Student Assistance Legislation Amendment Bill 1987

Date Introduced: 18 November 1987
House: House of Representatives
Presented by: The Hon. Clyde Holding, M.P., Minister for Employment Services and Youth Affairs

Digest of Bill

Purpose
To reduce fraud and assist in the recovery of overpayments under student assistance schemes. The Bill will require people to provide information to verify claims, make it an offence to give false information in an application and enable overpayments to be recovered from money held by a debtor of the person overpaid.

Background
The major form of student assistance is under the AUSTUDY scheme which was introduced in 1987 and replaced the Tertiary Education Assistance Scheme, Adult Secondary Education Assistance Scheme and the Secondary Allowances Scheme. The AUSTUDY allowance is subject to income testing and is subject to tax. Outlays on AUSTUDY are estimated at $589.3 million in 1987–88. In addition, other programs provide assistance for special groups, such as Aborigines, migrants and the children of certain veterans. Funding of such special schemes is estimated at $194.5 million in 1987–88.

While it is almost impossible to estimate the extent of payments under student assistance schemes that are made in circumstances where the person is not eligible for the payment, the existence of some overpayment and fraud cannot be denied. In the Social Security area, the government has implemented measures to combat fraud and abuse of the system through the tightening of unemployment and single parent benefits, tightening of overpayment recovery provisions and other measures. This Bill will implement similar measures in respect of student allowances.

Main Provisions
Amendments to the Student Assistance Act 1973

Clause 6 will insert new sections into this Act that deal with the recovery of overpayments. Proposed section 31A provides that where a person has received an overpayment under certain social security and veterans schemes, that amount may be recovered by reducing any payments.
made under a student assistance scheme. Where a person has received a student assistance payment due to a misrepresentation, false or misleading statement or a failure to comply with this Act, and the amount exceeds $50 and has not been recovered within three months of notice being given, the person will be liable to pay an additional amount of $15 plus 10% of the outstanding amount at the end of the three months. The maximum additional payment will be $515.

Proposed section 31B will require a person who is holding money for, or who owes money to, a person to whom an overpayment has been made, to pay that money to the Commonwealth. If a person fails to pay that sum to the Commonwealth, they will be liable to pay the amount to the Commonwealth as a debt due.

The Minister will be able to waive recovery of overpayments and specifies that actions for recovery are generally not to be commenced more than six years after the amount became payable. In cases of overpayment due to a misrepresentation, false or misleading statement or a failure to comply with this Act, the six year period will begin from when an officer became aware of the cause of the overpayment (proposed section 31C).

Proposed section 31D will allow prescribed officers to require the production of information and documents. People will not be able to refuse to give information on the grounds of self-incrimination, but such information or documents will not be admissible in criminal proceedings other than a proceeding under proposed section 31D (proposed section 31E).

It will be an offence to make a false or misleading statement or to obtain a benefit which is not payable (proposed section 31G). Offences against proposed sections 31B, 31D and 31G will be punishable by a maximum penalty of a $2000 fine and/or 12 months imprisonment for natural persons and $10 000 for corporations (proposed section 31H).

Amendments to the Social Security Act 1947
Clause 12 will amend section 181 of this Act to allow overpayments of social security benefits to be recovered from any education allowance. Currently, the allowance and benefit must be paid during the same period.

For further information, if required, contact the Law and Government Group.

10 December 1987

Bills Digest Service
Legislative Research Service
This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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