

2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Social Services and Other Legislation Amendment Bill 2013

No. , 2013

(Social Services)

**A Bill for an Act to amend the law relating to
family assistance, social security, student assistance,
veterans' entitlements, paid parental leave, child
support, gambling and the National Disability
Insurance Scheme, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **family assistance, social security, student assistance,**
3 **veterans’ entitlements, paid parental leave, child**
4 **support, gambling and the National Disability**
5 **Insurance Scheme, and for related purposes**

6 The Parliament of Australia enacts:

7 **1 Short title**

8 This Act may be cited as the *Social Services and Other Legislation*
9 *Amendment Act 2013*.

10 **2 Commencement**

11 (1) Each provision of this Act specified in column 1 of the table
12 commences, or is taken to have commenced, in accordance with

1
2
3

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 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	
3. Schedules 3, 4 and 5	1 January 2014.	1 January 2014
4. Schedule 6	Immediately after the commencement of Schedule 5 to this Act.	1 January 2014
5. Schedules 7, 8 and 9	1 March 2014.	1 March 2014
6. Schedule 10	1 July 2014.	1 July 2014
7. Schedule 11	1 January 2015.	1 January 2015
8. Schedule 12, Parts 1 to 4	The day after this Act receives the Royal Assent.	
9. Schedule 12, Part 5	The seventh day after this Act receives the Royal Assent.	
10. Schedule 12, Part 6	Immediately after the commencement of Parts 1 and 2 of Schedule 2A to the <i>Family Assistance and Other Legislation Amendment Act 2013</i> .	1 March 2014

4
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6

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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8
9

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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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.

1 **Schedule 1—Encouraging responsible**
2 **gambling**

3 **Part 1—Amendments**

4 *National Gambling Reform Act 2012*

5 **1 Title**

6 Repeal the title, substitute:

7 **An Act in relation to measures to encourage**
8 **responsible gambling, and for related purposes**

9 **2 Chapter 1 (heading)**

10 Repeal the heading.

11 **3 Section 1**

12 Omit “*National Gambling Reform*”, substitute “*Gambling Measures*”.

13 **4 Section 2 (note)**

14 Repeal the note.

15 **5 Section 3**

16 Repeal the section.

17 **6 Section 4**

18 Repeal the section, substitute:

19 **4 Object of this Act**

20 The object of this Act is to recognise the Commonwealth’s
21 commitment to the development and implementation of measures
22 to encourage responsible gambling by all gamblers, including
23 voluntary pre-commitment on gaming machines in venues
24 nationally.

25 **7 Section 5**

26 Repeal the section, substitute:

1 **5 Definitions**

2 In this Act:

3 *Australian Institute of Family Studies* means the Australian
4 Institute of Family Studies established by Part XIVA of the *Family*
5 *Law Act 1975*.

6 *Director of the Australian Institute of Family Studies* means the
7 Director within the meaning of section 114A of the *Family Law*
8 *Act 1975*.

9 *gaming machine* has the meaning given by section 6.

10 **8 Subsection 6(1)**

11 Omit “(1)”.

12 **9 Subsections 6(2) to (4)**

13 Repeal the subsections.

14 **10 Sections 7 to 12**

15 Repeal the sections.

16 **11 Part 2 of Chapter 1**

17 Repeal the Part.

18 **12 Chapter 2**

19 Repeal the Chapter, substitute:

20 **Part 2—Encouraging responsible gambling**
21

22 **19 Encouraging responsible gambling**

23 (1) The Commonwealth recognises the importance of meaningful
24 measures to encourage responsible gambling.

25 (2) The Commonwealth supports voluntary pre-commitment on
26 gaming machines in venues nationally.

27 (3) Voluntary pre-commitment allows a player of a gaming machine to
28 set a limit on the amount that the player is prepared to lose from

1 playing gaming machines, and helps the player keep to the limit.
2 The player chooses whether to set a limit.

3 **20 Developing and implementing voluntary pre-commitment**
4 **measure**

- 5 (1) The Commonwealth will work with Governments of the States and
6 Territories, the gaming industry, academics and the community
7 sector:
- 8 (a) to develop and implement a voluntary pre-commitment
9 scheme on gaming machines in venues nationally; and
 - 10 (b) to develop a realistic timetable for implementing this
11 measure.
- 12 (2) The Commonwealth will work with Governments of the States and
13 Territories and the gaming industry:
- 14 (a) to ensure that all gaming machines are capable of supporting
15 a venue-based voluntary pre-commitment scheme; and
 - 16 (b) to develop a realistic timetable for implementing this
17 capability.

18 **21 Administration of voluntary pre-commitment measure**

19 The Commonwealth will work with Governments of the States and
20 Territories on the most appropriate way of administering the
21 voluntary pre-commitment measure referred to in subsection 20(1).

22 **13 Chapters 3 to 8**

23 Repeal the Chapters.

24 **14 Chapter 9 (heading)**

25 Repeal the heading.

26 **15 Part 1 of Chapter 9**

27 Repeal the Part.

28 **16 Part 2 of Chapter 9 (heading)**

29 Repeal the heading, substitute:

1 **Part 3—Research and other provisions**

2 **17 Division 1 of Part 2 of Chapter 9 (heading)**

3 Repeal the heading.

4 **18 Sections 193 to 195**

5 Repeal the sections.

6 **19 Subsection 196(2)**

7 Repeal the subsection.

8 **20 Division 2 of Part 2 of Chapter 9 (heading)**

9 Repeal the heading.

10 **21 Sections 198 to 200**

11 Repeal the sections, substitute:

12 **198 Act does not create legally enforceable obligations etc.**

13 This Act (other than sections 196 and 197) does not create rights or
14 duties that are legally enforceable in judicial or other proceedings.

15 **22 Subsection 201(1)**

16 Omit “(1)”.

17 **23 Subsection 201(2)**

18 Repeal the subsection.

1 **Part 2—Repeal of Acts**

2 *National Gambling Reform (Related Matters) Act (No. 1)*
3 *2012*

4 **24 The whole of the Act**

5 Repeal the Act.

6 *National Gambling Reform (Related Matters) Act (No. 2)*
7 *2012*

8 **25 The whole of the Act**

9 Repeal the Act.

1 **Schedule 2—Continuing income management**
2 **as part of Cape York welfare reform**
3

4 *Social Security (Administration) Act 1999*

5 **1 Paragraphs 123UF(1)(g) and (2)(h)**

6 Omit “1 January 2014”, substitute “1 January 2016”.

1 **Schedule 3—Family tax benefit and eligibility**
2 **rules**
3

4 *A New Tax System (Family Assistance) Act 1999*

5 **1 Subsection 3(1) (definition of exempt from the FTB activity**
6 **test)**

7 Repeal the definition.

8 **2 Subsection 3(1) (definition of satisfies the FTB activity test)**

9 Repeal the definition.

10 **3 Section 17B**

11 Repeal the section.

12 **4 Paragraph 22(3)(e)**

13 Repeal the paragraph, substitute:

14 (e) the individual is a senior secondary school child.

15 **5 Subsection 22A(1)**

16 Omit “(1)”.

17 **6 Subsection 22A(1) (cell at table item 1, column headed**
18 **“then the individual cannot be an FTB child of the adult**
19 **if:”)**

20 Repeal the cell, substitute:

the adult is the individual’s partner, or
would be if the individual were over the
age of consent applicable in the State or
Territory in which the individual lives.

21 **7 Subsection 22A(1) (paragraph (a) of the cell at table item 2,**
22 **column headed “then the individual cannot be an FTB**
23 **child of the adult if:”)**

24 Repeal the paragraph.

8 Subsections 22A(1A) and (2)

Repeal the subsections.

9 Subparagraph 22B(1)(b)(ii)

Repeal the subparagraph, substitute:

- (ii) subsection (2) applies in relation to the individual.

10 Subsection 22B(2)

Repeal the subsection, substitute:

Exemption from full-time study requirement

(2) This subsection applies in relation to the individual if:

- (a) there is no locally accessible approved course of education or study (including any such course available by distance education); or
- (b) where there is such a course:
- (i) there is no place available on the course for the individual; or
- (ii) the individual is not qualified to undertake the course; or
- (iii) the individual lacks capacity to undertake the course because the individual has a physical, psychiatric or intellectual disability or a learning disability such as attention deficit disorder; or
- (c) in the Secretary's opinion, special circumstances exist that make it unreasonable to require the individual to undertake an approved course of education or study.

Determination of full-time study hours

(2A) For the purposes of subparagraph (1)(b)(i) or (ia), if the Secretary determines that it is appropriate to do so having regard to an individual's circumstances, the Secretary may determine that the normal amount of full-time study for the individual in respect of a course is to be a number of hours per week specified in the determination, averaged over the duration of the period for which the individual is enrolled in the course.

1 **11 Before subsection 22B(3)**

2 Insert:

3 *Continued status of senior secondary school child*

4 **12 Before subsection 22B(4)**

5 Insert:

6 *Interpretation*

7 **13 Paragraph 31(3)(a)**

8 Omit “18 and was a senior secondary school child”, substitute “16”.

9 **14 Paragraphs 31(3)(b) and (c)**

10 Repeal the paragraphs, substitute:

11 (b) if the child had not turned 16 when the child died—any day
12 on which the child would have been aged 16, and on which
13 the Secretary is satisfied the child would not have been a
14 senior secondary school child, if the child had not died.

15 **15 Subparagraphs 34(1)(a)(ii) and (iii)**

16 Repeal the subparagraphs, substitute:

17 (ii) has turned 16 and is a senior secondary school child;
18 and

19 **16 Subsection 35(1) (table item 1)**

20 Repeal the item.

21 **17 Subsection 35(1) (cell at table item 2, column headed**
22 **“then the approved care organisation is not eligible for**
23 **family tax benefit in respect of the individual if:”)**

24 Repeal the cell, substitute:

the individual, or someone on behalf of
the individual, is, at the particular time,
receiving payments under a prescribed
educational scheme.

25 **18 Subsections 35(2A) and (3)**

26 Repeal the subsections.

19 Paragraph 57GE(3)(a)

Omit “18 and was a senior secondary school child”, substitute “16”.

20 Paragraphs 57GE(3)(b) and (c)

Repeal the paragraphs, substitute:

- (b) if the child had not turned 16 when the child died—any day on which the child would have been aged 16, and on which the Secretary is satisfied the child would not have been a senior secondary school child, if the child had not died.

21 Paragraph 65(2)(a)

Omit “18 and was a senior secondary school child”, substitute “16”.

22 Paragraphs 65(2)(b) and (c)

Repeal the paragraphs, substitute:

- (b) where the child had not turned 16 when the child died—the child would have been aged 16, and the Secretary is satisfied the child would not have been a senior secondary school child, on that day if the child had not died.

23 Clause 7 of Schedule 1 (table item 2)

Omit “, but is under 16,”.

24 Clause 7 of Schedule 1 (table items 3 and 4)

Repeal the items.

25 Subclause 38AA(1) of Schedule 1 (table item 2)

Omit “, but is under 16,”.

26 Subclause 38AA(1) of Schedule 1 (table items 3 and 4)

Repeal the items.

27 Subclause 38B(3) of Schedule 1

Repeal the subclause, substitute:

- (3) A regular care child of an individual is a *rent assistance child* of the individual if the regular care child is not an absent overseas regular care child.

1 **28 Clause 2 of Schedule 4 (table item 14A)**

2 Repeal the item.

3 **29 Subclause 3(1) of Schedule 4 (table item 14A)**

4 Repeal the item.

5 **30 Subclause 3(4) of Schedule 4**

6 Repeal the subclause.

7 ***A New Tax System (Family Assistance) (Administration) Act***
8 ***1999***

9 **31 Subsection 29(2B)**

10 Omit “satisfies or is exempt from the FTB activity test”, substitute “is a
11 senior secondary school child”.

12 **32 Paragraph 32J(1)(b)**

13 Omit “(other than an FTB child, or regular care child, of the first
14 individual)”.

15 **33 Sections 32K and 32L**

16 Repeal the sections.

17 **34 Subparagraph 32P(1)(c)(ii)**

18 Omit “period; and”, substitute “period.”.

19 **35 Paragraph 32P(1)(d)**

20 Repeal the paragraph.

21 **36 Application and saving provisions**

22 (1) The amendments made by items 3 to 18 and 21 to 27 apply for the
23 purposes of working out eligibility for family tax benefit, and how
24 much family tax benefit is payable, for a day that is on or after
25 1 January 2014.

26 (2) The amendments made by items 3 to 12 and 19 and 20 apply for the
27 purposes of working out eligibility for single income family

-
- 1 supplement, and how much single income family supplement is
 2 payable, for a day that is on or after 1 January 2014.
- 3 (3) The amendments made by items 3 to 12 apply for the purposes of
 4 working out eligibility for child care benefit, and how much child care
 5 benefit is payable, in respect of care provided to a child by an approved
 6 child care service or a registered carer on or after 1 January 2014.
- 7 (4) The amendments made by items 3 to 12 apply for the purposes of
 8 working out qualification for a double orphan pension under Part 2.20
 9 of the *Social Security Act 1991* for a day that is on or after 1 January
 10 2014.
- 11 (5) Despite the amendment made by item 31, subsection 29(2B) of the *A*
 12 *New Tax System (Family Assistance) (Administration) Act 1999*, as in
 13 force immediately before the commencement of that item, continues to
 14 apply on and after that commencement in relation to a day occurring
 15 before 1 January 2014.
- 16 (6) Despite the amendments made by items 32 to 35, sections 32J, 32K,
 17 32L and 32P of the *A New Tax System (Family Assistance)*
 18 *(Administration) Act 1999*, as in force immediately before the
 19 commencement of those items, continue to apply on and after that
 20 commencement in relation to a same-rate benefit period to the extent
 21 that it occurs before 1 January 2014.

1 **Schedule 4—Period of Australian working life**
2 **residence**
3

4 ***Social Security Act 1991***

5 **1 Subpoint 1221-C1 (heading)**

6 Repeal the heading, substitute:

7 *Residence factor (period of Australian working life residence 35*
8 *years or more)*

9 **2 Subpoint 1221-C1**

10 Omit “300 months (25 years)”, substitute “420 months (35 years)”.

11 **3 Subpoint 1221-C2 (heading)**

12 Repeal the heading, substitute:

13 *Residence factor (period of Australian working life residence*
14 *under 35 years)*

15 **4 Subpoint 1221-C2**

16 Omit “300 months (25 years)”, substitute “420 months (35 years)”.

17 **5 Subpoint 1221-C2 (formula)**

18 Repeal the formula, substitute:

19
$$\frac{\text{Person's period of Australian working life residence}}{420}$$

20 **6 Application of amendments**

- 21 (1) Subject to this item, the amendments made by items 1 to 5 apply in
22 relation to periods of absence from Australia starting on or after
23 1 January 2014.

24 *Presence in Australia immediately before 1 January 2014*

- 25 (2) If:
-

- 1 (a) immediately before 1 January 2014 a person was receiving a
 2 pension referred to in section 1220A, 1220B or 1221 of the
 3 *Social Security Act 1991*; and
 4 (b) immediately before 1 January 2014 the person was in
 5 Australia but was not residing in Australia; and
 6 (c) the person leaves Australia on a day (the **departure day**) that
 7 is before the end of the period of 26 weeks beginning on
 8 1 January 2014; and
 9 (d) on the departure day the person is receiving that pension;
 10 then, subject to subitem (5), the amendments made by items 1 to 5 do
 11 not apply in relation to the person's period of absence from Australia
 12 starting on the departure day.

- 13 (3) If:
 14 (a) because of subitem (2), the amendments made by items 1 to 5
 15 did not apply in relation to the person's period of absence
 16 from Australia starting on the departure day; and
 17 (b) after the departure day the person returns to Australia; and
 18 (c) immediately before returning to Australia the person is
 19 receiving that pension; and
 20 (d) the person leaves Australia on a day (the **relevant day**) that is
 21 before the end of the period of 26 weeks beginning on the
 22 day the person returned to Australia; and
 23 (e) on the relevant day the person is receiving that pension;
 24 then, subject to subitem (5), the amendments made by items 1 to 5 do
 25 not apply in relation to the person's period of absence from Australia
 26 starting on the relevant day.

27 ***Presence outside Australia immediately before 1 January 2014***

- 28 (4) If:
 29 (a) immediately before 1 January 2014 a person was outside
 30 Australia and was receiving a pension referred to in
 31 section 1220A, 1220B or 1221 of the *Social Security Act*
 32 *1991*; and
 33 (b) on or after 1 January 2014 the person returns to Australia;
 34 and
 35 (c) immediately before returning to Australia the person is
 36 receiving that pension; and

1 (d) the person leaves Australia on a day (the *departure day*) that
2 is before the end of the period of 26 weeks beginning on the
3 day the person returned to Australia; and

4 (e) on the departure day the person is receiving that pension;
5 then, subject to subitem (5), the amendments made by items 1 to 5 do
6 not apply in relation to the person's period of absence from Australia
7 starting on the departure day.

8 ***General rule***

9 (5) If none of subitems (2) to (4) have the effect that the amendments made
10 by items 1 to 5 do not apply in relation to a person's period of absence
11 from Australia starting on or after 1 January 2014, then, despite
12 subitems (2) to (4), the amendments made by items 1 to 5 apply in
13 relation to any other period of absence from Australia of the person
14 starting on or after that day.

15 ***Social Security (International Agreements) Act 1999***

16 **7 Section 16**

17 Omit "to 22", substitute "and 21".

18 **8 Sections 18, 19, 20 and 22**

19 Repeal the sections.

20 **9 Section 23 (heading)**

21 Repeal the heading, substitute:

22 **23 Residence factor: Australian working life residence of 35 years or**
23 **more**

24 **10 Section 23**

25 Omit "300 months (25 years)", substitute "420 months (35 years)".

26 **11 Section 24 (heading)**

27 Repeal the heading, substitute:

1 **24 Residence factor: Australian working life residence of less than**
2 **35 years**

3 **12 Section 24**

4 Omit “300 months (25 years)”, substitute “420 months (35 years)”.

5 **13 Section 24 (formula)**

6 Repeal the formula, substitute:

Person’s period of Australian working life residence
420

7
8 **14 Application of amendments**

9 *Periods of absence from Australia*

10 (1) Subject to this item, the amendments made by items 7 to 13 apply in
11 relation to periods of absence from Australia starting on or after
12 1 January 2014.

13 (2) If:

14 (a) immediately before 1 January 2014 a person was receiving a
15 social security payment under a scheduled international
16 social security agreement; and

17 (b) immediately before 1 January 2014 the person was in
18 Australia but was not residing in Australia; and

19 (c) the person leaves Australia on a day (the *departure day*) that
20 is before the end of the period of 26 weeks beginning on
21 1 January 2014; and

22 (d) on the departure day the person is receiving that payment;
23 then, subject to subitems (5) and (6), the amendments made by items 7
24 to 13 do not apply in relation to the person’s period of absence from
25 Australia starting on the departure day.

26 (3) If:

27 (a) because of subitem (2), the amendments made by items 7 to
28 13 did not apply in relation to the person’s period of absence
29 from Australia starting on the departure day; and

30 (b) after the departure day the person returns to Australia; and

- 1 (c) immediately before returning to Australia the person is
2 receiving that payment; and
3 (d) the person leaves Australia on a day (the **relevant day**) that is
4 before the end of the period of 26 weeks beginning on the
5 day the person returned to Australia; and
6 (e) on the relevant day the person is receiving that payment;
7 then, subject to subitems (5) and (6), the amendments made by items 7
8 to 13 do not apply in relation to the person's period of absence from
9 Australia starting on the relevant day.

10 (4) If:

- 11 (a) immediately before 1 January 2014 a person was outside
12 Australia and was receiving a social security payment under a
13 scheduled international social security agreement at a rate
14 worked out under Part 3 of the *Social Security (International
15 Agreements) Act 1999*; and
16 (b) on or after 1 January 2014 the person returns to Australia;
17 and
18 (c) immediately before returning to Australia the person is
19 receiving that payment at that rate; and
20 (d) the person leaves Australia on a day (the **departure day**) that
21 is before the end of the period of 26 weeks beginning on the
22 day the person returned to Australia; and
23 (e) on the departure day the person is receiving that payment
24 (regardless of how the rate of that payment is being worked
25 out);

26 then, subject to subitems (5) and (6), the amendments made by items 7
27 to 13 do not apply in relation to the person's period of absence from
28 Australia starting on the departure day.

- 29 (5) If none of subitems (2) to (4) have the effect that the amendments made
30 by items 7 to 13 do not apply in relation to a person's period of absence
31 from Australia starting on or after 1 January 2014, then, despite
32 subitems (2) to (4), the amendments made by items 7 to 13 apply in
33 relation to any other period of absence from Australia of the person
34 starting on or after that day.

35 *Existing recipients of wife pension or carer payment*

36 (6) If:

- 1 (a) immediately before 1 January 2014 a person was receiving a
2 wife pension or a carer payment under a scheduled
3 international social security agreement; and
4 (b) immediately before 1 January 2014 the person's period of
5 Australian working life residence exceeded the period of
6 Australian working life residence of:
7 (i) if the person was receiving a wife pension—the
8 person's partner; or
9 (ii) if the person was receiving a carer payment—the person
10 for whom the person was providing care;

11 then the amendments made by items 7 and 8 apply in relation to
12 working out the rate of that wife pension or carer payment on or after
13 1 January 2014.

14 *New recipients of social security payments*

15 (7) If:

- 16 (a) a person is outside Australia on or after 1 January 2014
17 (regardless of when the absence began); and
18 (b) the person's start day, in relation to a social security payment
19 under a scheduled international social security agreement, is
20 on or after 1 January 2014;

21 then the amendments made by items 7 to 13 apply in relation to
22 working out the rate of that payment.

1 **Schedule 5—Interest charge**

2 **Part 1—Amendments**

3 *Social Security Act 1991*

4 **1 Subsection 1222(2) (after table item 17)**

5 Insert:

17A	1229G (interest charge)	deductions legal proceedings garnishee notice repayment by instalments	1231, 1234A 1232 1233 1234
-----	----------------------------	---	-------------------------------------

6 **2 After subsection 1228B(2)**

7 Insert:

8 (2A) To avoid doubt, the amount added by way of penalty is part of the
9 debt.

10 **3 Subsection 1228B(5)**

11 Omit “or 1229AB”, substitute “, 1229AB or 1229G”.

12 **4 After paragraph 1229(1)(e)**

13 Insert:

14 (ea) if, because of section 1229D, sections 1229E and 1229F
15 apply in relation to the person and the debt—the effect of
16 sections 1229E and 1229F; and

17 **5 At the end of section 1229**

18 Add:

19 (5) Subsections (3) and (4) do not apply in relation to a person and a
20 debt if, because of section 1229D, sections 1229E and 1229F apply
21 in relation to the person and the debt.

22 **6 After section 1229C**

23 Insert:

1 **1229D Interest charge payable under section 1229E or 1229F on**
2 **certain social security debts**

- 3 (1) Sections 1229E and 1229F apply in relation to a person and a debt
4 if:
- 5 (a) the debt is a debt owed by the person to the Commonwealth
6 under the social security law and the debt has not been
7 wholly paid; and
 - 8 (b) the debt relates to a payment of any of the following social
9 security payments:
 - 10 (i) youth allowance;
 - 11 (ii) austudy payment;
 - 12 (iii) fares allowance;
 - 13 (iv) a social security payment prescribed in an instrument
14 under subsection (2); and
 - 15 (c) for a payment of a youth allowance:
 - 16 (i) qualification for the youth allowance was under
17 section 540 in circumstances where paragraph 541(1)(a)
18 (about full-time study) applied; or
 - 19 (ii) qualification for the youth allowance was under
20 section 540AA (about new apprentices); or
 - 21 (iii) qualification for the youth allowance was in
22 circumstances prescribed in an instrument under
23 subsection (3).

24 *Legislative instruments*

- 25 (2) The Minister may, by legislative instrument, prescribe a social
26 security payment for the purposes of subparagraph (1)(b)(iv).
- 27 (3) The Minister may, by legislative instrument, prescribe
28 circumstances for the purposes of subparagraph (1)(c)(iii).

29 **1229E No repayment arrangement in effect**

- 30 (1) If:
- 31 (a) because of section 1229D, this section applies in relation to a
32 person and a debt; and
 - 33 (b) a notice is given to the person under subsection 1229(1) in
34 relation to the debt; and
-

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- 1 (c) an amount (the *unpaid amount*) of the debt remains unpaid
2 at the end of the day (the *due day*) on which the debt is due to
3 be paid; and
4 (d) at the end of the due day, there is no arrangement in effect
5 under section 1234 in relation to the debt;
6 then the person is liable to pay, by way of penalty, interest charge,
7 worked out under subsection (7), for each day in the period
8 described in subsection (6).
- 9 (2) However, subsection (1) does not apply in relation to the person in
10 the circumstances prescribed in an instrument under subsection (3).
- 11 (3) The Minister may, by legislative instrument, prescribe
12 circumstances for the purposes of subsection (2).
- 13 (4) If, because of subsection (2), subsection (1) does not apply in
14 relation to the person, then:
15 (a) at a later time, the Secretary may give the person a notice
16 specifying:
17 (i) the day on which it was issued; and
18 (ii) the outstanding amount of the debt at that day; and
19 (iii) the day on which the outstanding amount is due and
20 payable; and
21 (iv) the contact details for inquiries concerning the debt; and
22 (b) the outstanding amount of the debt is due and payable on the
23 28th day after the day on which the notice was issued.
- 24 (5) If:
25 (a) a notice is given to the person under paragraph (4)(a) in
26 relation to the debt; and
27 (b) an amount (the *unpaid amount*) of the debt remains unpaid
28 at the end of the day (the *due day*) on which the debt is due to
29 be paid; and
30 (c) at the end of the due day, there is no arrangement in effect
31 under section 1234 in relation to the debt;
32 then the person is liable to pay, by way of penalty, interest charge,
33 worked out under subsection (7), for each day in the period
34 described in subsection (6).

1 *Calculation of interest charge*

- 2 (6) For the purposes of subsection (1) or (5), the period starts at the
3 beginning of the day after the due day and ends at the end of the
4 earlier of the following days:
5 (a) the last day at the end of which any of the following remains
6 unpaid:
7 (i) the unpaid amount;
8 (ii) interest charge on any of the unpaid amount;
9 (b) the day before the first day, after the due day, on which the
10 person makes a payment under an arrangement under
11 section 1234 in relation to the debt.
- 12 (7) The interest charge for a day in the period described in
13 subsection (6) is worked out by multiplying the interest charge rate
14 for that day by the sum of so much of the following amounts as
15 remains unpaid:
16 (a) the unpaid amount;
17 (b) the interest charge from previous days.

18 Note 1: For *interest charge rate* see section 1229H.

19 Note 2: The interest charge for a day is due and payable to the Commonwealth
20 at the end of that day and is a debt due to the Commonwealth: see
21 section 1229G.

22 **1229F Failure to comply with or termination of repayment**
23 **arrangement**

- 24 (1) If:
25 (a) because of section 1229D, this section applies in relation to a
26 person and a debt; and
27 (b) an arrangement is in effect under section 1234 in relation to
28 the debt; and
29 (c) the person fails to make a payment under the arrangement;
30 then the person is liable to pay, by way of penalty, interest charge,
31 worked out under subsection (3), for each day in the period
32 described in subsection (2).
- 33 (2) The period starts at the beginning of the day after the day (the *due*
34 *day*) on which the payment was required to be made under the
35 arrangement and ends at the end of the earliest of the following
36 days:

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- 1 (a) the last day at the end of which any of the following remains
2 unpaid:
3 (i) the outstanding amount of the debt;
4 (ii) interest charge on any of the outstanding amount of the
5 debt;
6 (b) the day before the first day, after the due day, on which the
7 person has paid all the payments that have so far become due
8 and payable under the arrangement;
9 (c) the day before the day the arrangement is terminated under
10 section 1234.

- 11 (3) The interest charge for a day in the period described in
12 subsection (2) is worked out by multiplying the interest charge rate
13 for that day by the sum of so much of the following amounts as
14 remains unpaid:
15 (a) the outstanding amount of the debt;
16 (b) the interest charge from previous days.

17 Note 1: For *interest charge rate* see section 1229H.

18 Note 2: The interest charge for a day is due and payable to the Commonwealth
19 at the end of that day and is a debt due to the Commonwealth: see
20 section 1229G.

21 *Repayment arrangement is terminated*

- 22 (4) If:
23 (a) because of section 1229D, this section applies in relation to a
24 person and a debt; and
25 (b) an arrangement is in effect under section 1234 in relation to
26 the debt; and
27 (c) the arrangement is then terminated under section 1234 on a
28 day (the *termination day*);
29 then:
30 (d) the following amounts (if any) are due and payable on the
31 14th day after the termination day:
32 (i) the outstanding amount of the debt;
33 (ii) interest charge on any of the outstanding amount of the
34 debt; and
35 (e) if, at the end of that 14th day, any of those amounts remains
36 unpaid, the person is liable to pay, by way of penalty, interest

- 1 charge, worked out under subsection (6), for each day in the
2 period described in subsection (5).
- 3 (5) The period starts at the beginning of the day after that 14th day and
4 ends at the end of the earlier of the following days:
- 5 (a) the last day at the end of which any of the following remains
6 unpaid:
- 7 (i) the outstanding amount of the debt;
- 8 (ii) interest charge on any of the outstanding amount of the
9 debt;
- 10 (b) the day before the first day, after that 14th day, on which the
11 person makes a payment under another arrangement under
12 section 1234 in relation to the debt.
- 13 (6) The interest charge for a day in the period described in
14 subsection (5) is worked out by multiplying the interest charge rate
15 for that day by the sum of so much of the following amounts as
16 remains unpaid:
- 17 (a) the outstanding amount of the debt;
- 18 (b) the interest charge from previous days.
- 19 Note 1: For *interest charge rate* see section 1229H.
- 20 Note 2: The interest charge for a day is due and payable to the Commonwealth
21 at the end of that day and is a debt due to the Commonwealth: see
22 section 1229G.

23 **1229G Other rules for interest charge**

24 *When interest charge is due and payable*

- 25 (1) The interest charge under section 1229E or 1229F for a day is due
26 and payable to the Commonwealth at the end of that day.

27 *Interest charge is a debt*

- 28 (2) The interest charge under section 1229E or 1229F for a day is a
29 debt due to the Commonwealth by the person.

30 *Provisions that do not apply to interest charge debt*

- 31 (3) Subsection 1229(1) and paragraph 1229D(1)(b) do not apply in
32 relation to the debt referred to in subsection (2) of this section.

1 **1229H What is the *interest charge rate*?**

- 2 (1) For the purposes of sections 1229E and 1229F, the ***interest charge***
3 ***rate*** for a day is the rate worked out by adding 7 percentage points
4 to the base interest rate for that day, and dividing that total by the
5 number of days in the calendar year.
- 6 (2) The ***base interest rate*** for a day depends on which quarter of the
7 year the day is in. For each day in a quarter in column 1 of the
8 table, it is the monthly average yield of 90-day Bank Accepted
9 Bills published by the Reserve Bank of Australia for the month in
10 column 2 of the table.

11

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

- 12 (3) If the monthly average yield of 90-day Bank Accepted Bills for a
13 particular month in column 2 of the table in subsection (2) is not
14 published by the Reserve Bank of Australia before the beginning of
15 the relevant quarter, assume that it is the same as the last monthly
16 average yield of 90-day Bank Accepted Bills published by the
17 Reserve Bank of Australia before that month.
- 18 (4) The base interest rate must be rounded to the second decimal place
19 (rounding .005 upwards).

20 **7 After subsection 1234(1)**

21 Insert:

- 22 (1A) If a person is required to make a payment under an arrangement
23 entered into under subsection (1) before the end of a particular day,
24 the person must make that payment before the end of that day.

1 ***Student Assistance Act 1973***

2 **8 Section 38 (heading)**

3 Repeal the heading, substitute:

4 **38 Definitions**

5 **9 Section 38**

6 Insert:

7 ***ABSTUDY debt*** means an amount paid under the ABSTUDY
8 Scheme (also known as the Aboriginal Study Assistance Scheme)
9 that should not have been paid.

10 Note: The amount is a debt under paragraph (a) of the definition of ***debt*** in
11 this section.

12 **10 Section 38 (paragraph (c) of the definition of *debt*)**

13 After “section 40”, insert “or 41F”.

14 **11 After section 41**

15 Insert:

16 **41A Sections 40 and 41 do not apply to ABSTUDY debts**

17 Sections 40 and 41 do not apply in relation to a person and an
18 ABSTUDY debt owed by the person to the Commonwealth.

19 **41B Notice in respect of ABSTUDY debt**

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

- 23 (a) the date on which it was issued (the ***date of the notice***); and
24 (b) the reason the debt was incurred, including a brief
25 explanation of the circumstances that led to the debt being
26 incurred; and
27 (c) the period to which the debt relates; and
28 (d) the outstanding amount of the debt at the date of the notice;
29 and

- 1 (e) the day on which the outstanding amount is due and payable;
2 and
3 (f) the effect of sections 41D and 41E; and
4 (g) that a range of options is available for repayment of the debt;
5 and
6 (h) the contact details for inquiries concerning the debt.
- 7 (2) The outstanding amount of the debt is due and payable on the 28th
8 day after the date of the notice.

9 **41C Interest charge payable on ABSTUDY debts**

10 Sections 41D and 41E apply in relation to a person and a debt if the
11 debt is an ABSTUDY debt owed by the person to the
12 Commonwealth and the debt has not been wholly paid.

13 **41D No repayment arrangement in effect**

- 14 (1) If:
15 (a) because of section 41C, this section applies in relation to a
16 person and a debt; and
17 (b) a notice is given to the person under subsection 41B(1) in
18 relation to the debt; and
19 (c) an amount (the *unpaid amount*) of the debt remains unpaid
20 at the end of the day (the *due day*) on which the debt is due to
21 be paid; and
22 (d) at the end of the due day, there is no arrangement in effect
23 under section 41H in relation to the debt;
24 then the person is liable to pay, by way of penalty, interest charge,
25 worked out under subsection (7), for each day in the period
26 described in subsection (6).
- 27 (2) However, subsection (1) does not apply in relation to the person in
28 the circumstances prescribed in an instrument under subsection (3).
- 29 (3) The Minister may, by legislative instrument, prescribe
30 circumstances for the purposes of subsection (2).
- 31 (4) If, because of subsection (2), subsection (1) does not apply in
32 relation to the person, then:

- 1 (a) at a later time, the Secretary may give the person a notice
2 specifying:
3 (i) the day on which it was issued; and
4 (ii) the outstanding amount of the debt at that day; and
5 (iii) the day on which the outstanding amount is due and
6 payable; and
7 (iv) the contact details for inquiries concerning the debt; and
8 (b) the outstanding amount of the debt is due and payable on the
9 28th day after the day on which the notice was issued.

10 (5) If:

- 11 (a) a notice is given to the person under paragraph (4)(a) in
12 relation to the debt; and
13 (b) an amount (the *unpaid amount*) of the debt remains unpaid
14 at the end of the day (the *due day*) on which the debt is due to
15 be paid; and
16 (c) at the end of the due day, there is no arrangement in effect
17 under section 41H in relation to the debt;
18 then the person is liable to pay, by way of penalty, interest charge,
19 worked out under subsection (7), for each day in the period
20 described in subsection (6).

21 *Calculation of interest charge*

- 22 (6) For the purposes of subsection (1) or (5), the period starts at the
23 beginning of the day after the due day and ends at the end of the
24 earlier of the following days:
25 (a) the last day at the end of which any of the following remains
26 unpaid:
27 (i) the unpaid amount;
28 (ii) interest charge on any of the unpaid amount;
29 (b) the day before the first day, after the due day, on which the
30 person makes a payment in accordance with an arrangement
31 under section 41H in relation to the debt.
- 32 (7) The interest charge for a day in the period described in
33 subsection (6) is worked out by multiplying the interest charge rate
34 for that day by the sum of so much of the following amounts as
35 remains unpaid:
36 (a) the unpaid amount;

1 (b) the interest charge from previous days.

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

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

5 **41E Failure to comply with or termination of repayment**
6 **arrangement**

7 (1) If:

8 (a) because of section 41C, this section applies in relation to a
9 person and a debt; and

10 (b) an arrangement is in effect under section 41H in relation to
11 the debt; and

12 (c) the person fails to make a payment under the arrangement;
13 then the person is liable to pay, by way of penalty, interest charge,
14 worked out under subsection (3), for each day in the period
15 described in subsection (2).

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

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

22 (i) the outstanding amount of the debt;

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

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

28 (c) the day before the day the arrangement is terminated under
29 section 41H.

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

34 (a) the outstanding amount of the debt;

35 (b) the interest charge from previous days.

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

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

3 *Repayment arrangement is terminated*

4 (4) If:

5 (a) because of section 41C, this section applies in relation to a
6 person and a debt; and

7 (b) an arrangement is in effect under section 41H in relation to
8 the debt; and

9 (c) the arrangement is then terminated under section 41H on a
10 day (the *termination day*);

11 then:

12 (d) the following amounts (if any) are due and payable on the
13 14th day after the termination day:

14 (i) the outstanding amount of the debt;

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

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

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

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

25 (i) the outstanding amount of the debt;

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

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

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

35 (a) the outstanding amount of the debt;

36 (b) the interest charge from previous days.

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Part 1 Amendments

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

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

4 **41F When interest charge becomes due and payable**

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

7 Note: The interest charge for a day is a debt owed to the Commonwealth:
8 see section 39.

9 **41G What is the *interest charge rate*?**

10 (1) For the purposes of sections 41D and 41E, the *interest charge rate*
11 for a day is the rate worked out by adding 7 percentage points to
12 the base interest rate for that day, and dividing that total by the
13 number of days in the calendar year.

14 (2) The *base interest rate* for a day depends on which quarter of the
15 year the day is in. For each day in a quarter in column 1 of the
16 table, it is the monthly average yield of 90-day Bank Accepted
17 Bills published by the Reserve Bank of Australia for the month in
18 column 2 of the table.

19

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

20 (3) If the monthly average yield of 90-day Bank Accepted Bills for a
21 particular month in column 2 of the table in subsection (2) is not
22 published by the Reserve Bank of Australia before the beginning of
23 the relevant quarter, assume that it is the same as the last monthly
24 average yield of 90-day Bank Accepted Bills published by the
25 Reserve Bank of Australia before that month.

- 1 (4) The base interest rate must be rounded to the second decimal place
2 (rounding .005 upwards).

3 **41H Arrangement for payment of ABSTUDY debt**

- 4 (1) The Secretary may, on behalf of the Commonwealth, enter into an
5 arrangement with a person under which the person is to pay an
6 ABSTUDY debt, owed by the person to the Commonwealth, or the
7 outstanding amount of such a debt, in a way set out in the
8 arrangement.
- 9 (2) If a person is required to make a payment under an arrangement
10 entered into under subsection (1) before the end of a particular day,
11 the person must make that payment before the end of that day.
- 12 (3) An arrangement entered into under subsection (1) has effect, or is
13 taken to have had effect, on and after the day specified in the
14 arrangement as the day on which the arrangement commences
15 (whether that day is the day on which the arrangement is entered
16 into or an earlier or later day).
- 17 (4) If an arrangement entered into under subsection (1) does not
18 specify a day as mentioned in subsection (3), it has effect on and
19 after the day on which it is entered into.
- 20 (5) The Secretary may terminate or alter an arrangement entered into
21 under subsection (1):
22 (a) at the debtor's request; or
23 (b) after giving 28 days' notice to the debtor of the proposed
24 termination or alteration; or
25 (c) without notice, if the Secretary is satisfied that the person has
26 failed to disclose material information about his or her true
27 capacity to repay the debt.

28 **12 Paragraph 51(1)(b)**

- 29 After "subsection 40(1A)", insert "or 41B(1) or paragraph 41D(4)(a)".

1 **Part 2—Application and transitional provisions**

2 **13 Application and transitional provisions—social security**
3 **law**

- 4 (1) Section 1229D of the *Social Security Act 1991*, as inserted by this Act,
5 applies in relation to:
- 6 (a) a debt that arises on or after the commencement of this item;
7 and
8 (b) a debt that arose before the commencement of this item, to
9 the extent that the debt was outstanding immediately before
10 that commencement.
- 11 (2) Paragraph 1229E(1)(b) of the *Social Security Act 1991*, as inserted by
12 this Act, applies in relation to a notice given on or after the
13 commencement of this item.
- 14 (3) If:
- 15 (a) section 1229D of the *Social Security Act 1991*, as inserted by
16 this Act, applies in relation to a debt that arose before the
17 commencement of this item; and
18 (b) before the commencement of this item, the Secretary gave a
19 person a notice under subsection 1229(1) of that Act in
20 relation to the debt;
- 21 then, on or after the commencement of this item, the Secretary must
22 give the person another notice under subsection 1229(1) of that Act, as
23 amended by this Act, in relation to the debt.
- 24 (4) Paragraph 1229F(1)(c) of the *Social Security Act 1991*, as inserted by
25 this Act, applies in relation to a failure that occurs on or after the
26 commencement of this item (whether the arrangement was entered into
27 before, on or after that commencement).
- 28 (5) Paragraph 1229F(4)(c) of the *Social Security Act 1991*, as inserted by
29 this Act, applies in relation to a termination that occurs on or after the
30 commencement of this item (whether the arrangement was entered into
31 before, on or after that commencement).
- 32 (6) The amendment made by item 7 applies in relation to a requirement to
33 make a payment on or after the commencement of that item (whether

1 the arrangement was entered into before, on or after that
2 commencement).

3 **14 Application provision—student assistance law**

4 Sections 41A to 41H of the *Student Assistance Act 1973*, as inserted by
5 this Act, apply in relation to:

- 6 (a) an ABSTUDY debt that arises on or after the commencement
7 of this item; and
8 (b) an ABSTUDY debt that arose before the commencement of
9 this item, to the extent that the debt was outstanding
10 immediately before that commencement.

1
2

Schedule 6—Student start-up loans

3

Income Tax Assessment Act 1936

4

1 Subsection 82A(2) (after paragraph (bb) of the definition of expenses of self-education)

5

6 Insert:

6

- 7 (bc) a payment made in respect of, or in respect of the reduction
8 or discharge of, any indebtedness to the Commonwealth
9 under Chapter 2AA of the *Social Security Act 1991* or under
10 Part 2 of the *Student Assistance Act 1973*; or

11

2 After paragraph 202(ga)

12

12 Insert:

13

- 13 (gaa) to facilitate the administration of Part 2 of the *Student*
14 *Assistance Act 1973*, which deals with ABSTUDY student
15 start-up loans and debts in relation to those loans; and

14

15

16

3 After paragraph 202(haa)

17

17 Insert:

18

- 18 (hab) to facilitate the administration of Chapter 2AA of the *Social*
19 *Security Act 1991*, which deals with student start-up loans
20 and debts in relation to those loans; and

19

20

21

4 After paragraph 202F(1)(fb)

22

22 Insert:

23

- 23 (fc) a decision to give a notice under subsection 1061ZVHD(1) of
24 the *Social Security Act 1991*;

24

25

- 25 (fd) a decision to give a notice under subsection 1061ZVHE(1) of
26 the *Social Security Act 1991*;

26

27

- 27 (fe) a decision to give a notice under subsection 10D(1) of the
28 *Student Assistance Act 1973*;

28

29

- 29 (ff) a decision to give a notice under subsection 10E(1) of the
30 *Student Assistance Act 1973*;

30

1 ***Income Tax Assessment Act 1997***

2 **5 Section 12-5 (at the end of table item headed “education**
 3 **expenses”)**

4 Add:
 see also *student start-up loans*

5 **6 Section 12-5 (after table item headed “State or Territory**
 6 **bodies (STBs)”)**

7 Insert:

student start-up loans

limit on deduction	82A
payment made to reduce a debt to the Commonwealth under Chapter 2AA of the <i>Social Security Act 1991</i> (student start-up loans), no deduction unless provided as fringe benefit	26-20
payment made to reduce a debt to the Commonwealth under Part 2 of the <i>Student Assistance Act 1973</i> (ABSTUDY student start-up loans), no deduction unless provided as fringe benefit	26-20

8 **7 After paragraph 26-20(1)(cb)**

9 Insert:
 10 (cc) a payment made to reduce a debt to the Commonwealth
 11 under Chapter 2AA of the *Social Security Act 1991* or Part 2
 12 of the *Student Assistance Act 1973*; or

13 **8 After subparagraph 52-132(a)(xi)**

14 Insert:
 15 (xia) discharging a compulsory SSL repayment amount
 16 (within the meaning of Chapter 2AA of the *Social*
 17 *Security Act 1991*);
 18 (xib) discharging a compulsory ABSTUDY SSL repayment
 19 amount (within the meaning of the *Student Assistance*
 20 *Act 1973*);

21 **9 After subparagraph 52-140(3)(a)(xa)**

22 Insert:

- 1 (xb) discharging a compulsory SSL repayment amount
2 (within the meaning of Chapter 2AA of the *Social*
3 *Security Act 1991*);
4 (xc) discharging a compulsory ABSTUDY SSL repayment
5 amount (within the meaning of the *Student Assistance*
6 *Act 1973*);

7 **10 Subsection 995-1(1)**

8 Insert:

9 *accumulated ABSTUDY SSL debt* has the meaning given by
10 section 8C of the *Student Assistance Act 1973*.

11 **11 Subsection 995-1(1)**

12 Insert:

13 *accumulated SSL debt* has the meaning given by
14 section 1061ZVDC of the *Social Security Act 1991*.

15 ***Social Security Act 1991***

16 **12 Before section 19AB**

17 Insert:

18 **19AAA Student start-up loan definitions**

19 For the purposes of Chapter 2AA:

20 *accumulated HELP debt* has the same meaning as in the *Higher*
21 *Education Support Act 2003*.

22 *accumulated SSL debt* has the meaning given by
23 section 1061ZVDC.

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

26 *Commissioner* means the Commissioner of Taxation.

27 *compulsory SSL repayment amount* means an amount that:

- 28 (a) is required to be paid in respect of an accumulated SSL debt
29 under section 1061ZVGA; and

1 (b) is included in a notice of assessment made under
2 section 1061ZVGF.

3 **enrolment test day** has the meaning given by
4 subsection 1223ABF(2).

5 **former accumulated SSL debt** has the meaning given by
6 section 1061ZVDB.

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

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

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

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

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

17 **minimum repayment income** has the meaning given by
18 section 1061ZVGC.

19 **qualification period**, for a student start-up loan, means a period of
20 6 months starting on 1 January or 1 July in any year.

21 **repayable SSL debt** has the meaning given by section 1061ZVGD.

22 **repayment income** has the meaning given by section 1061ZVGB.

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

25 **scholarship-entitled person** has the meaning given by
26 subsection 1061ZVAC(2).

27 **SSL debt** means a debt incurred under section 1061ZVCA.

28 **student start-up loan** means a loan for which a person qualifies
29 under Part 2AA.1.

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

5 **13 Subsection 23(1)**

6 Insert:

7 *accumulated SSL debt* has the meaning given by
8 section 1061ZVDC.

9 **14 Subsection 23(1)**

10 Insert:

11 *approved scholarship course* has the meaning given by
12 section 592M.

13 **15 Subsection 23(1)**

14 Insert:

15 *enrolment test day* has the meaning given by
16 subsection 1223ABF(2).

17 **16 Subsection 23(1)**

18 Insert:

19 *qualification period*, for a student start-up loan, has the meaning
20 given by section 19AAA.

21 **17 Subsection 23(1)**

22 Insert:

23 *scholarship-entitled person* has the meaning given by
24 subsection 1061ZVAC(2).

25 **18 Subsection 23(1) (after paragraph (e) of the definition of**
26 ***social security payment*)**

27 Insert:

28 (ea) a payment under Chapter 2AA of this Act (Student start-up
29 loans); or

19 Subsection 23(1)

Insert:

student start-up loan has the meaning given by section 19AAA.

20 Before paragraph 592F(1)(a)

Insert:

- (aa) any of the following (a *scholarship*) was received by the person in respect of a time before 1 January 2014:
 - (i) a student start-up scholarship payment under this section;
 - (ii) a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment;
 - (iii) the amount or value of a Commonwealth Education Costs Scholarship; and
- (ab) for a continuous period since the time in respect of which the person received the scholarship, the person has been receiving at least one of the following:
 - (i) youth allowance;
 - (ii) payments under the ABSTUDY Scheme known as Living Allowance; and

21 Before paragraph 592F(2)(a)

Insert:

- (aa) any of the following (a *scholarship*) was received by the person in respect of a time before 1 January 2014:
 - (i) a student start-up scholarship payment under this section;
 - (ii) a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment;
 - (iii) the amount or value of a Commonwealth Education Costs Scholarship; and
- (ab) for a continuous period since the time in respect of which the person received the scholarship, the person has been receiving at least one of the following:
 - (i) youth allowance;
 - (ii) austudy payment;

- 1 (iii) payments under the ABSTUDY Scheme known as
2 Living Allowance;

3 **22 Section 592M**

4 Omit “Part”, substitute “Act”.

5 **23 Subsection 592N(1)**

6 Omit “Part”, substitute “Act”.

7 **24 Saving provision**

8 Despite the amendment of subsection 592N(1) made by this Schedule, a
9 legislative instrument made for that subsection continues in force after
10 the commencement of the amendment and has effect after that
11 commencement for the purposes of the whole of the *Social Security Act*
12 *1991*, not just Part 2.11B of that Act.

13 **25 After Chapter 2A**

14 Insert:

15 **Chapter 2AA—Student start-up loans**

16 **Part 2AA.1—Qualification for and amount of**
17 **student start-up loan**
18

19 **1061ZVAA Simplified outline of this Part**

20

Broadly, full-time students who are receiving youth allowance or 21 austudy might be qualified for a student start-up loan. A student 22 can qualify for up to 2 loans each calendar year.
--

23 **1061ZVAB Qualification for student start-up loan**

24 *Receiving youth allowance*

- 25 (1) A person is qualified for a student start-up loan for a qualification
26 period if, at the time in that period referred to in subsection (3):
27 (a) the person is qualified for youth allowance and youth
28 allowance is payable to the person; and
-

- 1 (b) the person is receiving youth allowance and would be
 2 receiving youth allowance if Steps 2 and 3 of the method
 3 statement in point 1067G-A1 of the Youth Allowance Rate
 4 Calculator were disregarded for the purposes of working out
 5 the person's rate of that allowance; and
 6 (c) the person is qualified for youth allowance under section 540
 7 in circumstances where paragraph 541(1)(a) (about full-time
 8 study) applies and the relevant course of education is an
 9 approved scholarship course; and
 10 (d) the Secretary is satisfied that the person is not likely to
 11 receive the amount or value of a Commonwealth Education
 12 Costs Scholarship in the period of 6 months starting
 13 immediately after the time; and
 14 (e) the person has notified his or her tax file number to the
 15 Secretary and the Secretary has:
 16 (i) verified the person's tax file number in accordance with
 17 section 1061ZVHB; or
 18 (ii) obtained the correct tax file number in accordance with
 19 section 1061ZVHC.

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

21 *Receiving austudy payment*

- 22 (2) A person is qualified for a student start-up loan for a qualification
 23 period if, at the time in that period referred to in subsection (3):
 24 (a) the person is qualified for austudy payment and austudy
 25 payment is payable to the person; and
 26 (b) the person is receiving austudy payment and would be
 27 receiving austudy payment if steps 2 and 2A of the method
 28 statement in point 1067L-A1 of the Austudy Payment Rate
 29 Calculator were disregarded for the purposes of working out
 30 the person's rate of that payment; and
 31 (c) the person is qualified for austudy payment under section 568
 32 in circumstances where subsection 569(1) (about qualifying
 33 study) applies and the relevant course of education is an
 34 approved scholarship course; and
 35 (d) the Secretary is satisfied that the person is not likely to
 36 receive the amount or value of a Commonwealth Education
 37 Costs Scholarship in the period of 6 months starting
 38 immediately after the time; and

- 1 (e) the person has notified his or her tax file number to the
2 Secretary and the Secretary has:
3 (i) verified the person's tax file number in accordance with
4 section 1061ZVHB; or
5 (ii) obtained the correct tax file number in accordance with
6 section 1061ZVHC.

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

8 *Qualification time*

- 9 (3) For the purposes of subsections (1) and (2), the time is the earliest
10 of the following:
11 (a) the time the Secretary determines the person's claim for a
12 student start-up loan;
13 (b) if the approved scholarship course ends in the qualification
14 period—the start of the last day of the approved scholarship
15 course;
16 (c) the start of the last day of the qualification period.

17 **1061ZVAC Circumstances in which person is not qualified for**
18 **student start-up loan**

- 19 (1) Despite section 1061ZVAB, a person is not qualified for a student
20 start-up loan for a qualification period at the relevant time in that
21 period if:
22 (a) a determination is in effect that the person is qualified for a
23 student start-up loan for the qualification period; or
24 (b) a determination is in effect that the person is qualified for an
25 ABSTUDY student start-up loan under the *Student*
26 *Assistance Act 1973* for the qualification period; or
27 (c) at the time, the person is a scholarship-entitled person (see
28 subsection (2)); or
29 (d) in the period of 6 months ending immediately before the
30 time, the person:
31 (i) has received a payment known as a student start-up
32 scholarship payment under the scheme referred to in
33 section 117 of the Veterans' Entitlements Act; or
34 (ii) has received a payment known as a student start-up
35 scholarship payment under the scheme referred to in

-
- 1 section 258 of the Military Rehabilitation and
2 Compensation Act; or
3 (iii) has received the amount or value of a Commonwealth
4 Education Costs Scholarship; or
5 (iv) was entitled to the amount or value of a Commonwealth
6 Education Costs Scholarship but has not received the
7 full entitlement only because the scholarship was
8 suspended.

- 9 (2) A person is a *scholarship-entitled person* if:
- 10 (a) any of the following (a *scholarship*) was received by the
11 person in respect of a time before 1 January 2014:
- 12 (i) a student start-up scholarship payment under
13 section 592F;
- 14 (ii) a payment under the ABSTUDY Scheme known as an
15 ABSTUDY student start-up scholarship payment;
- 16 (iii) the amount or value of a Commonwealth Education
17 Costs Scholarship; and
- 18 (b) for a continuous period since the time in respect of which the
19 person received the scholarship, the person has been
20 receiving at least one of the following:
- 21 (i) youth allowance;
- 22 (ii) austudy payment;
- 23 (iii) payments under the ABSTUDY Scheme known as
24 Living Allowance.

25 **1061ZVAD Amount of student start-up loan**

26 The amount of a student start-up loan for which a person is
27 qualified on or after 1 January 2014 is \$1,025.

28 Note: The amount of the loan is to be indexed on 1 January 2017 and each
29 later 1 January in line with CPI increases (see sections 1190 to 1194).

1 **Part 2AA.2—Indebtedness**

2 **Division 1—Introduction**

3 **1061ZVBA Simplified outline of this Part**

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

7 Each SSL debt is incorporated into the person's accumulated SSL
8 debt. This accumulated SSL debt forms the basis for working out
9 the amounts the person is obliged to repay.

10 **Division 2—Incurring SSL debts**

11 **1061ZVCA SSL debts**

- 12 (1) A person incurs an SSL debt to the Commonwealth if:
13 (a) the person has received a student start-up loan for a
14 qualification period; and
15 (b) the amount of the loan is not a debt under section 1223 or
16 1223ABF.
- 17 (2) The SSL debt is incurred by the person on the later of:
18 (a) the day the person received the loan; and
19 (b) the day after the person's enrolment test day for the
20 qualification period.

21 Note: For *enrolment test day*, see subsection 1223ABF(2).

- 22 (3) The amount of the person's SSL debt is the amount of the loan,
23 reduced by any amount repaid before the day on which the debt is
24 incurred.
- 25 (4) Despite subsection (1), an SSL debt is not incurred in relation to a
26 loan if:
27 (a) the loan has been fully repaid before the day on which the
28 SSL debt in respect of the loan would be incurred; or

- 1 (b) the Secretary has formed an opinion under
 2 subsection 1223ABF(3) in relation to the loan (relating to
 3 exceptional circumstances beyond the person’s control).

4 **1061ZVCB SSL debt discharged by death**

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

7 **Division 3—Working out accumulated SSL debts**

8 **1061ZVDA Simplified outline of this Division**

9 There are 2 stages to working out a person’s accumulated SSL debt
 10 for a financial year.

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

14 (a) changes in the Consumer Price Index; and
 15 (b) the debts that the person incurs during the last 6 months
 16 of the preceding financial year; and
 17 (c) voluntary SSL repayments of the debt; and
 18 (d) compulsory SSL repayment amounts in respect of the
 19 debt.

20 In stage 2, the person’s accumulated SSL debt is worked out from:

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

25 **1061ZVDB Working out a former accumulated SSL debt**

- 26 (1) A person’s *former accumulated SSL debt*, in relation to the
 27 person’s accumulated SSL debt for a financial year, is worked out
 28 by multiplying:
 29 (a) the amount worked out using the following method
 30 statement; by

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

3 *Method statement*

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

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

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

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

17 (b) ending immediately before the next 1 June.

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

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

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

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

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

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

10 **1061ZVDC Working out an accumulated SSL debt**

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

$$13 \quad \begin{array}{r} \text{Former accumulated} \\ \text{SSL debt} \end{array} + \begin{array}{r} \text{SSL debts} \\ \text{incurred} \end{array} - \begin{array}{r} \text{SSL debt} \\ \text{repayments} \end{array}$$

14 where:

15 *former accumulated SSL debt* is the person's former accumulated
 16 SSL debt in relation to that accumulated SSL debt.

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

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

- 24 (2) The person incurs the accumulated SSL debt on 1 June in the
 25 financial year.
- 26 (3) The first financial year for which a person can have an
 27 accumulated SSL debt is the financial year starting on 1 July 2014.

28 **1061ZVDD Rounding of amounts**

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

- 1 (2) If, apart from this section, a person's accumulated SSL debt would
2 be an amount of less than one dollar, the person's accumulated
3 SSL debt is taken to be zero.

4 **1061ZVDE Accumulated SSL debt discharges earlier debts**

- 5 (1) The accumulated SSL debt that a person incurs on 1 June in a
6 financial year discharges, or discharges the unpaid part of:
7 (a) any SSL debt that the person incurred during the calendar
8 year immediately preceding that day; and
9 (b) any accumulated SSL debt that the person incurred on the
10 immediately preceding 1 June.
- 11 (2) Nothing in subsection (1) affects the application of Division 2 of
12 this Part or sections 1061ZVDB and 1061ZVDC.

13 **1061ZVDF Accumulated SSL debt discharged by death**

- 14 (1) Upon the death of a person who has an accumulated SSL debt, the
15 accumulated SSL debt is taken to be discharged.
- 16 (2) To avoid doubt, this section does not affect any compulsory SSL
17 repayment amounts required to be paid in respect of the
18 accumulated SSL debt, whether or not those amounts were
19 assessed before the person's death.

20 **Part 2AA.3—Discharge of indebtedness**

21 **Division 1—Introduction**

22 **1061ZVEA Simplified outline of this Part**

23 A person who owes a debt to the Commonwealth under this
24 Chapter may make voluntary SSL repayments.

25 The person is required to make repayments, of amounts based on
26 his or her income, if that income is above a particular amount and
27 if the person has repaid the person's accumulated HELP debts
28 arising under the *Higher Education Support Act 2003*. The
29 Commissioner makes assessments of repayment amounts, which

1 are collected in the same way as amounts of income tax and
2 accumulated HELP debts.

3 **1061ZVEB Debts under this Chapter**

- 4 (1) The debts under this Chapter are:
5 (a) SSL debts; and
6 (b) accumulated SSL debts.
- 7 (2) To avoid doubt, debts that arise under the following sections are
8 not debts under this Chapter:
9 (a) section 1223 (Debts arising from lack of qualification,
10 overpayment etc.);
11 (b) section 1223ABF (Debts in respect of student start-up loans).

12 **Division 2—Voluntary discharge of indebtedness**

13 **1061ZVFA Voluntary SSL repayments in respect of debts**

- 14 (1) A person may at any time make a payment in respect of a debt that
15 the person owes to the Commonwealth under this Chapter.
- 16 (2) The payment must be made to the Commissioner.

17 **1061ZVFB Application of voluntary SSL repayments**

- 18 (1) Any money a person pays under this Division to meet the person's
19 debts to the Commonwealth under this Chapter is to be applied in
20 payment of those debts as the person directs at the time of the
21 payment.
- 22 (2) If the person has not given any directions, or the directions given
23 do not adequately deal with the matter, any money available is to
24 be applied as follows:
25 (a) first, in discharge or reduction of any accumulated SSL debt
26 of the person;
27 (b) second, in discharge or reduction of:
28 (i) any SSL debt of the person; or
29 (ii) if there is more than one such debt, those debts in the
30 order in which they were incurred.

1 **1061ZVFC Refunding of payments**

2 If:

- 3 (a) a person pays an amount to the Commonwealth under this
4 Division; and
5 (b) the amount exceeds the sum of:
6 (i) the amount required to discharge the total debt that the
7 person owed to the Commonwealth under this Chapter;
8 and
9 (ii) the total amount of the person's primary tax debts
10 (within the meaning of Part IIB of the *Taxation*
11 *Administration Act 1953*);

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

14 **Division 3—Compulsory discharge of indebtedness**

15 **Subdivision A—Liability to repay amounts**

16 **1061ZVGA Liability to repay amounts**

17 (1) If:

- 18 (a) a person's repayment income for an income year exceeds the
19 minimum repayment income for the income year; and
20 (b) on 1 June immediately preceding the making of an
21 assessment in respect of the person's income of that income
22 year, the person had an accumulated SSL debt; and
23 (c) on that 1 June:
24 (i) the person did not have an accumulated HELP debt; or
25 (ii) the amount required to be paid in respect of the person's
26 accumulated HELP debt for the income year would, if
27 paid, fully discharge the person's accumulated HELP
28 debt;

29 the person is liable to pay to the Commonwealth, in accordance
30 with this Division, the amount worked out under
31 section 1061ZVGE in reduction of the person's repayable SSL
32 debt.

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

-
- 1 (a) no Medicare levy is payable by the person on the person's
2 taxable income for the income year; or
3 (b) the amount of the Medicare levy payable by the person on the
4 person's taxable income for the income year is reduced.

5 **1061ZVGB Repayment income**

6 For the purposes of this Chapter, *repayment income* has the same
7 meaning as in the *Higher Education Support Act 2003*.

8 **1061ZVGC Minimum repayment income**

9 For the purposes of this Chapter, *minimum repayment income* has
10 the same meaning as in the *Higher Education Support Act 2003*.

11 **1061ZVGD Repayable SSL debt for an income year**

- 12 (1) A person's *repayable SSL debt* for an income year is:
13 (a) the person's accumulated SSL debt referred to in
14 paragraph 1061ZVGA(1)(b) in relation to that income year;
15 or
16 (b) if one or more amounts:
17 (i) have been paid in reduction of that debt; or
18 (ii) have been assessed under section 1061ZVGF to be
19 payable in respect of that debt;
20 the amount (if any) remaining after deducting from that debt
21 the amount, or sum of the amounts, so paid or assessed to be
22 payable.
- 23 (2) A reference in paragraph (1)(b) of this section to an amount
24 assessed to be payable is, if the amount has been increased or
25 reduced by an amendment of the relevant assessment, a reference
26 to the increased amount or the reduced amount.

27 **Subdivision B—Amounts payable to the Commonwealth**

28 **1061ZVGE Amounts payable to the Commonwealth**

29 The amount that a person is liable to pay under
30 section 1061ZVGA, in respect of an income year, is an amount

- 1 equal to so much of the person's repayable SSL debt for the
2 income year as does not exceed:
- 3 (a) if subparagraph 1061ZVGA(1)(c)(i) applies—the percentage
4 of the person's repayment income that is applicable under the
5 table in section 154-20 of the *Higher Education Support Act*
6 *2003*; or
- 7 (b) if subparagraph 1061ZVGA(1)(c)(ii) applies—the percentage
8 of the person's repayment income that is applicable under the
9 table in section 154-20 of the *Higher Education Support Act*
10 *2003*, reduced by the amount required to be paid in respect of
11 the person's accumulated HELP debt for the income year.

12 **Subdivision C—Assessments**

13 **1061ZVGF Commissioner may make assessments**

- 14 The Commissioner may, from any information in the
15 Commissioner's possession, whether from a return or otherwise,
16 make an assessment of:
- 17 (a) the person's accumulated SSL debt on 1 June immediately
18 before the making of the assessment; and
- 19 (b) the amount required to be paid in respect of that debt under
20 section 1061ZVGA.

21 **1061ZVGG Notification of notices of assessment of tax**

- 22 If:
- 23 (a) the Commissioner is required to serve on a person a notice of
24 assessment in respect of the person's income of an income
25 year under section 174 of the *Income Tax Assessment Act*
26 *1936*; and
- 27 (b) the Commissioner has made, in respect of the person, an
28 assessment under section 1061ZVGF of this Act of the
29 amounts referred to in that section; and
- 30 (c) notice of the assessment under that section has not been
31 served on the person;
- 32 notice of the assessment under that section may be served by
33 specifying the amounts concerned in the notice referred to in
34 paragraph (a).

1061ZVGH Commissioner may defer making assessments

- 1
- 2 (1) A person may apply in the approved form to the Commissioner for
3 deferral of the making of an assessment in respect of the person
4 under section 1061ZVGF.
- 5 (2) The application must specify:
6 (a) the income year for which the deferral is being sought; and
7 (b) the reasons for seeking the deferral.
- 8 (3) The income year specified in the application must be:
9 (a) the income year in which the person makes the application;
10 or
11 (b) the immediately preceding income year; or
12 (c) the immediately succeeding income year.
- 13 (4) The Commissioner may, on application by a person under this
14 section, defer making an assessment in respect of the person under
15 section 1061ZVGF if the Commissioner is of the opinion that:
16 (a) if the assessment were made, payment of the assessed
17 amount would cause serious hardship to the person; or
18 (b) there are other special reasons that make it fair and
19 reasonable to defer making the assessment.
- 20 (5) The Commissioner may defer making the assessment for any
21 period that he or she thinks appropriate.
- 22 (6) The Commissioner must, as soon as practicable after an application
23 is made under this section:
24 (a) consider the matter to which the application relates; and
25 (b) notify the applicant of the Commissioner's decision on the
26 application.

27 Note: Deferrals of making assessments, or refusals of applications, are
28 reviewable under Division 2A of Part 4 of the Administration Act.

1061ZVGJ Commissioner may amend assessments

- 29
- 30 (1) A person may apply in the approved form to the Commissioner for
31 an amendment of an assessment made in respect of the person
32 under section 1061ZVGF so that:
33 (a) the amount payable under the assessment is reduced; or

- 1 (b) no amount is payable under the assessment.
- 2 (2) The application:
- 3 (a) must be made within 2 years after the day on which the
- 4 Commissioner gives notice of the assessment to the person;
- 5 or
- 6 (b) must specify the reasons justifying a later application.
- 7 (3) The Commissioner may, on application by a person under this
- 8 section, amend an assessment made in respect of the person under
- 9 section 1061ZVGF so that:
- 10 (a) the amount payable under the assessment is reduced; or
- 11 (b) no amount is payable under the assessment;
- 12 if the Commissioner is of the opinion that:
- 13 (c) payment of the assessed amount has caused or would cause
- 14 serious hardship to the person; or
- 15 (d) there are other special reasons that make it fair and
- 16 reasonable to make the amendment.
- 17 (4) The Commissioner must, as soon as practicable after an application
- 18 is made under this section:
- 19 (a) consider the matter to which the application relates; and
- 20 (b) notify the applicant of the Commissioner's decision on the
- 21 application.
- 22 Note: Amendments of assessments, or refusals of applications, are
- 23 reviewable under Division 2A of Part 4 of the Administration Act.

24 **Part 2AA.4—Tax administration matters**

25

26 **1061ZVHA Simplified outline of this Part**

27 The Secretary and the Commissioner may share information about

28 tax file numbers for the purposes of administering student start-up

29 loans. The Commissioner is also responsible for the recovery of

30 debts under this Chapter and has functions and powers to fulfil that

31 responsibility relating to returns, assessments, collection and other

32 administrative matters.

1061ZVHB Verification of tax file numbers

- 1
- 2 (1) The Secretary may provide to the Commissioner a tax file number
3 that a person has notified to the Secretary for the purposes of
4 paragraph 1061ZVAB(1)(e) or (2)(e), for the purpose of verifying
5 that the number is the person's tax file number.
- 6 (2) If the Commissioner is satisfied that the number is the person's tax
7 file number, the Commissioner may give the Secretary a written
8 notice informing the Secretary accordingly.

1061ZVHC When person with tax file number incorrectly notifies number

9
10
11 If the Commissioner is satisfied:

- 12 (a) that the tax file number that a person has notified to the
13 Secretary for the purposes of paragraph 1061ZVAB(1)(e) or
14 (2)(e):
15 (i) has been cancelled or withdrawn since the notification
16 was given; or
17 (ii) is otherwise wrong; and
18 (b) that the person has a tax file number;

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

1061ZVHD When person without tax file number incorrectly notifies number

- 21
22
- 23 (1) If:
24 (a) the Commissioner is satisfied that the tax file number that a
25 person notified to the Secretary for the purposes of
26 paragraph 1061ZVAB(1)(e) or (2)(e):
27 (i) has been cancelled since the notification was given; or
28 (ii) is for any other reason not the person's tax file number;
29 and
30 (b) the Commissioner is not satisfied that the person has a tax
31 file number;
32 the Commissioner may give to the Secretary a written notice
33 informing the Secretary accordingly.

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

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

6 **1061ZVHE When tax file numbers are cancelled**

- 7 (1) If the Commissioner cancels a tax file number issued to a person
8 who has notified the tax file number to the Secretary for the
9 purposes of paragraph 1061ZVAB(1)(e) or (2)(e), the
10 Commissioner may give to the Secretary a written notice informing
11 the Secretary accordingly.

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

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

17 **1061ZVHF Returns, assessments, collection and recovery**

18 Subject to Part 2AA.3 and this Part:

- 19 (a) Part IV of the *Income Tax Assessment Act 1936*; and
20 (b) Division 5 of the *Income Tax Assessment Act 1997*; and
21 (c) Part 4-15 in Schedule 1 to the *Taxation Administration Act*
22 *1953*;

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

27 **1061ZVHG Charges and civil penalties for failing to meet**
28 **obligations**

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

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

1 (b) Part 2AA.1 so far as it relates to tax file numbers, and
 2 Parts 2AA.2, 2AA.3 and this Part were income tax laws.

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

6 **1061ZVHH Pay as you go (PAYG) withholding**

7 Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and
 8 12-G) in Schedule 1 to the *Taxation Administration Act 1953*
 9 applies, so far as it is capable of application, in relation to the
 10 collection of amounts of a compulsory SSL repayment amount of a
 11 person as if the compulsory SSL repayment amount were income
 12 tax.

13 **1061ZVHJ Pay as you go (PAYG) instalments**

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

18 **1061ZVHK Administration of this Chapter**

19 The Commissioner has the general administration of:

- 20 (a) Part 2AA.1 so far as it relates to tax file numbers; and
- 21 (b) Parts 2AA.2, 2AA.3 and this Part; and
- 22 (c) Division 2A of Part 4 of the Administration Act (Internal
 23 review of certain Commissioner decisions relating to student
 24 start-up loans).

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

27 **26 Section 1190 (after table item 69)**

28 Insert:

	Student start-up loans		
69A.	student start-up loan amount	student start-up loan amount	section 1061ZVAD

1 **27 Subsection 1191(1) (after table item 41)**

2 Insert:

Student start-up loans

41A.	student start-up loan amount	1 January	June	highest June quarter before reference quarter (but not earlier than June quarter 2013)	\$1.00
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3 **28 After subsection 1192(8A)**

4 Insert:

5 (8B) The student start-up loan amount (see item 41A of the CPI
6 Indexation Table in subsection 1191(1)) is not to be indexed on
7 1 January 2014, 1 January 2015 and 1 January 2016.

8 **29 At the end of subsection 1223(1)**

9 Add:

10 Note: The amount of a debt that arises under this subsection in relation to a
11 student start-up loan may be affected by section 1223ABG.

12 **30 After section 1223ABE**

13 Insert:

14 **1223ABF Debts in respect of student start-up loans**

15 (1) If:

16 (a) a person has received a student start-up loan for which the
17 person qualified at a time (the *qualification time*) in a
18 qualification period; and

19 (b) at a time between the qualification time and the end of the
20 person's enrolment test day, the person does not meet the
21 condition in paragraph 1061ZVAB(1)(c) or (2)(c) that the
22 person met at the qualification time;

23 then:

- 1 (c) the amount of the loan is a debt due to the Commonwealth;
 2 and
 3 (d) the debt is taken to have arisen when the person received the
 4 loan.

5 Note 1: The conditions in paragraphs 1061ZVAB(1)(c) and (2)(c) relate to
 6 whether the person is qualified for youth allowance or austudy
 7 payment because the person is studying in an approved scholarship
 8 course (as defined in section 592M).

9 Note 2: The amount of a debt that arises under this subsection may be affected
 10 by section 1223ABG.

- 11 (2) A person's *enrolment test day*, for a qualification period, is the
 12 earliest of the following days:
 13 (a) if the approved scholarship course ends in the qualification
 14 period—the last day of the approved scholarship course;
 15 (b) the last day of the qualification period;
 16 (c) the 35th day of the period starting on whichever of the
 17 following applies:
 18 (i) if the person's qualification time for the qualification
 19 period was before the first day of the relevant approved
 20 scholarship course—the first day of that approved
 21 scholarship course;
 22 (ii) otherwise—the day of the qualification time.

23 Note 1: In some circumstances, a person's enrolment test day will be the same
 24 as the day of the person's qualification time.

25 Note 2: For *approved scholarship course*, see section 592M.

- 26 (3) Subsection (1) does not apply if, in the Secretary's opinion, the
 27 person does not meet the condition in paragraph 1061ZVAB(1)(c)
 28 or (2)(c) that the person met at the qualification time because of
 29 exceptional circumstances beyond the person's control.

30 Note: The conditions in paragraphs 1061ZVAB(1)(c) and (2)(c) relate to
 31 whether the person is qualified for youth allowance or austudy
 32 payment because the person is studying in an approved scholarship
 33 course (as defined in section 592M).

34 **1223ABG Student start-up loan previously treated as part of**
 35 **accumulated SSL debt**

- 36 (1) This section applies if:

- 1 (a) a debt arises under section 1223 or 1223ABF in relation to a
2 student start-up loan; and
3 (b) the Commissioner had treated the amount of the loan as if it
4 were part of an accumulated SSL debt, but at a time since
5 (the *cessation time*) has ceased to do so.
- 6 (2) The amount of the debt that arises under section 1223 or 1223ABF
7 is taken to be so much of the supposed accumulated SSL debt as is,
8 immediately before the cessation time, attributable to the amount
9 of the loan.

10 **31 After subparagraph 1229D(1)(b)(iii)**

11 Insert:

- 12 (iia) student start-up loan (but the debt must not be an SSL
13 debt or accumulated SSL debt within the meaning of
14 Chapter 2AA);

15 ***Social Security (Administration) Act 1999***

16 **32 Subsection 10(1)**

17 After “Part 4”, insert “(other than Division 2A)”.

18 **33 After Subdivision EA of Division 1 of Part 3**

19 Insert:

20 **Subdivision EB—Time limits for claims for student start-up
21 loans**

22 **26C Time limit for claim**

- 23 (1) A person’s claim for a student start-up loan for a qualification
24 period must be made before the end of the qualification period.
- 25 (2) Despite subsection (1), a person’s claim for a student start-up loan
26 for a qualification period in which the person is expected to
27 complete the relevant approved scholarship course must be made at
28 least 35 days before the course end date.

29 **34 At the end of section 36**

30 Add:

- 1 (4) If a person claims a student start-up loan for a qualification period,
 2 the Secretary may determine the person’s claim at a time the
 3 Secretary considers appropriate, having regard to the principle that,
 4 generally, the time should be close to the start of the period of
 5 study concerned for the relevant approved scholarship course.

6 Note: For *approved scholarship course*, see section 592M of the 1991 Act.

- 7 (5) Nothing in subsection (4) affects the operation of section 39.

8 **35 Subsection 39(1)**

9 Omit “subsection (3)”, substitute “subsections (3) and (9)”.

10 **36 At the end of section 39**

11 Add:

- 12 (9) A claim for a student start-up loan for a qualification period made
 13 before the start of the qualification period is taken to have been
 14 made on the first day of the qualification period.

15 **37 Subsection 47(1) (after paragraph (ba) of the definition of**
 16 ***lump sum benefit*)**

17 Insert:

- 18 (baa) a student start-up loan; or

19 **38 Subsection 47(4)**

20 Omit “section 47DA”, substitute “sections 47DA and 47DB”.

21 **39 After section 47DA**

22 Insert:

23 **47DB Student start-up loans**

- 24 (1) If a person is qualified for a student start-up loan at the time
 25 referred to in subsection 1061ZVAB(3) on a particular day:
 26 (a) the loan becomes payable to the person on that day; and
 27 (b) the Secretary must pay the amount of the loan to the person
 28 as soon as reasonably practicable after that day.
- 29 (2) If:

- 1 (a) a person is qualified for a student start-up loan on a particular
2 day because the person is receiving youth allowance; and
3 (b) the whole or a part of the person's instalment of youth
4 allowance in respect of a period that included that day is paid
5 to a parent of the person under section 45 of this Act;
6 the Secretary may pay the whole, or the same proportion, of the
7 person's loan to that parent or to any other person.

8 **40 Section 58 (heading)**

9 Repeal the heading, substitute:

10 **58 Payment of social security payment after death**

11 **41 Paragraph 58(1)(a)**

12 Omit "or pension bonus bereavement payment", substitute " , pension
13 bonus bereavement payment or a student start-up loan".

14 **42 At the end of section 127**

15 Add:

- 16 (4) The Secretary may not review a decision that is a reviewable
17 decision under section 138A (certain decisions made by the
18 Commissioner in relation to student start-up loans).

19 **43 After paragraph 129(4)(d)**

20 Insert:

- 21 (da) a decision that is a reviewable decision under section 138A
22 (certain decisions made by the Commissioner in relation to
23 student start-up loans); or

24 **44 After Division 2 of Part 4**

25 Insert:

1 **Division 2A—Internal review of certain Commissioner**
2 **decisions relating to student start-up loans**

3 **138A Decisions reviewable under this Division**

4 Each of the following is a *reviewable decision* for the purposes of
5 this Division:

- 6 (a) a decision by the Commissioner under section 1061ZVGH of
7 the 1991 Act (Commissioner may defer making
8 assessments);
9 (b) a decision by the Commissioner under section 1061ZVGJ of
10 the 1991 Act (Commissioner may amend assessments).

11 **138B Commissioner must give reasons for reviewable decisions**

- 12 (1) The Commissioner's notice to a person of the making of a
13 reviewable decision must include reasons for the decision.
14 (2) Subsection (1) does not affect an obligation, imposed upon the
15 Commissioner by any other law, to give reasons for a decision.

16 **138C Reviewer of decisions**

- 17 (1) The Commissioner is the *reviewer* of a reviewable decision for the
18 purposes of this Division, subject to subsection (2).
19 (2) If:
20 (a) the reviewable decision was made by a delegate of the
21 Commissioner; and
22 (b) the decision is to be reconsidered by a delegate of the
23 Commissioner;
24 then the delegate who reconsiders the decision must be a person
25 who:
26 (c) was not involved in making the decision; and
27 (d) occupies a position that is senior to that occupied by any
28 person involved in making the decision.

29 **138D Reviewer may reconsider reviewable decisions**

- 30 (1) The reviewer of a reviewable decision may reconsider the decision
31 if the reviewer is satisfied that there is sufficient reason to do so.

- 1 (2) The reviewer may reconsider the decision even if:
2 (a) an application for reconsideration of the decision has been
3 made under section 138E; or
4 (b) the decision has been confirmed, varied or set aside under
5 section 138E and an application has been made under
6 section 138F for review of the decision.
- 7 (3) After reconsidering the decision, the reviewer must:
8 (a) confirm the decision; or
9 (b) vary the decision; or
10 (c) set the decision aside and substitute a new decision.
- 11 (4) The reviewer's decision (the *decision on review*) to confirm, vary
12 or set aside the decision takes effect:
13 (a) on the day specified in the decision on review; or
14 (b) if a day is not specified—on the day on which the decision on
15 review was made.
- 16 (5) The reviewer must give written notice of the decision on review to
17 the person to whom that decision relates.
- 18 (6) The notice:
19 (a) must be given within a reasonable period after the decision is
20 made; and
21 (b) must contain a statement of the reasons for the reviewer's
22 decision on review.

23 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
24 the person to be notified of the person's review rights.

25 **138E Reconsideration of reviewable decisions on request**

- 26 (1) A person whose interests are affected by a reviewable decision
27 may request the reviewer to reconsider the decision.
- 28 (2) The person's request must be made by written notice given to the
29 reviewer within 28 days, or such longer period as the reviewer
30 allows, after the day on which the person first received notice of
31 the decision.
- 32 (3) The notice must set out the reasons for making the request.

-
- 1 (4) After receiving the request, the reviewer must reconsider the
2 decision and:
3 (a) confirm the decision; or
4 (b) vary the decision; or
5 (c) set the decision aside and substitute a new decision.
- 6 (5) The reviewer's decision (the *decision on review*) to confirm, vary
7 or set aside the decision takes effect:
8 (a) on the day specified in the decision on review; or
9 (b) if a day is not specified—on the day on which the decision on
10 review was made.
- 11 (6) The reviewer must give the person written notice of the decision on
12 review.
- 13 (7) The notice:
14 (a) must be given within a reasonable period after the decision
15 on review is made; and
16 (b) must contain a statement of the reasons for the decision on
17 review.
- 18 (8) The reviewer is taken, for the purposes of this Division, to have
19 confirmed the decision if the reviewer does not give notice of a
20 decision to the person within 45 days after receiving the person's
21 request.
- 22 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
23 the person to be notified of the person's review rights.

24 **138F AAT review of reviewable decisions**

25 An application may be made to the Administrative Appeals
26 Tribunal for the review of a reviewable decision that has been
27 confirmed, varied or set aside under section 138D (Reviewer may
28 reconsider reviewable decisions) or 138E (Reconsideration of
29 reviewable decisions on request).

30 **45 At the end of section 144**

- 31 Add:
32 ; (t) a decision that is a reviewable decision under section 138A
33 (certain decisions made by the Commissioner in relation to
34 student start-up loans);
-

1 (u) a decision under section 138D or 138E (review of certain
2 decisions made by the Commissioner in relation to student
3 start-up loans).

4 ***Student Assistance Act 1973***

5 **46 Subsection 3(1)**

6 Insert:

7 ***ABSTUDY SSL debt*** means a debt incurred under section 7B.

8 **47 Subsection 3(1)**

9 Insert:

10 ***ABSTUDY student start-up loan*** means a loan for which a person
11 qualifies under Division 1 of Part 2.

12 Note: Part 2 is taken to be part of the ABSTUDY Scheme and ABSTUDY
13 student start-up loans are taken to be made under the ABSTUDY
14 Scheme: see section 6B.

15 **48 Subsection 3(1)**

16 Insert:

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

19 **49 Subsection 3(1)**

20 Insert:

21 ***accumulated ABSTUDY SSL debt*** has the meaning given by
22 section 8C.

23 **50 Subsection 3(1)**

24 Insert:

25 ***accumulated HELP debt*** has the same meaning as in the *Higher*
26 *Education Support Act 2003*.

27 **51 Subsection 3(1)**

28 Insert:

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

3 **52 Subsection 3(1)**

4 Insert:

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

7 **53 Subsection 3(1)**

8 Insert:

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

13 **54 Subsection 3(1)**

14 Insert:

15 *compulsory ABSTUDY SSL repayment amount* means an amount
16 that:

- 17 (a) is required to be paid in respect of an accumulated
18 ABSTUDY SSL debt under section 9F; and
19 (b) is included in a notice of assessment made under section 9L.

20 **55 Subsection 3(1)**

21 Insert:

22 *enrolment test day* has the meaning given by subsection 38A(2).

23 **56 Subsection 3(1)**

24 Insert:

25 *former accumulated ABSTUDY SSL debt* has the meaning given
26 by section 8B.

27 **57 Subsection 3(1)**

28 Insert:

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

3 **58 Subsection 3(1)**

4 Insert:

5 ***HELP repayment income*** has the meaning given by 9G.

6 **59 Subsection 3(1) (definition of *income tax law*)**

7 Repeal the definition, substitute:

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

10 **60 Subsection 3(1)**

11 Insert:

12 ***minimum HELP repayment income*** has the meaning given by
13 section 9H.

14 **61 Subsection 3(1)**

15 Insert:

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

19 **62 Subsection 3(1)**

20 Insert:

21 ***repayable ABSTUDY SSL debt*** has the meaning given by
22 section 9J.

23 **63 Subsection 3(1)**

24 Insert:

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

27 **64 Subsection 3(1)**

28 Insert:

1 *scholarship-entitled person* has the meaning given by
2 subsection 6D(2).

3 **65 Subsection 3(1)**

4 Insert:

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

7 **66 Subsection 3(1)**

8 Insert:

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

14 **67 After Part 1**

15 Insert:

16 **Part 2—ABSTUDY student start-up loans**

17 **Division 1—Qualification for and amount of ABSTUDY**
18 **student start-up loan**

19 **6A Simplified outline of this Division**

20

Broadly, full-time students who are receiving Living Allowance 21 might be qualified for an ABSTUDY student start-up loan under 22 the ABSTUDY Scheme. A student can qualify for up to 2 loans 23 each calendar year.

24 **6B ABSTUDY Scheme**

- 25 (1) For the purposes of a reference in this Act or another law to the
26 ABSTUDY Scheme:
27 (a) this Part is taken to be part of the ABSTUDY Scheme; and

1 (b) ABSTUDY student start-up loans are taken to be made under
2 the ABSTUDY Scheme.

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

7 **6C Qualification for ABSTUDY student start-up loan**

- 8 (1) A person is qualified for an ABSTUDY student start-up loan for a
9 qualification period if, at the time in that period referred to in
10 subsection (2):
- 11 (a) the person is qualified for a payment known as Living
12 Allowance under the ABSTUDY Scheme and Living
13 Allowance is payable to the person; and
 - 14 (b) the person is receiving Living Allowance and would be
15 receiving Living Allowance if any amounts of
16 pharmaceutical allowance and rent assistance payable to the
17 person under the ABSTUDY Scheme were disregarded for
18 the purposes of working out the person's rate of that
19 allowance; and
 - 20 (c) the person is qualified for Living Allowance because the
21 person is undertaking full-time study in a course of education
22 that is an approved scholarship course; and
 - 23 (d) the Secretary is satisfied that the person is not likely to
24 receive the amount or value of a Commonwealth Education
25 Costs Scholarship in the period of 6 months starting
26 immediately after the time; and
 - 27 (e) the person has notified his or her tax file number to the
28 Secretary and the Secretary has:
 - 29 (i) verified the person's tax file number in accordance with
30 section 10B; or
 - 31 (ii) obtained the correct tax file number in accordance with
32 section 10C.
- 33 (2) For the purposes of subsection (1), the time is the earliest of the
34 following:
- 35 (a) the time the Secretary determines the person's claim for an
36 ABSTUDY student start-up loan;

- 1 (b) if the approved scholarship course ends in the qualification
 2 period—the start of the last day of the approved scholarship
 3 course;
 4 (c) the start of the last day of the qualification period.

5 **6D Circumstances in which person is not qualified for ABSTUDY**
 6 **student start-up loan**

- 7 (1) Despite section 6C, a person is not qualified for an ABSTUDY
 8 student start-up loan for a qualification period at the relevant time
 9 in that period if:
- 10 (a) a determination is in effect that the person is qualified for an
 11 ABSTUDY student start-up loan for the qualification period;
 12 or
 - 13 (b) a determination is in effect that the person is qualified for a
 14 student start-up loan under the *Social Security Act 1991* for
 15 the qualification period; or
 - 16 (c) at the time, the person is a scholarship-entitled person (see
 17 subsection (2)); or
 - 18 (d) in the period of 6 months ending immediately before the
 19 time, the person:
 - 20 (i) has received a payment known as a student start-up
 21 scholarship payment under the scheme referred to in
 22 section 117 of the *Veterans' Entitlements Act 1986*; or
 - 23 (ii) has received a payment known as a student start-up
 24 scholarship payment under the scheme referred to in
 25 section 258 of the *Military Rehabilitation and*
 26 *Compensation Act 2004*; or
 - 27 (iii) has received the amount or value of a Commonwealth
 28 Education Costs Scholarship; or
 - 29 (iv) was entitled to the amount or value of a Commonwealth
 30 Education Costs Scholarship but has not received the
 31 full entitlement only because the scholarship was
 32 suspended.
- 33 (2) A person is a *scholarship-entitled person* if:
- 34 (a) any of the following (a *scholarship*) was received by the
 35 person in respect of a time before 1 January 2014:
 - 36 (i) a student start-up scholarship payment under
 37 section 592F of the *Social Security Act 1991*;

- 1 (ii) a payment under the ABSTUDY Scheme known as an
2 ABSTUDY student start-up scholarship payment;
3 (iii) the amount or value of a Commonwealth Education
4 Costs Scholarship; and
5 (b) for a continuous period since the time in respect of which the
6 person received the scholarship, the person has been
7 receiving at least one of the following:
8 (i) youth allowance (within the meaning of the *Social*
9 *Security Act 1991*);
10 (ii) austudy payment (within the meaning of the *Social*
11 *Security Act 1991*);
12 (iii) payments under the ABSTUDY Scheme known as
13 Living Allowance.

14 **6E Amount of ABSTUDY student start-up loan**

- 15 (1) The amount of an ABSTUDY student start-up loan for which a
16 person is qualified on or after 1 January 2014 is \$1,025.
17 (2) The amount of an ABSTUDY student start-up loan is to be indexed
18 under Division 2 of Part 3.16 of the *Social Security Act 1991*, on
19 1 January 2017 and each subsequent 1 January, as if it were a
20 student start-up loan amount referred to in the table in
21 subsection 1191(1) of that Act.

22 **Division 2—Indebtedness: incurring ABSTUDY SSL debts**

23 **7A Simplified outline of this Division**

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

27 **7B ABSTUDY SSL debts**

- 28 (1) A person incurs an ABSTUDY SSL debt to the Commonwealth if:
29 (a) the person has received an ABSTUDY student start-up loan
30 for a qualification period; and
31 (b) the amount of the loan is not a debt under section 39.

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

5 Note: For *enrolment test day*, see subsection 38A(2).

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

- 9 (4) Despite subsection (1), an ABSTUDY SSL debt is not incurred in
 10 relation to a loan if:
 11 (a) the loan has been fully repaid before the day on which the
 12 ABSTUDY SSL debt in respect of the loan would be
 13 incurred; or
 14 (b) the Secretary has formed an opinion under subsection 38A(3)
 15 in relation to the loan (relating to exceptional circumstances
 16 beyond the person's control).

17 **7C ABSTUDY SSL debt discharged by death**

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

20 **Division 3—Indebtedness: working out accumulated** 21 **ABSTUDY SSL debts**

22 **8A Simplified outline of this Division**

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

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

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

- 1 (a) changes in the Consumer Price Index; and
2 (b) the debts that the person incurs during the last 6 months
3 of the preceding financial year; and
4 (c) voluntary ABSTUDY SSL repayments of the debt; and
5 (d) compulsory ABSTUDY SSL repayment amounts in
6 respect of the debt.

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

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

14 **8B Working out a former accumulated ABSTUDY SSL debt**

- 15 (1) A person's *former ABSTUDY accumulated SSL debt*, in relation
16 to the person's accumulated ABSTUDY SSL debt for a financial
17 year, is worked out by multiplying:
18 (a) the amount worked out using the following method
19 statement; by
20 (b) the HELP debt indexation factor for 1 June in that financial
21 year.

22 *Method statement*

- 23 Step 1. Take the person's accumulated ABSTUDY SSL debt for
24 the immediately preceding financial year. (This amount is
25 taken to be zero if the person has no accumulated
26 ABSTUDY SSL debt for that financial year.)
27 Step 2. Add the sum of all of the ABSTUDY SSL debts (if any)
28 that the person incurred during the last 6 months of the
29 immediately preceding financial year.
30 Step 3. Subtract the sum of the amounts by which the person's
31 debts referred to in steps 1 and 2 are reduced because of

- 1 any voluntary ABSTUDY SSL repayments that have
 2 been made during the period:
- 3 (a) starting on 1 June in the immediately preceding
 4 financial year; and
- 5 (b) ending immediately before the next 1 June.
- 6 **Step 4.** Subtract the sum of all of the person’s compulsory
 7 ABSTUDY SSL repayment amounts that:
- 8 (a) were assessed during that period (excluding any
 9 assessed as a result of a return given before that
 10 period); or
- 11 (b) were assessed after the end of that period as a
 12 result of a return given before the end of that
 13 period.
- 14 **Step 5.** Subtract the sum of the amounts by which any
 15 compulsory ABSTUDY SSL repayment amount of the
 16 person is increased (whether as a result of an increase in
 17 the person’s taxable income of an income year or
 18 otherwise) by an amendment of an assessment made
 19 during that period.
- 20 **Step 6.** Add the sum of the amounts by which any compulsory
 21 ABSTUDY SSL repayment amount of the person is
 22 reduced (whether as a result of a reduction in the person’s
 23 taxable income of an income year or otherwise) by an
 24 amendment of an assessment made during that period.

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

29 **8C Working out an accumulated ABSTUDY SSL debt**

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

1 Former accumulated + ABSTUDY SSL - ABSTUDY SSL
ABSTUDY SSL debt debt incurred debt repayments

2 where:

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

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

10 ***former accumulated ABSTUDY SSL debt*** is the person's former
11 accumulated ABSTUDY SSL debt in relation to that accumulated
12 ABSTUDY SSL debt.

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

15 (3) The first financial year for which a person can have an
16 accumulated ABSTUDY SSL debt is the financial year starting on
17 1 July 2014.

18 **8D Rounding of amounts**

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

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

25 **8E Accumulated ABSTUDY SSL debt discharges earlier debts**

26 (1) The accumulated ABSTUDY SSL debt that a person incurs on
27 1 June in a financial year discharges, or discharges the unpaid part
28 of:

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

-
- 1 (b) any accumulated ABSTUDY SSL debt that the person
2 incurred on the immediately preceding 1 June.
- 3 (2) Nothing in subsection (1) affects the application of section 7B, 7C,
4 8B or 8C.

5 **8F Accumulated ABSTUDY SSL debt discharged by death**

- 6 (1) Upon the death of a person who has an accumulated ABSTUDY
7 SSL debt, the accumulated ABSTUDY SSL debt is taken to be
8 discharged.
- 9 (2) To avoid doubt, this section does not affect any compulsory
10 ABSTUDY SSL repayment amounts required to be paid in respect
11 of the accumulated ABSTUDY SSL debt, whether or not those
12 amounts were assessed before the person's death.

13 **Division 4—Discharge of indebtedness**

14 **Subdivision A—Introduction**

15 **9A Simplified outline of this Division**

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

18 The person is required to make repayments, of amounts based on
19 his or her income, if that income is above a particular amount and
20 if the person has repaid the person's accumulated HELP debts
21 arising under the *Higher Education Support Act 2003*. The
22 Commissioner makes assessments of repayment amounts, which
23 are collected in the same way as amounts of income tax and
24 accumulated HELP debts.

25 **9B Debts under this Part**

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

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

3 (3) To avoid doubt, nothing in this section affects section 6B (about
4 the relationship of this Part to the ABSTUDY Scheme).

5 **Subdivision B—Voluntary discharge of indebtedness**

6 **9C Voluntary ABSTUDY SSL repayments in respect of debts**

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

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

10 **9D Application of voluntary ABSTUDY SSL repayments**

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

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

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

20 (b) second, in discharge or reduction of:

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

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

24 **9E Refunding of payments**

25 If:

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

28 (b) the amount exceeds the sum of:

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

- 1 (ii) the total amount of the person's primary tax debts
 2 (within the meaning of Part IIB of the *Taxation*
 3 *Administration Act 1953*);
 4 the Commonwealth must refund to the person an amount equal to
 5 that excess.

6 **Subdivision C—Compulsory discharge of indebtedness**

7 **9F Liability to repay amounts**

- 8 (1) If:
 9 (a) a person's HELP repayment income for an income year
 10 exceeds the minimum HELP repayment income for the
 11 income year; and
 12 (b) on 1 June immediately preceding the making of an
 13 assessment in respect of the person's income of that income
 14 year, the person had an accumulated ABSTUDY SSL debt;
 15 and
 16 (c) on that 1 June:
 17 (i) the person did not have an accumulated HELP debt; or
 18 (ii) the amount required to be paid in respect of the person's
 19 accumulated HELP debt for the income year would, if
 20 paid, fully discharge the person's accumulated HELP
 21 debt;
 22 the person is liable to pay to the Commonwealth, in accordance
 23 with this Subdivision, the amount worked out under section 9K in
 24 reduction of the person's repayable ABSTUDY SSL debt.
- 25 (2) A person is not liable under this section to pay an amount for an
 26 income year if, under section 8 of the *Medicare Levy Act 1986*:
 27 (a) no Medicare levy is payable by the person on the person's
 28 taxable income for the income year; or
 29 (b) the amount of the Medicare levy payable by the person on the
 30 person's taxable income for the income year is reduced.

31 **9G HELP repayment income**

32 For the purposes of this Part, **HELP repayment income** has the
 33 same meaning as **repayment income** has in the *Higher Education*
 34 *Support Act 2003*.

1 **9H Minimum HELP repayment income**

2 For the purposes of this Part, *minimum HELP repayment income*
3 has the same meaning as *minimum repayment income* has in the
4 *Higher Education Support Act 2003*.

5 **9J Repayable ABSTUDY SSL debt for an income year**

- 6 (1) A person's *repayable ABSTUDY SSL debt* for an income year is:
7 (a) the person's accumulated ABSTUDY SSL debt referred to in
8 paragraph 9F(1)(b) in relation to that income year; or
9 (b) if one or more amounts:
10 (i) have been paid in reduction of that debt; or
11 (ii) have been assessed under section 9L to be payable in
12 respect of that debt;
13 the amount (if any) remaining after deducting from that debt
14 the amount, or sum of the amounts, so paid or assessed to be
15 payable.
- 16 (2) A reference in paragraph (1)(b) of this section to an amount
17 assessed to be payable is, if the amount has been increased or
18 reduced by an amendment of the relevant assessment, a reference
19 to the increased amount or the reduced amount.

20 **9K Amounts payable to the Commonwealth**

- 21 The amount that a person is liable to pay under section 9F, in
22 respect of an income year, is an amount equal to so much of the
23 person's repayable ABSTUDY SSL debt for the income year as
24 does not exceed:
25 (a) if subparagraph 9F(1)(c)(i) applies—the percentage of the
26 person's HELP repayment income that is applicable under
27 the table in section 154-20 of the *Higher Education Support*
28 *Act 2003*; or
29 (b) if subparagraph 9F(1)(c)(ii) applies—the percentage of the
30 person's HELP repayment income that is applicable under
31 the table in section 154-20 of the *Higher Education Support*
32 *Act 2003*, reduced by the amount required to be paid in
33 respect of the person's accumulated HELP debt for the
34 income year.

Subdivision D—Assessments**9L 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 that debt under section 9F.

9M 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 section 9L of this Act of the amounts referred to in that section; and
- (c) notice of the assessment under that section has not been served on the person;

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

9N 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 9L.
- (2) The application must specify:
 - (a) the income year for which the deferral is being sought; and
 - (b) the reasons for seeking the deferral.
- (3) The income year specified in the application must be:
 - (a) the income year in which the person makes the application;or

- 1 (b) the immediately preceding income year; or
2 (c) the immediately succeeding income year.
- 3 (4) The Commissioner may, on application by a person under this
4 section, defer making an assessment in respect of the person under
5 section 9L if the Commissioner is of the opinion that:
6 (a) if the assessment were made, payment of the assessed
7 amount would cause serious hardship to the person; or
8 (b) there are other special reasons that make it fair and
9 reasonable to defer making the assessment.
- 10 (5) The Commissioner may defer making the assessment for any
11 period that he or she thinks appropriate.
- 12 (6) The Commissioner must, as soon as practicable after an application
13 is made under this section:
14 (a) consider the matter to which the application relates; and
15 (b) notify the applicant of the Commissioner's decision on the
16 application.
- 17 Note: Deferrals of making assessments, or refusals of applications, are
18 reviewable under Division 1A of Part 9.

19 **9P Commissioner may amend assessments**

- 20 (1) A person may apply in the approved form to the Commissioner for
21 an amendment of an assessment made in respect of the person
22 under section 9L so that:
23 (a) the amount payable under the assessment is reduced; or
24 (b) no amount is payable under the assessment.
- 25 (2) The application:
26 (a) must be made within 2 years after the day on which the
27 Commissioner gives notice of the assessment to the person;
28 or
29 (b) must specify the reasons justifying a later application.
- 30 (3) The Commissioner may, on application by a person under this
31 section, amend an assessment made in respect of the person under
32 section 9L so that:
33 (a) the amount payable under the assessment is reduced; or
34 (b) no amount is payable under the assessment;

1 if the Commissioner is of the opinion that:

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

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

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

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

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

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

13 **Division 5—Tax administration matters**

14 **10A Simplified outline of this Division**

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

21 **10B Verification of tax file numbers**

22 (1) The Secretary may provide to the Commissioner a tax file number
23 that a person has notified to the Secretary for the purposes of
24 paragraph 6C(1)(e), for the purpose of verifying that the number is
25 the person's tax file number.

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

29 **10C When person with tax file number incorrectly notifies number**

30 If the Commissioner is satisfied:

- 1 (a) that the tax file number that a person has notified to the
2 Secretary for the purposes of paragraph 6C(1)(e):
3 (i) has been cancelled or withdrawn since the notification
4 was given; or
5 (ii) is otherwise wrong; and
6 (b) that the person has a tax file number;
7 the Commissioner may give to the Secretary written notice of the
8 incorrect notification and of the person's tax file number.

9 **10D When person without tax file number incorrectly notifies**
10 **number**

- 11 (1) If:
12 (a) the Commissioner is satisfied that the tax file number that a
13 person notified to the Secretary for the purposes of
14 paragraph 6C(1)(e):
15 (i) has been cancelled since the notification was given; or
16 (ii) is for any other reason not the person's tax file number;
17 and
18 (b) the Commissioner is not satisfied that the person has a tax
19 file number;
20 the Commissioner may give to the Secretary a written notice
21 informing the Secretary accordingly.
22 (2) The Commissioner must give a copy of any notice under
23 subsection (1) of this section to the person concerned, together
24 with a written statement of the reasons for the decision to give the
25 notice.

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

28 **10E When tax file numbers are cancelled**

- 29 (1) If the Commissioner cancels a tax file number issued to a person
30 who has notified the tax file number to the Secretary for the
31 purposes of paragraph 6C(1)(e), the Commissioner may give to the
32 Secretary a written notice informing the Secretary accordingly.
33 (2) The Commissioner must give a copy of any notice under
34 subsection (1) of this section to the person concerned, together

1 with a written statement of the reasons for the decision to give the
2 notice.

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

5 **10F Returns, assessments, collection and recovery**

6 Subject to Division 4 and this Division:

- 7 (a) Part IV of the *Income Tax Assessment Act 1936*; and
8 (b) Division 5 of the *Income Tax Assessment Act 1997*; and
9 (c) Part 4-15 in Schedule 1 to the *Taxation Administration Act*
10 *1953*;

11 apply, so far as they are capable of application, in relation to a
12 compulsory ABSTUDY SSL repayment amount of a person as if it
13 were income tax assessed to be payable by a taxpayer by an
14 assessment made under Part IV of the *Income Tax Assessment Act*
15 *1936*.

16 **10G Charges and civil penalties for failing to meet obligations**

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

- 19 (a) any compulsory ABSTUDY SSL repayment amount of a
20 person were income tax payable by the person in respect of
21 the income year in respect of which the assessment of that
22 debt was made; and
23 (b) Division 1 so far as it relates to tax file numbers, and
24 Divisions 2, 3, 4 and this Division, were income tax laws.

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

28 **10H Pay as you go (PAYG) withholding**

29 Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and
30 12-G) in Schedule 1 to the *Taxation Administration Act 1953*
31 applies, so far as it is capable of application, in relation to the
32 collection of amounts of a compulsory ABSTUDY SSL repayment
33 amount of a person as if the compulsory ABSTUDY SSL
34 repayment amount were income tax.

1 **10J Pay as you go (PAYG) instalments**

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

7 **10K Administration of this Part**

8 The Commissioner has the general administration of:
9 (a) Division 1 so far as it relates to tax file numbers; and
10 (b) Divisions 2, 3, 4 and this Division; and
11 (c) Division 1A of Part 9 (Internal review of certain
12 Commissioner decisions relating to ABSTUDY student
13 start-up loans).

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

16 **68 Section 38 (definition of *ABSTUDY debt*)**

17 Repeal the definition, substitute:

18 *ABSTUDY debt* means:

- 19 (a) an amount paid under the ABSTUDY Scheme (also known
20 as the Aboriginal Study Assistance Scheme) that should not
21 have been paid; or
22 (b) an ABSTUDY student start-up loan overpayment.

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

26 **69 Section 38 (after paragraph (a) of the definition of *debt*)**

27 Insert:

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

29 **70 Section 38 (paragraph (c) of the definition of *debt*)**

30 Omit “or (b)”, substitute “, (aa) or (b)”.

31 **71 After section 38**

32 Insert:

38A ABSTUDY student start-up loan overpayments

(1) If:

- (a) a person has received an ABSTUDY student start-up loan for which the person qualified at a time (the *qualification time*) in a qualification period; and
- (b) at a time between the qualification time and the end of the person's enrolment test day, the person does not meet the condition in paragraph 6C(1)(c) that the person met at the qualification time;

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

Note: The condition in paragraph 6C(1)(c) relates to whether the person is qualified for Living Allowance because the person is studying in an approved scholarship course (as defined in the ABSTUDY Scheme).

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

- (a) if the approved scholarship course ends in the qualification period—the last day of the 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 time 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 day of the qualification time.

Note: In some circumstances, a person's enrolment test day will be the same as the day of the person's qualification time.

(3) Subsection (1) does not apply if, in the Secretary's opinion, the person does not meet the condition in paragraph 6C(1)(c) that the person met at the qualification time because of exceptional circumstances beyond the person's control.

Note: The condition in paragraph 6C(1)(c) relates to whether the person is qualified for Living Allowance because the person is studying in an approved scholarship course (as defined in the ABSTUDY Scheme).

72 Section 39

Before "If", insert "(1)".

1 **73 Paragraph 39(a)**

2 Omit “or (b)”, substitute “, (aa) or (b)”.

3 **74 At the end of section 39**

4 Add:

5 Note: The amount of a debt that arises because of an ABSTUDY student
6 start-up loan overpayment may be affected by section 39AAA.

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

10 **75 After section 39**

11 Insert:

12 **39AAA ABSTUDY student start-up loan previously treated as part**
13 **of accumulated ABSTUDY SSL debt**

14 (1) This section applies if:

15 (a) a debt arises under section 39 because of an ABSTUDY
16 student start-up loan overpayment in relation to an
17 ABSTUDY student start-up loan; and

18 (b) the Commissioner had treated the amount of the loan as if it
19 were part of an accumulated ABSTUDY SSL debt, but at a
20 time since (the *cessation time*) has ceased to do so.

21 (2) The amount of the debt that arises under section 39 is taken to be
22 so much of the supposed accumulated ABSTUDY SSL debt as is,
23 immediately before the cessation time, attributable to the amount
24 of the loan.

25 **76 Subsection 44A(5)**

26 Omit “subsection (6)”, substitute “subsections (6) and (7)”.

27 **77 Subsection 44A(7)**

28 Repeal the subsection, substitute:

29 (7) Subsection (5) does not apply in relation to qualification for an
30 ABSTUDY student start-up loan under section 6C.

78 After subsection 55A(1)

Insert:

(1AAA) Payments in relation to ABSTUDY student start-up loans are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

79 Section 302

Before “Unless”, insert “(1)”.

80 At the end of section 302

Add:

(2) This Division does not apply to a decision that is a reviewable decision under section 308A (certain decisions made by the Commissioner in relation to ABSTUDY student start-up loans).

81 After Division 1 of Part 9

Insert:

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 9N (Commissioner may defer making assessments);
- (b) a decision by the Commissioner under section 9P (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.

1 **308C Reviewer of decisions**

- 2 (1) The Commissioner is the *reviewer* of a reviewable decision for the
3 purposes of this Division, subject to subsection (2).
- 4 (2) If:
- 5 (a) the reviewable decision was made by a delegate of the
6 Commissioner; and
- 7 (b) the decision is to be reconsidered by a delegate of the
8 Commissioner;
- 9 then the delegate who reconsiders the decision must be a person
10 who:
- 11 (c) was not involved in making the decision; and
12 (d) occupies a position that is senior to that occupied by any
13 person involved in making the decision.

14 **308D Reviewer may reconsider reviewable decisions**

- 15 (1) The reviewer of a reviewable decision may reconsider the decision
16 if the reviewer is satisfied that there is sufficient reason to do so.
- 17 (2) The reviewer may reconsider the decision even if:
- 18 (a) an application for reconsideration of the decision has been
19 made under section 308E; or
- 20 (b) the decision has been confirmed, varied or set aside under
21 section 308E and an application has been made under
22 section 308F for review of the decision.
- 23 (3) After reconsidering the decision, the reviewer must:
- 24 (a) confirm the decision; or
25 (b) vary the decision; or
26 (c) set the decision aside and substitute a new decision.
- 27 (4) The reviewer's decision (the *decision on review*) to confirm, vary
28 or set aside the decision takes effect:
- 29 (a) on the day specified in the decision on review; or
30 (b) if a day is not specified—on the day on which the decision on
31 review was made.
- 32 (5) The reviewer must give written notice of the decision on review to
33 the person to whom that decision relates.

-
- 1 (6) The notice:
2 (a) must be given within a reasonable period after the decision is
3 made; and
4 (b) must contain a statement of the reasons for the reviewer's
5 decision on review.

6 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
7 the person to be notified of the person's review rights.

8 **308E Reconsideration of reviewable decisions on request**

- 9 (1) A person whose interests are affected by a reviewable decision
10 may request the reviewer to reconsider the decision.
- 11 (2) The person's request must be made by written notice given to the
12 reviewer within 28 days, or such longer period as the reviewer
13 allows, after the day on which the person first received notice of
14 the decision.
- 15 (3) The notice must set out the reasons for making the request.
- 16 (4) After receiving the request, the reviewer must reconsider the
17 decision and:
18 (a) confirm the decision; or
19 (b) vary the decision; or
20 (c) set the decision aside and substitute a new decision.
- 21 (5) The reviewer's decision (the *decision on review*) to confirm, vary
22 or set aside the decision takes effect:
23 (a) on the day specified in the decision on review; or
24 (b) if a day is not specified—on the day on which the decision on
25 review was made.
- 26 (6) The reviewer must give the person written notice of the decision on
27 review.
- 28 (7) The notice:
29 (a) must be given within a reasonable period after the decision
30 on review is made; and
31 (b) must contain a statement of the reasons for the decision on
32 review.

1 (8) The reviewer is taken, for the purposes of this Division, to have
2 confirmed the decision if the reviewer does not give notice of a
3 decision to the person within 45 days after receiving the person's
4 request.

5 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
6 the person to be notified of the person's review rights.

7 **308F AAT review of reviewable decisions**

8 An application may be made to the Administrative Appeals
9 Tribunal for the review of a reviewable decision that has been
10 confirmed, varied or set aside under section 308D (Reviewer may
11 reconsider reviewable decisions) or 308E (Reconsideration of
12 reviewable decisions on request).

13 **82 Before paragraph 313(a)**

14 Insert:

- 15 (aa) that is a reviewable decision under section 308A (certain
16 decisions made by the Commissioner in relation to
17 ABSTUDY student start-up loans); or
18 (ab) under section 308D or 308E (review of decisions made by
19 the Commissioner in relation to ABSTUDY student start-up
20 loans); or

21 ***Taxation Administration Act 1953***

22 **83 Section 8AAZA**

23 Insert:

24 *compulsory ABSTUDY SSL repayment amount* has the same
25 meaning as in the *Student Assistance Act 1973*.

26 **84 Section 8AAZA**

27 Insert:

28 *compulsory SSL repayment amount* has the same meaning as in
29 Chapter 2AA of the *Social Security Act 1991*.

30 **85 After paragraph 8AAZLD(aa)**

31 Insert:

- 1 (ab) then against any compulsory SSL repayment amount of the
 2 entity; and
 3 (ac) then against any compulsory ABSTUDY SSL repayment
 4 amount of the entity; and

5 **86 Section 6-1 in Schedule 1**

6 After “(HELP)”, insert “, liability to repay debts in relation to Student
 7 Start-up Loans and ABSTUDY Student Start-up Loans”.

8 **87 After paragraph 11-1(ca) in Schedule 1**

9 Insert:

- 10 (cb) amounts of liabilities to the Commonwealth under
 11 Chapter 2AA of the *Social Security Act 1991*; and
 12 (cc) amounts of liabilities to the Commonwealth under Part 2 of
 13 the *Student Assistance Act 1973*; and

14 **88 After paragraph 15-30(ca) in Schedule 1**

15 Insert:

- 16 (cb) the percentages specified in section 1061ZVGE (about
 17 repayments of accumulated SSL debt) of the *Social Security*
 18 *Act 1991* for any financial year starting on or after 1 July
 19 2014;
 20 (cc) the percentages specified in section 9K (about repayments of
 21 accumulated ABSTUDY SSL debt) of the *Student Assistance*
 22 *Act 1973* for any financial year starting on or after 1 July
 23 2014;

24 **89 After paragraph 45-5(1)(ca) in Schedule 1**

25 Insert:

- 26 (cb) amounts of liabilities to the Commonwealth under
 27 Chapter 2AA of the *Social Security Act 1991*; and
 28 (cc) amounts of liabilities to the Commonwealth under Part 2 of
 29 the *Student Assistance Act 1973*; and

30 **90 Section 45-340 in Schedule 1 (method statement, after**
 31 **step 3)**

32 Insert:

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Step 3AA. The amount (if any) that you would have been liable to pay for the *base year in respect of an *accumulated SSL debt if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year is worked out.

Step 3AB. The amount (if any) that you would have been liable to pay for the *base year in respect of an *accumulated ABSTUDY SSL debt if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year is worked out.

91 Section 45-340 in Schedule 1 (method statement, step 4)

After “3”, insert “, 3AA, 3AB”.

92 Section 45-375 in Schedule 1 (method statement, after step 3)

Insert:

Step 3AA. The amount (if any) that you would have been liable to pay for the variation year in respect of an *accumulated SSL debt if your taxable income for that year had been your *adjusted assessed taxable income for that year is worked out.

Step 3AB. The amount (if any) that you would have been liable to pay for the variation year in respect of an *accumulated ABSTUDY SSL debt if your taxable income for that year had been your *adjusted assessed taxable income for that year is worked out.

93 Section 45-375 in Schedule 1 (method statement, step 4)

After “3”, insert “, 3AA, 3AB”.

94 Subsection 250-10(2) in Schedule 1 (after table item 36A)

Insert:

36B	compulsory SSL repayment amount under the <i>Social Security Act 1991</i>	5-5	<i>Income Tax Assessment Act 1997</i>
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36C	compulsory ABSTUDY SSL repayment amount under the <i>Student Assistance Act 1973</i>	5-5	<i>Income Tax Assessment Act 1997</i>
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1 **95 Subsection 355-65(2) in Schedule 1 (cell at table item 1,**
2 **column headed “The record is made for or the**
3 **disclosure is to...”)**

4 At the end of the cell, add “or to the *Student Assistance Act 1973* so far
5 as it relates to ABSTUDY student start-up loans (within the meaning of
6 that Act) and debts relating to such loans”.

7 ***Taxation (Interest on Overpayments and Early Payments)***
8 ***Act 1983***

9 **96 Subsection 3(1)**

10 Insert:

11 *compulsory ABSTUDY SSL repayment amount* has the same
12 meaning as in the *Student Assistance Act 1973*.

13 **97 Subsection 3(1)**

14 Insert:

15 *compulsory SSL repayment amount* has the same meaning as in
16 Chapter 2AA of the *Social Security Act 1991*.

17 **98 Subsection 3C(1) (after table item 45)**

18 Insert:

46	Amounts that are treated under Part 2AA.4 of the <i>Social Security Act 1991</i> as if they were income tax
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47	Amounts that are treated under Division 5 of Part 2 of the <i>Student Assistance Act 1973</i> as if they were income tax
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1 **99 After subparagraph 8A(1)(a)(ia)**

2 Insert:

3 (iib) compulsory SSL repayment amount; or

4 (iic) compulsory ABSTUDY SSL repayment amount; or

5 **100 After paragraph 8A(2)(ba)**

6 Insert:

7 (bb) compulsory SSL repayment amount; or

8 (bc) compulsory ABSTUDY SSL repayment amount; or

9 **101 After subparagraph 8E(1)(d)(iii)**

10 Insert:

11 (iia) a compulsory SSL repayment amount that is notified in
12 the notice of assessment;

13 (iib) a compulsory ABSTUDY SSL repayment amount that
14 is notified in the notice of assessment;

15 **102 After subparagraph 8E(2)(d)(iii)**

16 Insert:

17 (iia) a compulsory SSL repayment amount, worked out by
18 reference to the person's taxable income of the year of
19 income, payable by the person immediately before the
20 post-notice crediting;

21 (iib) a compulsory ABSTUDY SSL repayment amount,
22 worked out by reference to the person's taxable income
23 of the year of income, payable by the person
24 immediately before the post-notice crediting;

25 **103 Subparagraph 12A(1)(a)(iv)**

26 Repeal the subparagraph, substitute:

27 (iv) refunds the whole or part of a payment made by a
28 person on account of something listed in
29 subsection (1A); and

30 **104 After subsection 12A(1)**

31 Insert:

32 (1A) For the purposes of subparagraph (1)(a)(iv), the following are
33 listed:

- 1 (a) income tax;
- 2 (b) compulsory repayment amount;
- 3 (c) compulsory SSL repayment amount;
- 4 (d) compulsory ABSTUDY SSL repayment amount;
- 5 (e) FS assessment debt;
- 6 (f) interest under section 102AAM of the Tax Act.

7 **105 Subsection 12A(2)**

8 Repeal the subsection, substitute:

- 9 (2) A reference in subparagraph (1)(a)(iv) to a person making a
- 10 payment on account of something listed in subsection (1A) does
- 11 not include a reference to the making of a deduction or payment
- 12 under Division 5 of the Tax Act.

1 **Schedule 7—Paid parental leave**

2 **Part 1—Amendments**

3 ***Paid Parental Leave Act 2010***

4 **1 Section 4 (paragraph relating to Part 3-3)**

5 Omit “(e.g. the person is a contractor and so does not have an
6 employer)”, substitute “(e.g. the person’s employer does not make an
7 election to pay instalments to the person)”.

8 **2 Section 4 (paragraph relating to Part 3-3)**

9 Omit “is being reviewed or”.

10 **3 Section 4 (paragraph relating to Part 3-5)**

11 Repeal the paragraph, substitute:

12

Part 3-5 is about employer determinations. An employer is only 13 required to pay instalments to a person if an employer 14 determination is in force for the employer and the person. An 15 employer determination cannot be made unless certain conditions 16 are met (e.g. the employer has made an election to pay instalments 17 to the person).
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18 **4 Section 6 (definition of *acceptance notice*)**

19 Omit “section 103”, substitute “paragraph 103(1)(a)”.

20 **5 Section 6 (definition of *bank account information*)**

21 Omit “subsection 104(2)”, substitute “paragraph 109(2)(b)”.

22 **6 Section 6 (definition of *employer determination decision*)**

23 Repeal the definition.

24 **7 Section 6**

25 Insert:

26 ***non-acceptance notice***: see paragraph 103(1)(b).

1 **8 Section 6 (definition of *transfer day*)**

2 Omit “84(3), (4) and (5)”, substitute “84(4) and (5)”.

3 **9 Subsection 64(1) (note)**

4 Omit “Sections 93 and 94 affect”, substitute “Section 94 affects”.

5 **10 Section 83 (third paragraph)**

6 Omit “is being reviewed or”.

7 **11 Subsection 84(3)**

8 Repeal the subsection.

9 **12 Section 85 (heading)**

10 Repeal the heading, substitute:

11 **85 Payment of arrears—employer determination revoked before**
12 **coming into force**

13 **13 Subsection 85(1)**

14 Repeal the subsection, substitute:

15 (1) This section applies if:

16 (a) the Secretary is required to pay an instalment to a person
17 under subsection 84(4) (which deals with payment of
18 instalments where an employer determination is revoked);
19 and

20 (b) the employer determination made for the person and the
21 person’s employer has never come into force.

22 **14 Subsection 85(3)**

23 Omit “or (b)”.

24 **15 Section 93**

25 Repeal the section.

26 **16 Section 100**

27 Repeal the section, substitute:

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This Part is about employer determinations. An employer is only required to pay instalments to a person if an employer determination has been made and is in force for the employer and the person.

An employer determination cannot be made unless certain conditions are met. One of those conditions is that the employer has made an election to pay instalments and that election applies to the person.

Even though an employer determination is made, the obligations on the employer to pay instalments to the person only arise when the employer determination is in force. An employer determination comes into force when the employer gives the Secretary an acceptance notice. Once the determination comes into force, it stays in force unless the Secretary revokes it.

17 Paragraphs 101(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) the employer has made an election under section 109 to pay instalments and that election applies to the person; and
- (c) the person has consented in the claim to the employer paying instalments to the person; and

18 Paragraph 101(1)(e)

Repeal the paragraph.

19 Paragraph 101(1)(f)

Omit “(c) to (e) are satisfied in relation to more than one employer of the person (other than because of subsection (2))”, substitute “(b) to (d) are satisfied in relation to more than one employer of the person”.

20 Subsection 101(2)

Repeal the subsection.

21 Section 103

Repeal the section, substitute:

1 **103 Employer response to notice of employer determination**

2 (1) If an employer is given a notice under section 102 that an employer
3 determination has been made, the employer may, within the period
4 referred to in subsection (2):

5 (a) give the Secretary a written notice (the *acceptance notice*)
6 that complies with section 104; or

7 (b) give the Secretary notice (the *non-acceptance notice*), orally
8 or in writing, declaring that the employer does not accept the
9 employer's obligations to pay instalments to the person.

10 (2) For the purposes of subsection (1), the period is 14 days, or such
11 longer period allowed by the Secretary, after the date of the notice
12 given under section 102.

13 **22 Subsections 104(2) and (5)**

14 Repeal the subsections.

15 **23 Section 105**

16 Repeal the section.

17 **24 Subsection 107(1)**

18 Omit "or (3)".

19 **25 Subsection 107(2) (heading)**

20 Repeal the heading.

21 **26 Subsection 107(2)**

22 Omit "or a compliance notice given under section 157".

23 **27 Subsection 107(3)**

24 Repeal the subsection.

25 **28 Subsection 108(1) (after table item 1)**

26 Insert:

1A	The employer has given a	The day of the revocation.
	non-acceptance notice for the person	
	under paragraph 103(1)(b).	

1 **29 Subsection 108(1) (table item 2, column 1)**

2 Omit “for the person as required by a compliance notice given for a
3 contravention of”, substitute “or a non-acceptance notice for the person
4 in the period referred to in”.

5 **30 Subsection 108(6)**

6 Repeal the subsection.

7 **31 Subsection 109(1)**

8 After “An employer”, insert “who has an ABN”.

9 **32 Paragraph 109(2)(b)**

10 Repeal the paragraph, substitute:

11 (b) contain the following information (*bank account*
12 *information*) about an account held and maintained by the
13 employer with a financial institution into which PPL funding
14 amounts can be paid:

- 15 (i) the account number;
16 (ii) the BSB number of the account;
17 (iii) the name in which the account is held;
18 (iv) the name of the financial institution.

19 **33 Section 146 (table items 10 and 11)**

20 Repeal the items.

21 **34 Subsection 157(1)**

22 Repeal the subsection, substitute:

23 *Compliance notice given by Secretary*

24 (1) This section applies if the Secretary reasonably believes that a
25 person has contravened subsection 82(2) (which deals with
26 notifying the Secretary if certain events happen).

27 **35 Subsection 159(1)**

28 Omit “one or more”, substitute “either or both”.

29 **36 Paragraphs 159(1)(b) and (c)**

30 Repeal the paragraphs.

1 **37 Section 202 (last paragraph)**

2 Repeal the paragraph, substitute:

3

<p>4 The third kind of review is where an employer applies for internal 5 review of decisions that affect the employer in relation to PPL 6 funding amounts (those decisions are “employer funding amount decisions”).</p>
--

7 **38 Subsection 203(2) (note 1)**

8 Repeal the note.

9 **39 Subsection 203(2) (note 2)**

10 Omit “Note 2”, substitute “Note”.

11 **40 Subsection 205(1)**

12 Omit “, 207”.

13 **41 Section 207**

14 Repeal the section.

15 **42 Subsection 209(2)**

16 Omit “, other than an application under section 207 (which deals with
17 application for review of employer determination decisions)”.

18 **43 Paragraphs 210(2)(a) and (b)**

19 Omit “an employer determination decision or”.

20 **44 Paragraph 212(1)(c)**

21 Repeal the paragraph.

22 **45 Subsection 212(5)**

23 Omit “or (1)(c)”.

24 **46 Paragraphs 223(1)(a), (b), (c) and (d)**

25 Omit “an employer determination decision or”.

1 **47 Subsection 224(1)**

2 Repeal the subsection.

3 **48 Subsection 224(2)**

4 Omit “if the decision is an employer funding amount decision”.

5 **49 Subsection 224(3)**

6 Omit “(1) or”.

7 **50 Paragraph 225(2)(b)**

8 Repeal the paragraph.

9 **51 Subsection 278(1)**

10 Omit “(1)”.

11 **52 Subsection 278(2)**

12 Repeal the subsection.

13 **53 Subsection 299(1)**

14 Repeal the subsection, substitute:

15 (1) The PPL rules or the regulations may provide that a person may
16 make an election under section 109 to pay instalments to another
17 person if both persons are in a relationship that is similar to the
18 relationship between an employer and an employee.

1 **Part 2—Application and transitional provisions**

2 **54 Application of amendments**

3 The amendments made by Part 1 of this Schedule apply in relation to an
4 employer determination that is made on or after the commencement of
5 this Schedule in relation to a claim for parental leave pay that is made
6 before, on or after that commencement.

7 **55 Transitional provision—elections made before**
8 **commencement**

9 An election under section 109 of the *Paid Parental Leave Act 2010* that
10 is in force immediately before the commencement of this Schedule
11 ceases to be in force at that commencement.

12 **56 Transitional provision—revoking employer determinations**
13 **made before commencement**

- 14 (1) This item applies if:
- 15 (a) an employer determination was made before the
16 commencement of this Schedule for a person and the
17 person's employer; and
 - 18 (b) the determination had not been revoked before that
19 commencement; and
 - 20 (c) the person's PPL period had not started before that
21 commencement.
- 22 (2) The Secretary must revoke the determination.
- 23 (3) The *Paid Parental Leave Act 2010* applies as if a revocation under
24 subitem (2) of this item were made under subsection 108(1) of that Act.

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Schedule 8—Pension bonus scheme

Social Security Act 1991

1 Section 92A

Omit:

- A person who wants to get a pension bonus must *register* as a *member of the pension bonus scheme*.

substitute:

- A person who wants to get a pension bonus must *register* as a *member of the pension bonus scheme*. An application for registration cannot be made on or after 1 March 2014.

2 Section 92D

Before “A”, insert “(1)”.

3 At the end of section 92D

Add:

- (2) However, a person cannot make an application on or after 1 March 2014.

4 Subsections 92H(1) and (2) (notes)

Repeal the notes.

5 Subsections 92H(3) to (7)

Repeal the subsections.

6 Saving provision

Despite the amendments made by this Schedule, if:

- before the commencement of this item, an application under section 92D of the *Social Security Act 1991* was lodged; and
- the application was lodged during an extended period referred to in subsection 92H(3) of that Act;

1 then that subsection, as in force immediately before the commencement
 2 of this item, continues to apply on and after that commencement in
 3 relation to that application.

4 ***Veterans' Entitlements Act 1986***

5 **7 Section 45T**

6 Omit:

- | |
|---|
| <ul style="list-style-type: none"> 7 • A person who wants to get a pension bonus must <i>register</i> as a 8 <i>member of the pension bonus scheme</i>. |
|---|

9 substitute:

- | |
|--|
| <ul style="list-style-type: none"> 10 • A person who wants to get a pension bonus must <i>register</i> as a 11 <i>member of the pension bonus scheme</i>. An application for 12 registration cannot be made on or after 1 March 2014. |
|--|

13 **8 Section 45TD**

14 Before "A", insert "(1)".

15 **9 At the end of section 45TD**

16 Add:

- 17 (2) However, a person cannot make an application on or after 1 March
 18 2014.

19 **10 Subsections 45TH(1) and (2) (notes)**

20 Repeal the notes.

21 **11 Subsections 45TH(3) to (7)**

22 Repeal the subsections.

23 **12 Saving provision**

24 Despite the amendments made by this Schedule, if:

- 25 (a) before the commencement of this item, an application under
 26 section 45TD of the *Veterans' Entitlements Act 1986* was
 27 lodged; and

1 (b) the application was lodged during an extended period
2 referred to in subsection 45TH(3) of that Act;
3 then that subsection, as in force immediately before the commencement
4 of this item, continues to apply on and after that commencement in
5 relation to that application.

Schedule 9—Indexation

A New Tax System (Family Assistance) Act 1999

1 Paragraph 84F(ea)

Omit “and 30 June 2014”, substitute “, 30 June 2014, 30 June 2015, 30 June 2016 and 30 June 2017”.

2 Subclause 3(6A) of Schedule 4 (heading)

Repeal the heading, substitute:

No indexation of CCR limit for certain years

3 Subclause 3(6B) of Schedule 4

Omit “and 1 July 2013”, substitute “, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016”.

4 Subclause 3(6B) of Schedule 4 (note)

Omit “1 July 2014”, substitute “1 July 2017”.

5 Transitional provision

For the purposes of working out the indexed amount for the CCR limit on 1 July 2017 under Schedule 4 to the *A New Tax System (Family Assistance) Act 1999*, the current figure for the CCR limit immediately before that day is taken to be \$7,500.

6 Subclause 3(7) of Schedule 4 (heading)

Repeal the heading, substitute:

No indexation of certain income limits for certain years

7 Subclause 3(7) of Schedule 4

Omit “and 1 July 2013”, substitute “, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016”.

8 Subclause 3(8) of Schedule 4 (heading)

Repeal the heading, substitute:

1 *No indexation of FTB gross supplement amount (A) and (B) for*
2 *certain years*

3 **9 Subclause 3(8) of Schedule 4**

4 Omit “and 1 July 2013”, substitute “, 1 July 2013, 1 July 2014, 1 July
5 2015 and 1 July 2016”.

6 ***Family Assistance Legislation Amendment (Child Care***
7 ***Budget Measures) Act 2011***

8 **10 Item 5 of Schedule 1**

9 Repeal the item.

10 ***Paid Parental Leave Act 2010***

11 **11 Section 30**

12 Omit “30 June 2014”, substitute “30 June 2017”.

13 **12 Paragraph 41(a)**

14 Omit “1 July 2014”, substitute “1 July 2017”.

15 **13 Subsection 42(1)**

16 Omit “1 July 2014”, substitute “1 July 2017”.

17 **14 Section 115CA**

18 Omit “30 June 2014”, substitute “30 June 2017”.

1 **Schedule 10—Reduction of period for**
2 **temporary absence from Australia**
3

4 *A New Tax System (Family Assistance) Act 1999*

5 **1 Subsection 24(1)**

6 Omit “3 years” (wherever occurring), substitute “56 weeks”.

7 **2 Paragraph 24(2)(a)**

8 Omit “3 years”, substitute “56 weeks”.

9 **3 Subsection 24(4)**

10 Omit “3 years”, substitute “56 weeks”.

11 **4 Paragraph 24(5)(a)**

12 Omit “3 years”, substitute “56 weeks”.

13 **5 At the end of section 24**

14 Add:

15 *Extension of 56 week period in certain circumstances*

16 (7) The Secretary may extend the 56 week period (the *initial period*)
17 referred to in subsection (1), (2), (4) or (5), to a period of no more
18 than 3 years, if the Secretary is satisfied that the child mentioned in
19 subsection (1) or (2), or the individual mentioned in subsection (4)
20 or (5), (in each case, the *person*) is unable to return to Australia
21 within the initial period because of any of the following events:

- 22 (a) a serious accident involving the person or a family member
23 of the person;
24 (b) a serious illness of the person or a family member of the
25 person;
26 (c) the hospitalisation of the person or a family member of the
27 person;
28 (d) the death of a family member of the person;
29 (e) the person’s involvement in custody proceedings in the
30 country in which the person is located;

- 1 (f) a legal requirement for the person to remain outside Australia
2 in connection with criminal proceedings (other than criminal
3 proceedings in respect of a crime alleged to have been
4 committed by the person);
- 5 (g) robbery or serious crime committed against the person or a
6 family member of the person;
- 7 (h) a natural disaster in the country in which the person is
8 located;
- 9 (i) political or social unrest in the country in which the person is
10 located;
- 11 (j) industrial action in the country in which the person is located;
- 12 (k) a war in the country in which the person is located.
- 13 (8) The Secretary must not extend the initial period under
14 subsection (7) unless:
- 15 (a) the event occurred or began during the initial period; and
16 (b) if the event is political or social unrest, industrial action or
17 war—the person is not willingly involved in, or willingly
18 participating in the event.
- 19 (9) The Secretary may extend the 56 week period referred to in
20 subsection (1), (2), (4) or (5), to a period of no more than 3 years,
21 if the Secretary is satisfied that, under the Medical Treatment
22 Overseas Program administered by the Minister who administers
23 the *National Health Act 1953*, financial assistance is payable in
24 respect of the absence from Australia of the child mentioned in
25 subsection (1) or (2) or the individual mentioned in subsection (4)
26 or (5).
- 27 (10) The Secretary may extend the 56 week period referred to in
28 subsection (4) or (5), to a period of no more than 3 years, if the
29 Secretary is satisfied that the individual mentioned in the
30 subsection is unable to return to Australia within the 56 week
31 period because the individual is:
- 32 (a) deployed outside Australia as a member of the Defence
33 Force, under conditions specified in a determination made
34 under the *Defence Act 1903* that relates to such deployment;
35 or
- 36 (b) deployed outside Australia, for the purpose of
37 capacity-building or peacekeeping functions, as:

- 1 (i) a member or a special member of the Australian Federal
2 Police; or
3 (ii) a protective service officer within the meaning of the
4 *Australian Federal Police Act 1979*.

5 ***A New Tax System (Family Assistance) (Administration) Act***

6 **6 Paragraph 30A(1)(c)**

7 Omit “3 years”, substitute “56 weeks”.

8 **7 Paragraph 30B(1)(c)**

9 Omit “3 years”, substitute “56 weeks”.

10 **8 Application provision**

11 The amendments made by items 1 to 7 apply in relation to an
12 individual’s eligibility for family tax benefit on and from 1 July 2014.
13 For this purpose, it does not matter whether an absence from Australia
14 began before, on or after 1 July 2014.

15 ***Paid Parental Leave Act 2010***

16 **9 Paragraph 46(1)(b)**

17 Omit “3 years”, substitute “56 weeks”.

18 **10 Subsection 46(2) (heading)**

19 Repeal the heading, substitute:

20 *Effect of a person’s return to Australia within 56 weeks*

21 **11 Paragraph 46(2)(a)**

22 Omit “3 years”, substitute “56 weeks”.

23 **12 Subsection 46(3) (heading)**

24 Repeal the heading, substitute:

1 *Effect of a person's return to Australia after 56 weeks*

2 **13 At the end of section 46**

3 Add:

4 *Extension of 56 week period for Australian Defence Force and*
5 *Australian Federal Police deployments*

- 6 (4) The Secretary may extend the 56 week period referred to in
7 subsection (1) or (2), to a period of no more than 3 years, if the
8 Secretary is satisfied that the person is unable to return to Australia
9 within the 56 week period because the person is:
- 10 (a) deployed outside Australia as a defence force member, under
11 conditions specified in a determination made under the
12 *Defence Act 1903* that relates to such deployment; or
 - 13 (b) deployed outside Australia, for the purpose of
14 capacity-building or peacekeeping functions, as:
 - 15 (i) a member or a special member of the Australian Federal
16 Police; or
 - 17 (ii) a protective service officer within the meaning of the
18 *Australian Federal Police Act 1979*.

19 *Extension of 56 week period for events or circumstances*
20 *prescribed in the PPL rules*

- 21 (5) The Secretary may extend the 56 week period referred to in
22 subsection (1) or (2), to a period of no more than 3 years, if the
23 Secretary is satisfied that:
- 24 (a) the person is unable to return to Australia within the 56 week
25 period because of an event prescribed by the PPL rules; or
 - 26 (b) a circumstance prescribed by the PPL rules applies.

27 **14 Application provision**

- 28 (1) The amendments made by items 9 to 13 apply in relation to a person's
29 eligibility for parental leave pay and dad and partner pay for a child
30 born on or after 1 July 2014. For this purpose, it does not matter
31 whether an absence from Australia began before, on or after 1 July
32 2014.
- 33 (2) The following provisions of the *Paid Parental Leave Act 2010* apply in
34 relation to this item as if this item were a provision of that Act:
-

- 1 (a) section 275 (which deals with how that Act applies to an
2 adopted child);
3 (b) section 276 (which deals with how that Act applies to claims
4 made in exceptional circumstances);
5 (c) section 277A (which deals with how that Act applies to
6 claims for dad and partner pay made in prescribed
7 circumstances).

1 **Schedule 11—Extending the deeming rules to**
2 **account-based income streams**

3 **Part 1—Amendments**

4 *Social Security Act 1991*

5 **1 Subsection 8(1) (note 1 at the end of the definition of**
6 **income)**

7 Omit “sections 1076-1084 (deemed income from financial assets),
8 sections 1095 to 1099DAA (income from income streams)”, substitute
9 “Division 1B of Part 3.10 (income from financial assets (including
10 income streams (short term) and certain income streams (long term)),
11 Division 1C of Part 3.10 (income from income streams not covered by
12 Division 1B of Part 3.10)”.

13 **2 Subsection 8(1) (note 3 at the end of the definition of**
14 **ordinary income)**

15 Omit “sections 1076-1084 (deemed income from financial assets) and
16 sections 1095-1099DAA (income from income streams)”, substitute
17 “Division 1B of Part 3.10 (income from financial assets (including
18 income streams (short term) and certain income streams (long term))
19 and Division 1C of Part 3.10 (income from income streams not covered
20 by Division 1B of Part 3.10)”.

21 **3 Subsection 9(1) (at the end of paragraph (h) of the**
22 **definition of financial investment)**

23 Add “or”.

24 **4 Subsection 9(1) (after paragraph (h) of the definition of**
25 **financial investment)**

26 Insert:

- 27 (i) an asset-tested income stream (long term) that is an
28 account-based pension within the meaning of the
29 *Superannuation Industry (Supervision) Regulations 1994*; or
30 (j) an asset-tested income stream (long term) that is an annuity
31 (within the meaning of the *Superannuation Industry*
32 *(Supervision) Act 1993*) provided under a contract that meets

1 the requirements determined in an instrument under
2 subsection (1EA);

3 **5 Subsection 9(1C) (notes 4 and 5)**

4 Repeal the notes.

5 **6 After subsection 9(1E)**

6 Insert:

7 (1EA) The Minister may, by legislative instrument, determine
8 requirements for the purposes of paragraph (j) of the definition of
9 *financial investment* in subsection (1).

10 **7 Point 1064-E1 (note 2)**

11 Omit “deemed income from financial assets (sections 1076 to 1084)”,
12 substitute “income from financial assets (including income streams
13 (short term) and certain income streams (long term)) (Division 1B of
14 Part 3.10)”.

15 **8 Point 1064-E1 (note 2)**

16 Omit “income from income streams (sections 1095 to 1099DAA)”,
17 substitute “income from income streams not covered by Division 1B of
18 Part 3.10 (Division 1C of Part 3.10)”.

19 **9 Point 1066-E1 (note 2)**

20 Omit “deemed income from financial assets (sections 1076 to 1084)”,
21 substitute “income from financial assets (including income streams
22 (short term) and certain income streams (long term)) (Division 1B of
23 Part 3.10)”.

24 **10 Point 1066-E1 (note 2)**

25 Omit “income from income streams (sections 1095 to 1099DAA)”,
26 substitute “income from income streams not covered by Division 1B of
27 Part 3.10 (Division 1C of Part 3.10)”.

28 **11 Point 1066A-F1 (note 2)**

29 Omit “deemed income from financial assets (sections 1076 to 1084)”,
30 substitute “income from financial assets (including income streams
31 (short term) and certain income streams (long term)) (Division 1B of
32 Part 3.10)”.

1 **12 Point 1066A-F1 (note 2)**

2 Omit “income from income streams (sections 1095 to 1099DAA)”,
3 substitute “income from income streams not covered by Division 1B of
4 Part 3.10 (Division 1C of Part 3.10)”.

5 **13 Point 1067G-H1 (paragraph (c) of note 2)**

6 Omit “deemed income from financial assets (sections 1076 to 1084A)”,
7 substitute “income from financial assets (including income streams
8 (short term) and certain income streams (long term)) (Division 1B of
9 Part 3.10)”.

10 **14 Point 1067G-H1 (paragraph (d) of note 2)**

11 Omit “income streams (sections 1095 to 1099DAA)”, substitute
12 “income from income streams not covered by Division 1B of Part 3.10
13 (Division 1C of Part 3.10)”.

14 **15 Point 1067L-D1 (paragraph (c) of note 2)**

15 Omit “deemed income from financial assets (sections 1076 to 1084A)”,
16 substitute “income from financial assets (including income streams
17 (short term) and certain income streams (long term)) (Division 1B of
18 Part 3.10)”.

19 **16 Point 1067L-D1 (paragraph (d) of note 2)**

20 Omit “income from income streams (sections 1096 to 1099DAA)”,
21 substitute “income from income streams not covered by Division 1B of
22 Part 3.10 (Division 1C of Part 3.10)”.

23 **17 Point 1068-G1 (note 3)**

24 Omit “deemed income from financial assets (sections 1076 to 1084)”,
25 substitute “income from financial assets (including income streams
26 (short term) and certain income streams (long term)) (Division 1B of
27 Part 3.10)”.

28 **18 Point 1068-G1 (note 3)**

29 Omit “income from income streams (sections 1095 to 1099DAA)”,
30 substitute “income from income streams not covered by Division 1B of
31 Part 3.10 (Division 1C of Part 3.10)”.

1 **19 Point 1068A-E1 (paragraph (c) of note 2)**

2 Omit “deemed income from financial assets (sections 1076 to 1084)”,
3 substitute “income from financial assets (including income streams
4 (short term) and certain income streams (long term)) (Division 1B of
5 Part 3.10)”.

6 **20 Point 1068A-E1 (paragraph (d) of note 2)**

7 Omit “income from income streams (sections 1095 to 1099DAA)”,
8 substitute “income from income streams not covered by Division 1B of
9 Part 3.10 (Division 1C of Part 3.10)”.

10 **21 Point 1068B-D1 (paragraph (c) of note 3)**

11 Omit “deemed income from financial assets (sections 1076 to 1084)”,
12 substitute “income from financial assets (including income streams
13 (short term) and certain income streams (long term)) (Division 1B of
14 Part 3.10)”.

15 **22 Point 1068B-D1 (paragraph (d) of note 3)**

16 Omit “income from income streams (sections 1095 to 1099DAA)”,
17 substitute “income from income streams not covered by Division 1B of
18 Part 3.10 (Division 1C of Part 3.10)”.

19 **23 Section 1072 (note 2)**

20 Omit “sections 1076 to 1084 (deemed income from financial assets) and
21 sections 1095 to 1099DAA (income from income streams)”, substitute
22 “Division 1B (income from financial assets (including income streams
23 (short term) and certain income streams (long term)) and Division 1C
24 (income from income streams not covered by Division 1B)”.

25 **24 Division 1B of Part 3.10 (heading)**

26 Repeal the heading, substitute:

27 **Division 1B—Income from financial assets (including**
28 **income streams (short term) and certain income**
29 **streams (long term))**

30 **25 Division 1C of Part 3.10 (heading)**

31 Repeal the heading, substitute:

1 **Division 1C—Income from income streams not covered by**
2 **Division 1B**

3 **26 Section 1097A**

4 Before “This”, insert “(1)”.

5 **27 At the end of section 1097A**

6 Add:

7 (2) However, this Subdivision does not apply to:

- 8 (a) an asset-tested income stream (long term) that is an
9 account-based pension within the meaning of the
10 *Superannuation Industry (Supervision) Regulations 1994*; or
11 (b) an asset-tested income stream (long term) that is an annuity
12 (within the meaning of the *Superannuation Industry*
13 *(Supervision) Act 1993*) provided under a contract that meets
14 the requirements determined in an instrument under
15 subsection 9(1EA) of this Act.

16 Note 1: For treatment of an income stream mentioned in subsection (2), see
17 Division 1B.

18 Note 2: Part 2 of Schedule 11 to the *Social Services and Other Legislation*
19 *Amendment Act 2013* preserves the rules in this Subdivision for a
20 certain kind of income stream that was being provided to a person
21 immediately before 1 January 2015 where the person was receiving an
22 income support payment immediately before that day provided that,
23 since that day, that income stream has been provided to the person and
24 the person has been continuously receiving an income support
25 payment.

26 **28 Paragraph 1099DAA(1)(b)**

27 Repeal the paragraph, substitute:

- 28 (b) the income stream is an allocated pension within the meaning
29 of the *Superannuation Industry (Supervision)*
30 *Regulations 1994*; and

31 **29 Section 1099DA**

32 Before “This”, insert “(1)”.

33 **30 At the end of section 1099DA**

34 Add:

- 1 (2) However, this Subdivision does not apply to:
2 (a) an asset-tested income stream (long term) that is an
3 account-based pension within the meaning of the
4 *Superannuation Industry (Supervision) Regulations 1994*; or
5 (b) an asset-tested income stream (long term) that is an annuity
6 (within the meaning of the *Superannuation Industry*
7 *(Supervision) Act 1993*) provided under a contract that meets
8 the requirements determined in an instrument under
9 subsection 9(1EA) of this Act.

10 Note 1: For treatment of an income stream mentioned in subsection (2), see
11 Division 1B.

12 Note 2: Part 2 of Schedule 11 to the *Social Services and Other Legislation*
13 *Amendment Act 2013* preserves the rules in this Subdivision for a
14 certain kind of income stream that was being provided to a person
15 immediately before 1 January 2015 where the person was receiving an
16 income support payment immediately before that day provided that,
17 since that day, that income stream has been provided to the person and
18 the person has been continuously receiving an income support
19 payment.

20 **31 Subsections 1099G(2) and 1099L(2)**

21 Omit “(Deemed income from financial assets)”, substitute “(income
22 from financial assets (including income streams (short term) and certain
23 income streams (long term))”.

24 ***Veterans’ Entitlements Act 1986***

25 **32 Subsection 5H(1) (note 1 at the end of the definition of** 26 ***income*)**

27 Omit “sections 46D to 46L (deemed income from financial assets) and
28 sections 46Q to 46YA (income from income streams)”, substitute
29 “Division 3 of Part IIIB (income from financial assets (including
30 income streams (short term) and certain income streams (long term))
31 and Division 4 of Part IIIB (income from income streams not covered
32 by Division 3 of Part IIIB)”.

1 **33 Subsection 5H(1) (note 3 at the end of the definition of**
2 ***ordinary income*)**

3 Omit “sections 46D to 46L (deemed income from financial assets) and
4 sections 46Q to 46YA (income from income streams)”, substitute
5 “Division 3 of Part IIIB (income from financial assets (including
6 income streams (short term) and certain income streams (long term))
7 and Division 4 of Part IIIB (income from income streams not covered
8 by Division 3 of Part IIIB)”.

9 **34 Subsection 5J(1) (at the end of paragraph (h) of the**
10 **definition of *financial investment*)**

11 Add “or”.

12 **35 Subsection 5J(1) (after paragraph (h) of the definition of**
13 ***financial investment*)**

14 Insert:

- 15 (i) an asset-tested income stream (long term) that is an
16 account-based pension within the meaning of the
17 *Superannuation Industry (Supervision) Regulations 1994*; or
18 (j) an asset-tested income stream (long term) that is an annuity
19 (within the meaning of the *Superannuation Industry*
20 *(Supervision) Act 1993*) provided under a contract that meets
21 the requirements determined in an instrument under
22 subsection (1G);

23 **36 Subsection 5J(1C) (notes 4 and 5)**

24 Repeal the notes.

25 **37 After subsection 5J(1F)**

26 Insert:

- 27 (1G) The Minister may, by legislative instrument, determine
28 requirements for the purposes of paragraph (j) of the definition of
29 ***financial investment*** in subsection (1).

1 **38 Section 46 (note 2)**

2 Omit “sections 46D to 46L (deemed income from financial assets) and
3 sections 46Q to 46YA (income from income streams)”, substitute
4 “Division 3 (income from financial assets (including income streams
5 (short term) and certain income streams (long term)) and Division 4
6 (income from income streams not covered by Division 3)”.

7 **39 Division 3 of Part IIIB (heading)**

8 Repeal the heading, substitute:

9 **Division 3—Income from financial assets (including income**
10 **streams (short term) and certain income streams**
11 **(long term))**

12 **40 Division 4 of Part IIIB (heading)**

13 Repeal the heading, substitute:

14 **Division 4—Income from income streams not covered by**
15 **Division 3**

16 **41 Section 46SA**

17 Before “This”, insert “(1)”.

18 **42 At the end of section 46SA**

19 Add:

20 (2) However, this Subdivision does not apply to:

- 21 (a) an asset-tested income stream (long term) that is an
22 account-based pension within the meaning of the
23 *Superannuation Industry (Supervision) Regulations 1994*; or
24 (b) an asset-tested income stream (long term) that is an annuity
25 (within the meaning of the *Superannuation Industry*
26 *(Supervision) Act 1993*) provided under a contract that meets
27 the requirements determined in an instrument under
28 subsection 5J(1G) of this Act.

29 Note 1: For treatment of an income stream mentioned in subsection (2), see
30 Division 3.

Schedule 11 Extending the deeming rules to account-based income streams
Part 1 Amendments

1 Note 2: Part 2 of Schedule 11 to the *Social Services and Other Legislation*
2 *Amendment Act 2013* preserves the rules in this Subdivision for a
3 certain kind of income stream that was being provided to a person
4 immediately before 1 January 2015 where the person was receiving an
5 income support payment immediately before that day provided that,
6 since that day, that income stream has been provided to the person and
7 the person has been continuously receiving an income support
8 payment.

9 **43 Paragraph 46YA(1)(b)**

10 Repeal the paragraph, substitute:

- 11 (b) the income stream is an allocated pension within the meaning
12 of the *Superannuation Industry (Supervision)*
13 *Regulations 1994*; and

14 **44 Section 46Z**

15 Before “This”, insert “(1)”.

16 **45 At the end of section 46Z**

17 Add:

- 18 (2) However, this Subdivision does not apply to:
19 (a) an asset-tested income stream (long term) that is an
20 account-based pension within the meaning of the
21 *Superannuation Industry (Supervision) Regulations 1994*; or
22 (b) an asset-tested income stream (long term) that is an annuity
23 (within the meaning of the *Superannuation Industry*
24 *(Supervision) Act 1993*) provided under a contract that meets
25 the requirements determined in an instrument under
26 subsection 5J(1G) of this Act.

27 Note 1: For treatment of an income stream mentioned in subsection (2), see
28 Division 3.

29 Note 2: Part 2 of Schedule 11 to the *Social Services and Other Legislation*
30 *Amendment Act 2013* preserves the rules in this Subdivision for a
31 certain kind of income stream that was being provided to a person
32 immediately before 1 January 2015 where the person was receiving an
33 income support payment immediately before that day provided that,
34 since that day, that income stream has been provided to the person and
35 the person has been continuously receiving an income support
36 payment.

1 **46 Point SCH6-E2 of Schedule 6 (paragraph (c) of note 2)**

2 Omit “deemed income from financial assets (sections 46D to 46M)”,
3 substitute “income from financial assets (including income streams
4 (short term) and certain income streams (long term)) (Division 3 of
5 Part IIIB)”.

6 **47 Point SCH6-E2 of Schedule 6 (paragraph (d) of note 2)**

7 Omit “income from income streams (sections 46Q to 46YA)”, substitute
8 “income from income streams not covered by Division 3 of Part IIIB
9 (Division 4 of Part IIIB)”.

1 **Part 2—Application provisions**

2 **48 Application provisions**

3 (1) The amendments made by Part 1 apply in relation to working out the
4 ordinary income of a person in relation to days occurring on or after
5 1 January 2015.

6 (2) However, if:

7 (a) a person was receiving an income support payment
8 immediately before 1 January 2015; and

9 (b) either:

10 (i) an asset-tested income stream (long term), that is an
11 account-based pension within the meaning of the
12 *Superannuation Industry (Supervision)*
13 *Regulations 1994*, was being provided to the person
14 immediately before 1 January 2015; or

15 (ii) an asset-tested income stream (long term), that is an
16 annuity (within the meaning of the *Superannuation*
17 *Industry (Supervision) Act 1993*) provided under a
18 contract that meets the standards determined in an
19 instrument under subparagraph 1099DAA(1)(b)(ii) of
20 the *Social Security Act 1991*, was being provided to the
21 person immediately before 1 January 2015; and

22 (c) since the start of that day:

23 (i) the person has been continuously receiving an income
24 support payment; and

25 (ii) that asset-tested income stream (long term) has been
26 provided to the person;

27 then the amendments made by Part 1 do not apply in relation to the
28 person (the **primary beneficiary**) and that asset-tested income stream
29 (long term).

30 (3) If:

31 (a) while the amendments made by Part 1 do not apply in
32 relation to the primary beneficiary because of subitem (2),
33 the primary beneficiary dies; and

- 1 (b) that asset-tested income stream (long term) reverts to a
2 reversionary beneficiary on the primary beneficiary's death;
3 and
4 (c) at the time of that reversion the reversionary beneficiary is
5 receiving an income support payment; and
6 (d) since the time of that reversion:
7 (i) the reversionary beneficiary has been continuously
8 receiving an income support payment; and
9 (ii) that asset-tested income stream (long term) has been
10 provided to the reversionary beneficiary;

11 then the amendments made by Part 1 do not apply in relation to the
12 reversionary beneficiary and that asset-tested income stream (long
13 term).

14 (4) In this item:

15 ***income support payment*** has the meaning given by subsection 23(1) of
16 the *Social Security Act 1991*.

1 **Schedule 12—Other amendments**

2 **Part 1—Repayment of financial supplement through**
3 **taxation system**

4 **Division 1—Amendments**

5 *Social Security Act 1991*

6 **1 At the end of Division 1 of Part 2B.3 of Chapter 2B**

7 Add:

8 **1061ZZENA Extent of Commissioner of Taxation’s general**
9 **administration of this Part**

10 The Commissioner of Taxation has the general administration of
11 this Part to the following extent:

- 12 (a) Divisions 2 and 4;
13 (b) Division 5, except section 1061ZZFE;
14 (c) Divisions 6 to 8;
15 (d) section 1061ZZFO.

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

18 **2 Section 1061ZZFGC**

19 Repeal the section.

20 **3 Subsection 1061ZZFJ(1)**

21 Omit “written application”, substitute “application in the approved
22 form”.

23 **4 At the end of section 1061ZZFJ**

24 Add:

25 (4) In this section:

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

1 **5 Subsection 1061ZZFK(1)**

2 Omit “written application”, substitute “application in the approved
3 form”.

4 **6 At the end of section 1061ZZFK**

5 Add:

6 (3) In this section:

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

9 ***Student Assistance Act 1973***

10 **7 Section 5B**

11 After “subject to”, insert “section 12ZEA and to”.

12 **8 At the end of section 5B**

13 Add:

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

17 **9 After section 12ZE**

18 Insert:

19 **12ZEA Extent of Commissioner’s general administration of this**
20 **Division**

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

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

25 **10 Section 12ZNC**

26 Repeal the section.

27 **11 Subsections 12ZP(1) and (2)**

28 Omit “written application”, substitute “application in the approved
29 form”.

Schedule 12 Other amendments

Part 1 Repayment of financial supplement through taxation system

1 **12 At the end of section 12ZP**

2 Add:

3 (4) In this section:

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

6 **13 Subsection 12ZU(6)**

7 After “or any”, insert “other”.

8 **Division 2—Application provision**

9 **14 Application provision**

10 The amendments made by items 3, 5 and 11 apply in relation to
11 applications made on or after the commencement of those items.

1 **Part 2—Time periods and FTB reconciliation**
2 **conditions**

3 *A New Tax System (Family Assistance) (Administration) Act*
4 *1999*

5 **15 Subsection 10(2) (heading)**

6 Repeal the heading, substitute:

7 *Claim must relate to one income year and be made within a certain*
8 *period*

9 **16 Sections 32C to 32H**

10 Repeal the sections, substitute:

11 **32C Relevant reconciliation time—first individual must lodge tax**
12 **return**

- 13 (1) This section applies to the first individual for a same-rate benefit
14 period if:
- 15 (a) the first individual is or was required to lodge an income tax
16 return for the relevant income year; and
 - 17 (b) clause 38L of Schedule 1 to the Family Assistance Act did
18 not apply to the first individual at any time during the
19 same-rate benefit period.
- 20 (2) Disregard paragraph (1)(b) if the first individual was a member of
21 a couple at any time during the same-rate benefit period.
- 22 (3) The relevant reconciliation time is the time when an assessment is
23 made under the *Income Tax Assessment Act 1936* of the first
24 individual's taxable income for the relevant income year, so long
25 as the first individual's income tax return for the relevant income
26 year was lodged before the end of:
- 27 (a) the first income year after the relevant income year; or
 - 28 (b) such further period (if any) as the Secretary allows, if the
29 Secretary is satisfied that there are special circumstances that
30 prevented the first individual from lodging the return before
31 the end of that first income year.

- 1 (4) The further period under paragraph (3)(b) must end no later than
2 the end of the second income year after the relevant income year.

3 **32D Relevant reconciliation time—no separation of couple and**
4 **partner must lodge tax return**

- 5 (1) This section applies to the first individual for a same-rate benefit
6 period if:
7 (a) the first individual was a member of a couple throughout that
8 period; and
9 (b) the other member of the couple (the *partner*) is or was
10 required to lodge an income tax return for the relevant
11 income year; and
12 (c) the first individual continues to be a member of the couple
13 until the end of:
14 (i) the first income year after the relevant income year; or
15 (ii) such further period (if any) as the Secretary allows, if
16 the Secretary is satisfied that there are special
17 circumstances that prevented the partner from lodging
18 the return before the end of that first income year.
- 19 (2) The relevant reconciliation time is the time when an assessment is
20 made under the *Income Tax Assessment Act 1936* of the partner's
21 taxable income for the relevant income year, so long as the
22 partner's income tax return for the relevant income year was
23 lodged before the end of:
24 (a) the first income year after the relevant income year; or
25 (b) such further period (if any) as the Secretary allows under
26 subparagraph (1)(c)(ii).
- 27 (3) The further period under subparagraph (1)(c)(ii) must end no later
28 than the end of the second income year after the relevant income
29 year.

30 **32E Relevant reconciliation time—couple separates during next**
31 **income year and partner must lodge tax return**

- 32 (1) This section applies to the first individual for a same-rate benefit
33 period if:
34 (a) the first individual was a member of a couple throughout that
35 period; and
-

- 1 (b) the other member of the couple (the *partner*) is or was
2 required to lodge an income tax return for the relevant
3 income year; and
4 (c) the first individual ceased to be a member of the couple
5 during the first income year after the relevant income year.
- 6 (2) The relevant reconciliation time is:
7 (a) if the partner lodged the return before the end of the first
8 income year after the relevant income year—when an
9 assessment is made under the *Income Tax Assessment Act*
10 *1936* of the partner’s taxable income for the relevant income
11 year; or
12 (b) otherwise—the end of the first income year after the relevant
13 income year.

14 **32F Relevant reconciliation time—couple separates after end of next**
15 **income year and partner must lodge tax return**

- 16 (1) This section applies to the first individual for a same-rate benefit
17 period if:
18 (a) the first individual was a member of a couple throughout that
19 period; and
20 (b) the other member of the couple (the *partner*) is or was
21 required to lodge an income tax return for the relevant
22 income year; and
23 (c) the partner did not lodge the return before the end of the first
24 income year after the relevant income year; and
25 (d) the Secretary allowed a further period for the partner to lodge
26 the return because the Secretary was satisfied that there were
27 special circumstances that prevented the partner from lodging
28 the return before the end of that first income year; and
29 (e) the first individual ceased to be a member of the couple
30 during the period beginning at the start of the second income
31 year after the relevant income year and ending at the end of
32 that further period allowed by the Secretary.
- 33 (2) The relevant reconciliation time is:
34 (a) if the partner lodged the return while the first individual and
35 the partner were members of the same couple—when an
36 assessment is made under the *Income Tax Assessment Act*

Schedule 12 Other amendments

Part 2 Time periods and FTB reconciliation conditions

1 1936 of the partner’s taxable income for the relevant income
2 year; or

3 (b) otherwise—when the first individual ceased to be a member
4 of the couple.

5 (3) The further period under paragraph (1)(d) must end no later than
6 the end of the second income year after the relevant income year.

7 **17 Section 32R**

8 Repeal the section.

9 **18 Subsection 107(3)**

10 Omit “before the end of the income year next following that year”,
11 substitute “in accordance with subsection (3AA)”.

12 **19 After subsection 107(3)**

13 Insert:

14 (3AA) For the purposes of subsection (3), the income tax return of a
15 person in respect of a particular income year (the *base year*) must
16 be lodged before the end of:

17 (a) the first income year after the base year; or

18 (b) such further period (if any) as the Secretary allows, if the
19 Secretary is satisfied that there are special circumstances that
20 prevented the person from lodging the return before the end
21 of that first income year.

22 (3AB) The further period under paragraph (3AA)(b) must end no later
23 than the end of the second income year after the base year.

24 **20 Paragraph 109D(4)(a)**

25 Omit “before the end of the next income year”, substitute “in
26 accordance with subsection (4A)”.

27 **21 Subparagraph 109D(4)(b)(i)**

28 Omit “before the end of the next income year”, substitute “in
29 accordance with subsection (4A)”.

30 **22 After subsection 109D(4)**

31 Insert:

1 (4A) For the purposes of paragraph (4)(a) or subparagraph (4)(b)(i), the
2 income tax return of a person in respect of a particular income year
3 (the *base year*) must be lodged before the end of:

4 (a) the first income year after the base year; or

5 (b) such further period (if any) as the Secretary allows, if the
6 Secretary is satisfied that there are special circumstances that
7 prevented the person from lodging the return before the end
8 of that first income year.

9 (4B) The further period under paragraph (4A)(b) must end no later than
10 the end of the second income year after the base year.

11 **23 Paragraph 109E(3)(a)**

12 Omit “before the end of the next income year”, substitute “in
13 accordance with subsection (3A)”.

14 **24 Subparagraph 109E(3)(b)(i)**

15 Omit “before the end of the next income year”, substitute “in
16 accordance with subsection (3A)”.

17 **25 After subsection 109E(3)**

18 Insert:

19 (3A) For the purposes of paragraph (3)(a) or subparagraph (3)(b)(i), the
20 income tax return of a person in respect of a particular income year
21 (the *base year*) must be lodged before the end of:

22 (a) the first income year after the base year; or

23 (b) such further period (if any) as the Secretary allows, if the
24 Secretary is satisfied that there are special circumstances that
25 prevented the person from lodging the return before the end
26 of that first income year.

27 (3B) The further period under paragraph (3A)(b) must end no later than
28 the end of the second income year after the base year.

29 **26 Application provisions**

30 (1) The amendments made by items 16 and 17 apply in relation to a
31 relevant income year referred to in subsection 32A(1) of the *A New Tax*
32 *System (Family Assistance) (Administration) Act 1999* that is the
33 2013-14 income year or a later income year.

Schedule 12 Other amendments

Part 2 Time periods and FTB reconciliation conditions

- 1 (2) The amendments made by items 18 to 25 apply in relation to an income
2 year referred to in paragraph 107(3)(d), 109D(4)(a) or 109E(3)(a) or
3 subparagraph 109D(4)(b)(i) or 109E(3)(b)(i) of the *A New Tax System*
4 *(Family Assistance) (Administration) Act 1999* that is the 2013-14
5 income year or a later income year.

1 **Part 3—Protection of amounts under National**
2 **Disability Insurance Scheme**

3 *National Disability Insurance Scheme Act 2013*

4 **27 At the end of Division 3 of Part 2 of Chapter 3**

5 Add:

6 **46A Protection of NDIS amounts**

- 7 (1) An NDIS amount is absolutely inalienable, whether by way of, or
8 in consequence of, sale, assignment, charge, execution, bankruptcy
9 or otherwise.
- 10 (2) This section is subject to Part 1 of Chapter 7.

11 **46B Garnishee orders**

12 *General rule*

- 13 (1) A court must not make an order in the nature of a garnishee order
14 in respect of an account with a financial institution if:
15 (a) one or more NDIS amounts for a particular participant have
16 been paid to the credit of the account; and
17 (b) the account has been kept solely for the purpose of managing
18 the funding for supports under the participant's plan.

19 *Exception*

- 20 (2) However, a court may make an order in the nature of a garnishee
21 order in respect of the account if:
22 (a) the order is made in favour of a person in relation to a debt
23 that arose because of the person providing goods or services
24 in relation to the participant; and
25 (b) the goods or services are reasonable and necessary supports
26 specified in the participant's plan.

1 **28 Application provisions**

2 (1) Section 46A of the *National Disability Insurance Scheme Act 2013*, as
3 amended by this Act, applies in relation to NDIS amounts paid on or
4 after the commencement of this item.

5 (2) Section 46B of the *National Disability Insurance Scheme Act 2013*, as
6 amended by this Act, applies in relation to court orders made on or after
7 the commencement of this item.

1 **Part 4—Use of tax file numbers**

2 *A New Tax System (Family Assistance) (Administration) Act*
3 *1999*

4 **29 Sections 154A and 154B**

5 Repeal the sections.

6 **30 After Division 1 of Part 6**

7 Insert:

8 **Division 1A—Use of tax file numbers**

9 **160A Use of tax file numbers**

10 (1) This section applies in relation to the tax file number of an
11 individual that is provided to the Secretary under this Act for the
12 purposes of this Act.

13 *Assistance to the Secretary*

14 (2) The Secretary may:

- 15 (a) provide the tax file number referred to in subsection (1) to the
16 Commissioner of Taxation; and
17 (b) require the Commissioner of Taxation to provide the
18 Secretary with information about the individual (including
19 the number the Commissioner of Taxation considers to be the
20 individual's tax file number) that is requested by the
21 Secretary.

22 (3) Information provided to the Secretary under a requirement made
23 under subsection (2) may be used only for the following purposes:

- 24 (a) to detect cases in which amounts of family assistance under
25 the family assistance law have been paid when they should
26 not have been paid;
27 (b) to verify, in respect of individuals who have made claims for
28 family assistance under the family assistance law, the
29 eligibility or entitlement of those individuals for family
30 assistance;

- 1 (c) to establish whether the rates at which family assistance
2 under the family assistance law are being, or have been, paid
3 are, or were, correct;
4 (d) to assist in the recovery of a debt due to the Commonwealth
5 under this Act.

6 *Assistance to the Commissioner of Taxation*

- 7 (4) The Secretary may provide the tax file number referred to in
8 subsection (1) to the Commissioner of Taxation for the following
9 purposes:
10 (a) to assist the Commissioner act under section 87 (applying tax
11 refund to family assistance debt) in relation to a debt owed by
12 an individual;
13 (b) to assist the Commissioner act under section 93 (applying tax
14 refund to another person's family assistance debt) in relation
15 to a debt owed by an individual;
16 (c) to assist the payment of deductions to the Commissioner
17 under section 225;
18 (d) to assist the Commissioner set off amounts under
19 section 226.

20 **31 Application and saving provisions**

- 21 (1) Subsection 160A(1) of the *A New Tax System (Family Assistance)*
22 *(Administration) Act 1999*, as inserted by this Act, applies in relation to
23 a tax file number provided to the Secretary before, on or after the
24 commencement of this item.
25 (2) Despite the amendment made by item 29, sections 154A and 154B of
26 the *A New Tax System (Family Assistance) (Administration) Act 1999*,
27 as in force immediately before the commencement of that item,
28 continue to apply on and after that commencement in relation to a
29 record provided under subsection 154A(2) or 154B(1) of that Act before
30 that commencement.

1 **Part 5—Child support amendments**

2 ***Child Support (Assessment) Act 1989***

3 **32 Subsection 5(1) (definition of *Family Assistance***
4 ***Secretary*)**

5 Repeal the definition.

6 **33 Subsection 12A(1)**

7 Omit “The Secretary of the Department of which the Registrar is an
8 employee”, substitute “The Human Services Secretary”.

9 **34 Paragraph 54F(1)(c)**

10 Omit “Family Assistance Secretary”, substitute “Secretary”.

11 **35 Paragraphs 54F(2)(a), (b) and (c)**

12 Omit “Family Assistance Secretary”, substitute “Secretary”.

13 **36 Paragraph 54G(1)(d)**

14 Omit “Family Assistance Secretary”, substitute “Secretary”.

15 **37 Paragraph 54H(1)(c)**

16 Omit “Family Assistance Secretary”, substitute “Secretary”.

17 **38 Paragraphs 54H(2)(a), (b) and (c)**

18 Omit “Family Assistance Secretary”, substitute “Secretary”.

19 **39 Paragraph 54K(1)(b)**

20 Omit “Family Assistance Secretary”, substitute “Secretary”.

21 **40 Paragraph 54L(1)(a)**

22 Omit “Family Assistance Secretary”, substitute “Secretary”.

23 **41 Paragraph 54L(1)(c)**

24 Omit “Family Assistance Secretary’s”, substitute “Secretary’s”.

1 **42 At the end of subsection 149(1)**

2 Add “or the Human Services Department”.

3 **43 Subsection 150(1) (after paragraph (a) of the definition of**
4 ***person to whom this section applies*)**

5 Insert:

6 (aa) the Human Services Minister; or

7 **44 Subsection 150(1) (paragraph (a) of the definition of**
8 ***relevant Minister*)**

9 Repeal the paragraph, substitute:

10 (a) the Minister; or

11 (aa) the Human Services Minister; or

12 **45 Before subparagraph 150(3)(ba)(i)**

13 Insert:

14 (ia) the Human Services Secretary; or

15 **46 Paragraph 150(4)(a)**

16 After “Department”, insert “or the Human Services Department”.

17 **47 Paragraph 150(4C)(d)**

18 After “Department”, insert “or the Human Services Department”.

19 **48 Subsection 150AA(3) (paragraphs (a) and (b) of the**
20 **definition of *relevant information*)**

21 After “Department”, insert “, the Human Services Department”.

22 **49 Subparagraph 151A(1)(b)(ii)**

23 Omit “Department”, substitute “Human Services Department”.

24 **50 Paragraph 151A(7)(b)**

25 Omit “Department”, substitute “Human Services Department”.

1 ***Child Support (Registration and Collection) Act 1988***

2 **51 Subsection 4(1) (definition of *Human Services***
3 ***Department*)**

4 Omit “Minister administering the *Human Services (Centrelink) Act*
5 *1997*”, substitute “Human Services Minister”.

6 **52 Subsection 4(1)**

7 Insert:

8 ***Human Services Minister*** means the Minister administering the
9 *Human Services (Centrelink) Act 1997*.

10 **53 Subsection 4(1)**

11 Insert:

12 ***Human Services Secretary*** means the Secretary of the Human
13 Services Department.

14 **54 Subsection 4A(1)**

15 Omit “The Secretary of the Department of which the Registrar is an
16 employee”, substitute “The Human Services Secretary”.

17 **55 Paragraph 10(2)(a)**

18 Omit “Department”, substitute “Human Services Department”.

19 **56 Paragraph 10(2)(b)**

20 Omit “Secretary”, substitute “Human Services Secretary”.

21 **57 Subsection 10A(1)**

22 Omit “Secretary may appoint an SES employee in the Department”,
23 substitute “Human Services Secretary may appoint an SES employee in
24 the Human Services Department”.

25 **58 At the end of subsection 15(1)**

26 Add “or the Human Services Department”.

1 **59 Subsection 16(1) (after paragraph (a) of the definition of**
2 ***person to whom this section applies*)**

3 Insert:

4 (aa) the Human Services Minister; or

5 **60 Subsection 16(1) (paragraph (a) of the definition of**
6 ***relevant Minister*)**

7 Repeal the paragraph, substitute:

8 (a) the Minister; or

9 (aa) the Human Services Minister; or

10 **61 Paragraph 16(2AA)(a)**

11 After “by the Secretary”, insert “or to the Human Services Secretary or
12 a person authorised by the Human Services Secretary”.

13 **62 At the end of paragraph 16(2AA)(b)**

14 Add “or the Human Services Secretary from communicating the reasons
15 for a decision of the SSAT under Part VIIA to a person authorised by
16 the Human Services Secretary”.

17 **63 Subsection 16(2AB)**

18 After “by the Secretary,”, insert “or the Human Services Secretary, or a
19 person authorised by the Human Services Secretary,”.

20 **64 Before subparagraph 16(3)(ba)(i)**

21 Insert:

22 (ia) the Human Services Secretary; or

23 **65 Paragraph 16(4)(a)**

24 After “Department”, insert “or the Human Services Department”.

25 **66 Paragraph 16(4C)(d)**

26 After “Department”, insert “or the Human Services Department”.

27 **67 Subsection 16AA(3) (paragraphs (a) and (b) of the**
28 **definition of *relevant information*)**

29 After “Department”, insert “, the Human Services Department”.

1 **68 Paragraph 16AB(2)(a)**

2 Omit “the Secretary, the Registrar or an officer or employee of the
3 Department”, substitute “the Human Services Secretary, the Registrar or
4 an officer or employee of the Human Services Department”.

5 **69 Paragraph 16AB(2)(b)**

6 Omit “the Secretary, the Registrar or the officer or employee of the
7 Department”, substitute “the Human Services Secretary, the Registrar or
8 the officer or employee of the Human Services Department”.

9 **70 Section 80A**

10 Omit “Family Assistance Secretary”, substitute “Secretary”.

11 **71 Subsection 95(1)**

12 Omit “Secretary”, substitute “Human Services Secretary”.

13 **72 Paragraph 95(2)(b)**

14 Omit “Secretary”, substitute “Human Services Secretary”.

15 **73 Paragraph 110Y(1)(a)**

16 Omit “Family Assistance Secretary”, substitute “Secretary”.

1 **Part 6—Other amendments**

2 *A New Tax System (Family Assistance) Act 1999*

3 **74 Subsection 36(2)**

4 Omit “if on any day”, substitute “if in relation to any day”.

5 **75 Subparagraphs 36(2)(a)(i) and (ii)**

6 After “individual” (wherever occurring), insert “or the individual’s
7 partner”.

8 **76 Paragraph 36(2)(b)**

9 After “individual’s”, insert “or the individual’s partner’s”.

10 **77 After subsection 58AA(1)**

11 Insert:

12 (1A) If:

- 13 (a) under Division 1A of Part 5 of Schedule 1 an amount of
14 newborn supplement is added for a day in relation to both
15 members of a couple and an FTB child of both members of
16 the couple; and
17 (b) in relation to that day, a determination under section 28 or 29
18 is in force in relation to both members of the couple and that
19 child; and
20 (c) that day is the first day on which an amount of newborn
21 supplement is added in relation to that child;

22 then, despite subsection (1) of this section, each member of the
23 couple is entitled to be paid, as an amount of family tax benefit in
24 respect of that child, an amount equal to \$500 multiplied by the
25 percentage applicable under that determination for that member on
26 that day.

27 Note: The amount is to be paid as a single lump sum: see section 24A of the
28 Family Assistance Administration Act.

29 **78 Subsection 58AA(2)**

30 Omit “Subsection (1)”, substitute “Subject to subsection (1A),
31 subsection (1)”.

1 **79 At the end of section 58AA**

2 Add:

3 *Interpretation*

4 (5) This section is subject to sections 28AA and 32AEA of the Family
5 Assistance Administration Act.

6 **80 At the end of paragraph 35A(10)(b) of Schedule 1**

7 Add “and”.

8 **81 After paragraph 35A(10)(b) of Schedule 1**

9 Insert:

10 (c) throughout that period there is no determination in force
11 under section 28 or 29 in relation to both members of the
12 couple and that child;

13 **82 Paragraph 35B(1)(b) of Schedule 1**

14 Omit “individual or the individual’s partner”, substitute “individual, or
15 the individual’s partner, in the circumstances mentioned in paragraphs
16 35A(5)(b) and (c)”.

17 **83 Subclause 35B(2) of Schedule 1**

18 Repeal the subclause, substitute:

19 *Multiple children cases*

20 (2) If 2 or more children are born during the same multiple birth
21 (including any stillborn child) and subclause 35A(2) applies in
22 relation to an individual and one or more of those children (each of
23 whom is a *qualifying child*), the amount of newborn supplement
24 for the individual in respect of each qualifying child is the amount
25 worked out using the formula:

26
$$\$1,501.50 \times \frac{365}{91}$$

27 **84 Clause 2 of Schedule 4 (table item 7B)**

28 Omit “subsection 58AA(1)”, substitute “subsections 58AA(1) and
29 (1A)”.

1 *A New Tax System (Family Assistance) (Administration) Act*
2 *1999*

3 **85 After section 28**

4 Insert:

5 **28AA Effect of section 28 on newborn upfront payment of family tax**
6 **benefit**

7 (1) If:

8 (a) an individual is entitled to be paid an amount (the *upfront*
9 *amount*) of family tax benefit under section 58AA of the
10 Family Assistance Act because an amount of newborn
11 supplement is added in relation to the individual under
12 Division 1A of Part 5 of Schedule 1 to that Act for one or
13 more days; and

14 (b) a variation under subsection 28(2) or (6) of this Act has the
15 effect that the individual never was entitled to family tax
16 benefit for those days;

17 then the individual is taken not to have been entitled to the upfront
18 amount.

19 (2) If a variation under subsection 28(3) or (4) of this Act has the
20 effect that the individual is entitled to be paid family tax benefit for
21 those days, then subsection (1) of this section ceases to apply to the
22 individual.

23 (3) Subsection (2) does not prevent subsection (1) again applying to
24 the individual.

25 **86 At the end of Subdivision CA of Division 1 of Part 3**

26 Add:

27 **32AEA Effect of this Subdivision on newborn upfront payment of**
28 **family tax benefit**

29 If this Subdivision has the effect that:

30 (a) the Secretary must not make a payment of family tax benefit
31 (worked out on an estimated income basis) to an individual
32 during a period; or

1 (b) an individual is not entitled to be paid family tax benefit
2 (worked out on an estimated income basis) for a period;
3 then the individual is not entitled to be paid an amount of family
4 tax benefit under section 58AA of the Family Assistance Act
5 during that period.

6 **87 Subsection 39(2)**

7 Omit “subsections (3) and (4)”, substitute “subsections (3), (3A) and
8 (4)”.

9 **88 After subsection 39(3)**

10 Insert:

11 (3A) If:

12 (a) in relation to any day during the period of 52 weeks
13 mentioned in subsection (2), paragraphs 36(2)(a) and (b) of
14 the Family Assistance Act apply in relation to the claimant or
15 the claimant’s partner; and

16 (b) after the end of, or during the last 13 weeks of, that 52-week
17 period, the Secretary gives the claimant, or the claimant’s
18 partner, a notice specifying that the claimant’s or the
19 claimant’s partner’s rate of family tax benefit consists of or
20 includes a Part A rate greater than nil;

21 subsection (2) of this section does not apply if the claim for
22 payment of a stillborn baby payment is made within the period of
23 13 weeks after the day on which the notice is given.