4)”, insert “, section 47DA”.

27 After section 47C

Insert:

47DA Student start-up scholarship payments and relocation scholarship payments

If:

- (a) a person is qualified for a student start-up scholarship payment, or a relocation scholarship payment, on a particular day because the person is receiving youth allowance; and
 - (b) the whole or a part of the person’s instalment of youth allowance in respect of a period that included that day is paid to a parent of the person under section 45 of this Act;
- the Secretary may pay the whole, or the same proportion, of the person’s scholarship payment to that parent or to any other person.

28 After Subdivision DB of Division 5 of Part 3B

Insert:

Subdivision DC—Student start-up scholarship payments and relocation scholarship payments

123XPF Deductions from student start-up scholarship payments

Scope

- (1) This section applies if:
 - (a) a person is subject to the income management regime; and
 - (b) a student start-up scholarship payment is payable to the person.

Deductions from payment

- (2) The following provisions have effect:
 - (a) the Secretary must deduct from the student start-up scholarship payment the deductible portion of the payment;
 - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
 - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the *deductible portion* of a student start-up scholarship payment is 100% of the amount of the payment.

123XPG Deductions from relocation scholarship payments

Scope

- (1) This section applies if:
 - (a) a person is subject to the income management regime; and
 - (b) a relocation scholarship payment is payable to the person.

Deductions from payment

- (2) The following provisions have effect:
 - (a) the Secretary must deduct from the relocation scholarship payment the deductible portion of the payment;
 - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
-

- (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the *deductible portion* of a relocation scholarship payment is 100% of the amount of the payment.

29 At the end of paragraph 195(2)(i)

Add:

- (xviii) the amount or value of a Commonwealth Education Costs Scholarship, or of a Commonwealth Accommodation Scholarship, received by the person;

30 Subsection 202(1)

Repeal the subsection, substitute:

- (1) A person may obtain protected information if the information is obtained for the purposes of:
 - (a) the social security law; or
 - (b) the *Farm Household Support Act 1992*; or
 - (c) the *Dental Benefits Act 2008*; or
 - (d) the Family Homelessness Prevention and Early Intervention Pilot; or
 - (e) administering Commonwealth scholarships payable under Part 2-4 of the *Higher Education Support Act 2003*.

31 After paragraph 202(2)(da)

Insert:

- (db) for the purposes of the administration of Commonwealth scholarships payable under Part 2-4 of the *Higher Education Support Act 2003*; or

Veterans' Entitlements Act 1986

32 After paragraph 5H(8)(f)

Insert:

- (fa) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the Veterans' Children Education Scheme;

33 After paragraph 5H(8)(hd)

Insert:

(he) a payment of a scholarship, to the extent that the payment is not income for the purposes of the *Social Security Act 1991* because of paragraph 8(8)(zjd) of that Act;

34 Application

The amendments made by items 13 and 33 apply in relation to payments made on or after the commencement of those items.

Schedule 3—Training supplement for parenting payment

Social Security Act 1991

1 Paragraph 503B(1)(b)

Repeal the paragraph, substitute:

(b) is subject to participation requirements; and

2 At the end of subsection 503B(1)

Add:

Note: For when a person is *subject to participation requirements*, see subsection 23(1).

Schedule 4—Higher education assistance for rural and regional students

Social Security Act 1991

1 After Chapter 2B

Insert:

Chapter 2BA—Higher education assistance for rural and regional students

Part 2BA.1—Higher education assistance for rural and regional students

1061ZZFW Scheme for higher education assistance for rural and regional students

- (1) The Minister must, by legislative instrument, determine a scheme for paying \$20 million, in the period starting on 1 January 2011 and ending at the end of 30 June 2013, for assistance for the undertaking of higher education by people under 25 years old who both:
 - (a) have their main place of residence in a rural or regional area; and
 - (b) would experience financial hardship in undertaking higher education without the assistance.
- (2) Without limiting the generality of subsection (1), the scheme may deal with the following:
 - (a) the form of the assistance;
 - (b) the circumstances in which payment is to be made, or assistance is to be provided, to particular persons;
 - (c) the amounts of payments to, or assistance for, particular persons;

- (d) which persons qualify for payments or assistance;
 - (e) administrative matters, such as determination of entitlement and how and when payments will be made or assistance will be provided.
- (3) The Minister may, by legislative instrument, vary the scheme, but not so as to reduce the total of payments to less than \$20 million or delay the day by which that amount is to be paid.

*[Minister's second reading speech made in—
House of Representatives on 25 November 2009
Senate on 30 November 2009]*

(256/09)

*Social Security and Other Legislation Amendment (Income Support for Students) Act 2010
No. 17, 2010 39*