THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Employment and Workplace Relations the Honourable Julia Gillard MP)
The Bill proposes wide ranging amendments to income support arrangements for students. The measures are designed to increase income support for students who need it the most, making higher education more accessible.

The Bill has four principal measures.

The **first** measure contains changes to the criteria upon which a youth allowance recipient is considered to be “independent”. Independent youth allowance recipients are entitled to a higher rate of payment and are not subject to a test for parental income.

The age at which a person is automatically independent is changing from 25 to 22 years. This change will be phased in, so that the age of independence will be reduced to 24 years in 2010 years, 23 years in 2011 and 22 years in 2012. This change means that more young people will be eligible for youth allowance, and many existing youth allowance recipients will receive a higher rate of payment.

In addition, from 1 January 2010, a youth allowance claimant will no longer be able to attain independence through part-time employment or wages. This change seeks to better target youth allowance to those who need it. No person who is currently independent because of the current workforce participation tests will be affected by the change. In addition, students who completed secondary school in 2008, did not study in 2009, commenced university in 2010 and are required to live away from home, will not be affected.

The **second** measure makes significant changes to means testing for payments to students and youth.

From 1 January 2010, the annual parental income threshold for non-independent youth allowance recipients to get the maximum rate of youth allowance will increase from $32,800 to $44,165.

The parental income reduction for youth allowance will also change from a taper rate of 25% per person, to a taper of 20% apportioned between the members of the family who are subject to the parental income test. This measure reduces the effect of parental income on a youth allowance recipient, particularly where the same parental income applies to multiple recipients in a family. The point at which a person’s parental income will disentitle the person to youth allowance will therefore be substantially raised.
It is estimated that these changes to the parental income test will result in 67,800 additional students qualifying for income support, and 34,600 students receiving a higher rate of payment.

Additionally, the personal income free area for youth allowance and austudy students and Australian Apprentices will rise from $236 to $400 per fortnight, from 1 July 2012. Students and Australian Apprentices will therefore be able earn up to $400 per fortnight without having their payments reduced. The increased free area will also be indexed to the Consumer Price Index. It is estimated that 61,480 students will receive a higher rate of income support payment because of this measure.

The third measure provides for new scholarships for students on income support.

All students receiving youth allowance or austudy while undertaking an approved higher education course will receive a student start-up scholarship. In 2010, the scholarship will be $1,127 for each six months of study, totalling $2254 for the year. The student start-up scholarship payment will effectively increase the value of student income support by $86.77 per fortnight. An estimated 146,600 students will receive a student start-up scholarship in 2010.

In addition to the student start-up scholarship some students receiving student income support will receive a relocation scholarship to assist with the cost of relocating for study. The scholarship will be $1,000 per year, and $4,000 for a student’s initial relocation. An estimated 14,200 students will receive a relocation scholarship payment in 2010.

The fourth measure is exempting merit and equity based scholarships from the income test under social security and veterans’ entitlements legislation. These scholarships will be exempt to a threshold of $6,762 per year. The threshold will be indexed. This measure will increase the entitlement to income support for students receiving scholarships, and provide an incentive to individuals and organisations to fund scholarships for students. It is estimated that this measure will result in around 3,500 students receiving a higher rate of income support payment.

The Bill also amends to the social security law and veterans’ entitlements law to facilitate the measures and make amendments of a technical nature.

### FINANCIAL IMPACT

<table>
<thead>
<tr>
<th>Year</th>
<th>Expense ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>85.7</td>
</tr>
<tr>
<td>2010-11</td>
<td>-72.8</td>
</tr>
<tr>
<td>2011-12</td>
<td>-127.5</td>
</tr>
<tr>
<td>2012-13</td>
<td>8.1</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>-106.5</td>
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Note: The financial impact statement does not include the extension of youth allowance and austudy payment to students undertaking Masters programs by
coursework. This measure will be enacted by legislative instrument and does not form part of this Bill. This measure will produce an estimated expense of $72.7 million over the period of this financial impact statement.
NOTES ON CLAUSES

Clause 1 - Short title

Provides for the Act to be cited as the Social Security and Other Legislation Amendment (Income Support for Students) Act 2009.

Clause 2 - Commencement

Subclause 2(1) inserts a three column table setting out commencement information for various provisions in the Act. Each provision of the Act specified in column 1 of the table commences (or is taken to have commenced) in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.

Subclause 2(2) provides that column 3 of the table is for additional information which may be added to or edited in any published version of the Act but that information in this column is not part of the Act.

Clause 3 - Schedule(s)

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

For ease of description, this explanatory memorandum uses the following abbreviations:

‘Act’ or ‘Social Security Act’ means the Social Security Act 1991; and
‘Administration Act’ means the Social Security (Administration) Act 1999; and
Schedule 1—Youth allowance

Part 1—Independence criteria

Division 1—Main amendments

Social Security Act 1991

Item 1—Subsection 1067A(4)

Repeals and substitutes subsection 1067A(4) of the Act and adds new subsection 1067A(4A).

Section 1067A(4) allows a person to be independent because of the person’s age. Currently, a person is independent if the person is at least 25 years old.

The new subsection 1067A(4) will apply for the purposes of Parts 2.11, 3.5 and section 1070G (youth allowance, and rent assistance for youth allowance).

The age of independence will reduce over time as follows:
- 24 years for the year 2010;
- 23 years for the year 2011; and
- 22 years for a year after 2011.

The new subsection 1067A(4A) will apply for the purposes of Parts 3.4A, 3.4B and 3.7, except for section 1070G These provisions deal with disability support pension, and rent assistance for disability support pension, for persons under 21. For these provisions, the age of independence will remain at 25. This has no practical effect as the independence criteria are only relevant to disability support pension recipients under 21.

The significance of a person being independent for youth allowance purposes is that parental income and assets are disregarded in assessing the person’s rate of payment. This amendment addresses a finding of the Bradley Review of Australian Higher Education that the age of independence is high by international standards.

Item 2—After subsection 1067A(10)

Inserts new subsections 1067A(10A), (10B) and (10C), which disapply parts of subsection 1067A(10) in certain circumstances.

Subsection 1067A(10) provides that a person is independent on certain grounds relating to workforce participation. There are three grounds.

Subsection 1067A(10A) disappplies paragraphs 1067A(10)(b) and (c), which provide that a person is independent if the person has supported himself or herself through the following paid work:
- part-time employment of at least 15 hours per week for at least 2 years since last leaving secondary school (paragraph 1067A(10)(b)); or
- employment over an 18 month period since last leaving secondary school with cumulative earnings totalling at least 75% of the maximum pay rate under Wage Level A of the Australian Pay and Classification Scale applicable to trainees (paragraph 1067A(10)(c)).

The effect of this subsection is that, from 1 January 2010, a person will not be independent for the purposes of youth allowance (and rent assistance for youth allowance) simply because he or she meets one or both of the workforce participation criteria set out in paragraphs 1067A(10)(b) and (c) (the person could still be classed as independent under other subsections of section 1067A). There are some exceptions to this, however.

The workforce participation criteria in paragraphs 1067A(10)(b) and (c) will continue to determine independence for disability support pension recipients (ie for Parts 3.4A, 3.4B and 3.7 of the Act, except for section 1070G).

The workforce participation criteria in paragraphs 1067A(10)(b) and (c) will also be ‘grandfathered’ for two categories of persons.

New subsection (10B) provides that paragraphs (10)(b) and (c) will continue to apply to those who people were in receipt of youth allowance and were regarded as independent under those criteria prior to 1 January 2010. That is, if a person was independent before 1 January 2010 because they met one or both of the workforce participation criteria in paragraphs (10)(b) and (c), then they remain independent.

New subsection (10C) provides that paragraphs (10)(b) and (c) will continue to apply to people who completed secondary school in 2008, and took a year off study in 2009 before commencing university in the first half of 2010. This savings provision is intended to allow this category of persons to become independent under the workforce participation criteria in paragraphs 1067A(10)(b) and (c) until 30 June 2010.

Paragraph (10C)(c) requires that throughout 2009, the person intended to commence university in 2010. This does not require a formal deferral of study: a person will still fall within paragraph (c) by taking a year off study and then accepting a place to commence university early in 2010.

One of the conditions in paragraph (10C) is that the person is “required to live away from home” when commencing university in 2010. This provision is intended to limit the savings provision to those persons who need to live away from home in order to undertake university. Persons who remain at home, or live away from home without needing to, are not intended to fall within the saved category.

New paragraph (10C)(f) clarifies that a person is able to become independent under paragraphs (10)(b) and (c) until 30 June 2010 despite the operation of new subsection (10A).
Division 2 – Related amendment

*Social Security Act 1991*

**Item 3 – Subsection 19A(2) (definition of independent)**

Omits references to Parts 3.4A, 3.4B and 3.7 from the definition of *independent* contained in the fares allowance definitions in subsection 19A(2). This amendment is consequential to item 10.

Division 3 – Application of amendments made by this Part

*Social Security Act 1991*

**Item 4 – Application**

Inserts an application provision which provides that the amendments made to the independence criteria will apply for the purposes of working out a person’s eligibility for, or amount of, youth allowance or fares allowance from 1 January 2010.

Part 2 – Income tests

Division 1 – Single reduction because of income tests

*Social Security Act 1991*

**Items 5 to 9 – Point 1067G-A1 (method statement)**

Items 5 to 9 amend the principal method statement for the Youth Allowance Rate Calculator.

A person’s rate of youth allowance is subject to three income tests: the parental income test, the family actual means test, and the personal income test. Each test may result in a reduction to the rate of youth allowance.

Currently, the parental income test and family actual means test are applied as alternatives: whichever test results in the greater reduction to a person’s rate will apply. Each of these tests involves the application of a person’s family income to the person’s rate of youth allowance. After the reduction for parental income or family actual means is applied, the personal income test is then applied to the remaining rate of payment to work out the reduction to a person’s rate because of their own income.

Items 5 to 9 amend the order in which the three tests are applied. The three tests will be applied alternatively: whichever of the three tests results in the greatest reduction to a person’s rate will apply, and the other two tests will not apply.
This amendment is beneficial: a person will only be subject to one of the three tests. Currently, a person’s rate of payment could be affected by two of the three tests.

The new Step 13 to the method statement provides that if a person’s rate is nil because of the taking away of a reduction for either parental income or family actual means, youth allowance is not payable to a person. Section 547 will have the same effect for each of the three reductions (including the reduction for personal income).

A new note to step 13 explains that, if a person’s maximum payment rate is reduced because of any of the three income reductions, section 1210 sets out the order in which the components of that rate are to be reduced. This is relevant for taxation purposes.

**Item 10 – Application of amendments**

Item 10 is an application provision that specifies that the amendments made to the method statement apply for the purposes of working out a person’s rate of youth allowance on or after 1 January 2010.

**Division 2 – Parental income test and family actual means test**

*Social Security Act 1991*

**Item 11 – Paragraph 1067G-F3(c)**

Repeals and substitutes paragraph 1067G-F3(c). This paragraph will provide that the parental income test does not apply to a person while a parent of the person is receiving a payment under the ABSTUDY Scheme.

1067G-F3 exempts certain persons from the parental income test. The exemption generally applies where one of a person’s parents is receiving a specified Commonwealth benefit. However, for a parent receiving a payment under the ABSTUDY Scheme, the exemption currently only applies if the parent is single, or the parent’s partner is receiving ABSTUDY.

Item 11 will cease the disadvantageous treatment of the children of ABSTUDY parents by aligning the rules for ABSTUDY payment with the rules for other Commonwealth benefits. A person will be exempt from the income test if one of the person’s parents is receiving a payment under the ABSTUDY Scheme, regardless of the status of any other parent of the person.

**Item 12 – Points 1067G-F22, 1067G-F23, 1067G-F24 and 1067G-F25**

The effect of new **Point 1067G-F22** is that, for the purposes of the parental income test, a person’s **parental income free area** is an amount equal to the income free area under clause 38N of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999*, as affected by indexation under Schedule 4 of that Act, on 1 January every year. This aligns the parental income free area for youth allowance with the income free area for Family Tax Benefit Part A.

A note to new point 1067G-F22 explains that the parental income free area for youth allowance is indexed under the *A New Tax System (Family Assistance) Act 1999* rather than under the Act.

The income free area under the *A New Tax System (Family Assistance) Act 1999* is indexed on 1 July annually. Indexation of the parental income free area, whilst tied to the indexation of Family Tax Benefit Part A, will occur on 1 January annually and apply the rate applicable as at this date. Accordingly, the indexation of the parental income free area will match the indexation of Family Tax Benefit Part A, but the adjustment will take effect six months later.

The practical effect of this item is a significant one-off increase to the parental income free area for youth allowance.

**Item 13 – Points 1067G-F26, 1067G-F27 and 1067G-F28**


This item amends Submodule 6 of Module F of the Youth Allowance Rate Calculator regarding the reduction for parental income.

Currently, if a person’s parental income is over the parental income free area, the person’s rate of youth allowance is reduced by 25 cents for every excess dollar of parental income.

Item 13 will amend the rate of reduction to 20 cents for every dollar (ie a 20% taper rate). Further, the 20 percent taper rate will be apportioned between members of the same family who are subject to the income test.

The effect of new **point 1067G-F26** sets the rules for when 2 or more persons have “parental income in common”. If 2 persons have parental income in common, they will be able to apportion the 20% taper rate between them. Two or more persons will have “parental income in common” if:
- the parental income test applies to each of them; and
- a parent of one of the persons is also a parent of each of the other persons.

A note to new point 1067G-F26 explains that point 1067G-F30 affects whether a person to whom the parental income test applies has parental income in common with someone who is qualified for a payment under the ABSTUDY Scheme or for a payment under the Assistance for Isolated Children Scheme.
The rule in point 1067G-F26 will only capture the persons in a family who have been granted youth allowance or a non-legislative parentally income tested income support payment and are subject to the parental income test. Accordingly, a child in a family who is not receiving a parentally income tested income support payment will not be included in the apportionment of the 20% taper.

For 2 or more persons to have “parental income in common”, they must share a common parent. Parent is defined by section 5 of the Act (see paragraph (b) of the definition), and may in some cases include a person who is not a biological or legal parent.

Example: David and Marianne are married, live together in a home, and have the following dependants:

- Amanda: a child of David, but not Marianne. She lives in the home and receives youth allowance.
- Alan: a child of Marianne, but not David. He lives in the home and receives youth allowance.
- Debbie: a child of Marianne and David. She does not receive any Commonwealth benefits.
- Terry: a child of David, but not Marianne. He has moved away from home, receives youth allowance and is not independent.

In accordance with section 5 of the Act, for the purposes of determining youth allowance entitlements, Marianne and David are parents of Amanda, Alan and Debbie. Amanda and Alan will be subject to the parental income test for both Marianne and David’s incomes. Amanda and Alan will be able to apportion the parental income reduction with Terry because each of the three have a parent in common (David).

David, but not Marianne, is a parent of Terry (subparagraph (b)(iv) of the definition of “parent” in section 5). Only David should be expected to support Terry because Marianne is not Terry’s parent and Terry does not live with Marianne. Terry will therefore only be subject to David’s income, but will be able to apportion the parental income reduction with Amanda and Alan as David is a common parent.

Amanda, Alan and Terry will not be able to apportion any parental income with Debbie as Debbie is not subject to a parental income test (even if she qualified for youth allowance, she is not a youth allowance claimant).

Accordingly:

- Amanda is subject to David and Marianne’s incomes, but apportions any reduction with Alan and Terry.
- Alan is subject to David and Marianne’s income reductions, but apportions any reduction with Amanda and Terry.
- Terry is subject to David’s income, but apportions any reduction with Amanda and Alan.

This example would work out similarly under the current legislation. Terry would only be subject to David’s income, but could be entitled to sibling
concessions for Amanda, Alan and Debbie. (A sibling concession results in an increase to a person’s parental income free area). Amanda and Alan would be subject to David and Marianne’s income, but could be entitled to sibling concessions for each other, Debbie and Terry.

New point 1067G-F27 specifies how to calculate a person’s reduction for parental income if the person does not have parental income in common with anyone else and the person’s combined parental income for the tax year exceeds their parental income free area. The calculation uses the following formula:

\[
\text{The excess} \times \frac{\text{Person’s maximum payment rate under Module A}}{130} \times \frac{\text{Total of maximum payment rate of each person who shares the combined parental income}}{130}
\]

The effect of this formula is that the 20% taper for the parental income will be apportioned between the persons who have that parental income in common. The apportionment is proportional: a person’s share of the apportionment depends on the amount of their maximum payment rate compared to the rate of payment of the other persons who have the parental income in common. The maximum payment rate includes any rent assistance, youth disability supplement or pharmaceutical allowance, but excludes any reduction for parental or personal income.

A note to new point 1067G-F28 explains that dividing by 130 is equivalent to dividing by 26 (ie fortnights in a year) and then dividing again by 5 (ie so that the reduction for personal income is 20 cents for each dollar of excess). Accordingly, the formula produces a fortnightly reduction that is applied to the person’s fortnightly maximum payment rate.

Example: Amanda’s maximum payment rate of youth allowance is $180 per fortnight. Alan’s maximum payment rate is also $180 per fortnight. Terry’s maximum payment rate of ABSTUDY living allowance is $360 per fortnight.

Amanda has parental income in common with Alan and Terry.
The parental income reduction taper is 20%. Amanda is apportioned 180/720, or one-quarter, of that reduction. Accordingly, the taper rate for Amanda’s parental income is 5 cents for every dollar of parental income (of both David and Marianne) over the parental income free area. Under the current legislation, Amanda would be subject to a taper rate of 25 cents for every dollar of parental income over the applicable threshold.

New point 1067G-F29 provides that where the parental income reduction determined under either new point 1067G-F27 (for a person who does not have parental income in common) or new point 1067G-F28 (for a person who has parental income in common) results in a figure that is not a multiple of 10 cents, the figure is to be rounded to the nearest 10 cents (rounding a multiple of 5 cents upwards).

New point 1067G-F30 enables a youth allowance recipient to apportion parental income with another person receiving the following payments:
- ABSTUDY living allowance;
- ABSTUDY group 2 school fees allowance (the component subject to the ABSTUDY parental income test);
- additional boarding allowance under the Assistance for Isolated Children Scheme.

Each of the above payments are paid under administrative schemes, but are subject to a parental income test. Point 1067G-F30 will ensure that a person receiving youth allowance will be able to apportion parental income with a person who is receiving any of the above payments, where the two persons have the same parental income in common.

The table at point 1067G-F30 specifies how much of the three scheme payments are relevant to the apportionment. Group 2 school fees allowance and additional boarding allowance are based on an annual rate, so for apportionment purposes, the annual rate is divided by 26 to arrive at a fortnightly amount.

A note to new point 1067G-F30 explains that Submodule 6 of Module F does not of its own force affect the amount of ABSTUDY Scheme or Assistance for Isolated Children Scheme payments to a person. The provisions only affect a youth allowance recipient who shares parental income with a recipient of a Scheme payment. Both Schemes will be amended separately to align the parental income tests with the youth allowance parental income test.

**Item 14 – Point 1067G-G15**

**Item 14** amends the family actual means test provisions in Submodule 6 of Module G of the Youth Allowance Rate Calculator to apply the same apportionment rules for parental income that will apply to the parental income test.

Accordingly, if a person is subject to the family actual means test, the person will be able to apportion the family actual means test reduction with any other person who has “parental income in common”.

13
Items 15 and 16 – Section 1190 and subsection 1191(1)

**Items 15 and 16** remove references to the parental income test contained in the tables at section 1190 and subsection 1191(1). These items repeal provisions providing for the indexation of the parental income free area for youth allowance. These provisions are no longer required as the parental income free area will now be indexed under Schedule 4 to the *A New Tax System (Family Assistance) Act 1999*.

**Item 17 – Application of amendments**

Inserts an application provision which provides that the amendments to the parental income test and family actual means test made by Division 2 apply for the purposes of working out a person’s daily rate of youth allowance on and from 1 January 2010.

**Division 3 – Income test for youth allowance and austudy payment**

*Social Security Act 1991*

**Items 18 and 19**

These items increase the ordinary income free area for:
- youth allowance recipients who are full-time students or new apprentices (paragraphs 1067G-H29(a) and (aa)); and
- austudy payment recipients (point 1067L-D28);
from $236 to $400.

This measure will commence on 1 July 2012.

The ordinary income free area is the amount of ordinary income a person can receive in a fortnight before that income will affect the person’s rate of payment.

The ordinary income free area was originally set in 1993 and has not been adjusted since that time. The increase to the ordinary income free area and the indexation of the threshold amount provided for by this measure will restore parity and ensure the ordinary income free area maintains relativity with average wage movements in the broader community.

**Items 20 to 22**

Items 20 and 21 provide for the increased ordinary income free area of $400 to be indexed to the Consumer Price Index. Item 22 provides that the first indexation will occur on 1 January 2013 (six months after the increase to $400 takes effect).

Items 20 and 21 also index the $80 personal income test taper “boundary amount” to the Consumer Price Index to align with the indexation of the ordinary income free area.
Item 23–Application of amendments

Inserts an application provision that provides that the increase to the ordinary income free area will apply for the purposes of working out the daily rate of youth allowance or austudy on and from 1 July 2012.

Division 4 – Student income bank

The student income bank allows students receiving youth allowance or austudy to accumulate credits for unused parts of the ordinary income free area, to offset income earned in later fortnights that is over the ordinary income free area. For example, a student who earns no income during a semester will be able to apply credits towards income earned during a holiday period that would otherwise reduce the student’s rate of payment. Credits are held in a notional “student income bank”. This enables students to receive a more consistent and predictable level of payment.

There is a limit to the amount of credit a student can accumulate. The current maximum balance of a person’s student income bank is $6,000. Division 4 of Schedule 1 to the Bill increases that maximum balance to $10,000 and indexes the maximum balance to the Consumer Price Index. This measure will commence on 1 July 2012.

The increase to the maximum balance of the student income bank is designed to align with the increase to the ordinary income free area for students (Division 3 of Schedule 1 to the Bill). Likewise, the indexation of the maximum balance is designed to align with the indexation of the ordinary income free area.

The student income bank provisions are contained in Module J of the Youth Allowance Rate Calculator (section 1067G) and Module E of the Austudy Payment Rate Calculator (section 1067L).
**Social Security Act 1991**

**Item 24 – Point 1067G-J3 (method statement, step 3, paragraph (a))**

Amends the method statement for calculating a person’s income bank credit for a particular fortnight for youth allowance full-time students (method statement, step 3 of Module J of the Youth Allowance rate calculator). This amendment will increase the maximum balance of a person’s income bank from $6,000 to $10,000 for youth allowance recipients who are full-time students.

**Item 25– Points 1067G-J4 and 1067G-J5**

Omits references to “$236” and substitutes “the ordinary income free area (see paragraph 1067G-H29(a) or (aa)).” These amendments are consequential to item 18.

**Item 26 – Point 1067L-E2 (method statement, step 3, paragraph (a))**

Amends the method statement for calculating a person’s income bank credit for austudy payment for a particular fortnight. This amendment will increase the maximum balance of an austudy payment recipient’s income bank from $6,000 to $10,000.

**Item 27–Points 1067L-E3 and 1067L-E4**

Omits references to “$236” and substitutes “the ordinary income free area (see point 1067L-D28.” These amendments are consequential to item 20.

**Items 28 to 30**

Items 28 and 29 provide for the student income bank maximum balance limit for youth allowance full-time students and austudy recipients to be indexed according to the Consumer Price Index. Item 30 provides that this indexation will first take place on 1 January 2013.

**Item 31– Application of amendments**

Inserts an application provision. This provision provides that the amendments to the student income bank will apply for the purposes of working out the daily rate of a person’s youth allowance or austudy payment on and from 1 July 2012.
Schedule 2—Scholarship payments for students

Part 1—Main amendments

Social Security Act 1991

Item 1—Paragraph 8(8)(zja)

Omits “provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the Higher Education Support Act 2003” from paragraph 8(8)(zja) of the Social Security Act.

This is a minor amendment, consequential on the insertion of new definitions by Items 2 and 3.

Item 2—Subsection 23(1)

Inserts a definition of Commonwealth Accommodation Scholarship into the general definitions in subsection 23(1). The term is defined to mean a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of HESA.

Item 3—Subsection 23(1)

Inserts a definition of Commonwealth Education Costs Scholarship into the general definitions in subsection 23(1). The term is defined to mean a scholarship of that name provided for under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of HESA.

Item 4—After Part 2.11A of Chapter 2

Inserts new Part 2.11B.

New Part 2.11B will contain the substantive provisions for the new student start-up scholarship payment and the new relocation scholarship payment.

Division 1—Student start-up scholarship payments

Division 1 of the new Part 2.11B deals with student start-up scholarship payments.

Section 592F—Qualification criteria

Section 592F sets out the qualification criteria for a student start-up scholarship payment.
To qualify for a student start-up scholarship payment, each of the following must occur at the same time:

- the person is qualified for youth allowance or austudy payment (paragraphs 592F(1)(a) and (2)(a));
- youth allowance or austudy payment is payable to the person (paragraphs 592F(1)(a) and (2)(a));
- the person is receiving youth allowance or austudy payment (paragraphs 592F(1)(b) and (2)(b));
- the person is receiving part of the basic rate component of youth allowance or austudy payment, or youth disability supplement (paragraphs 592F(1)(b) and (2)(b)) (i.e. the person is not receiving only that component of youth allowance or austudy payment that consists of pharmaceutical allowance and rent assistance);
- the person is receiving youth allowance or austudy payment because the person is undertaking full-time study in an approved scholarship course (paragraphs 592F(1)(c) and (2)(c));
- the Secretary is satisfied that within 35 days, the person will either start to undertake the course or to continue to undertake the course (paragraphs 592F(1)(d) and (2)(d));
- the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the following six months (paragraphs 592F(1)(e) and (2)(e)).

**Paragraphs 592F(1)(a)-(b) and (2)(a)-(b):** While a person must be receiving youth allowance or austudy payment to qualify for a scholarship payment, the person must also be qualified for youth allowance or austudy payment, and youth allowance or austudy payment must be payable to the person.

This provision is designed to ensure that if a person is later found not to be qualified for the youth allowance or austudy payment that the person was receiving (or the allowance was not payable), a debt may also be raised for any scholarship payment that was paid for that time.

A person must also be in receipt of youth allowance or austudy payment even if the payment did not include an amount for rent assistance or pharmaceutical allowance. Under section 1210, a reduction for income is applied first against the maximum basic rate component of a rate plus youth disability supplement, then against rent assistance and pharmaceutical allowance. If a person’s rate of payment has been reduced so that only rent assistance or pharmaceutical allowance is paid, the person will not be qualified for a scholarship payment.

**Paragraphs 592F(1)(c) and (2)(c):** Courses will be approved by the Minister under the new section 592N.

**Paragraphs 592F(1)(d) and (2)(d):** These provisions enable a person to qualify for a scholarship payment up to 35 days before the person starts to undertake the course of study. Commences to undertake study does not mean an intention to study; it means actually undertaking study (i.e. the first day of a course). If a decision maker considers that the person will commence study in an approved course, a scholarship payment may be made. In practice, this allows for the payment of scholarships up to 35 days before the beginning of a semester.
While a student start-up scholarship payment may be paid up to 35 days in advance of the person proposing to start to undertake the course or continuing to undertake the course, new section 1223ABE will mean that the person will have to repay the scholarship payment where the person does not subsequently commence the course of study for which the scholarship payment is made, or withdraws from the course of study within 35 days of the course commencing.

Also, this provision means that a person will not be qualified for a scholarship if the person is undertaking study but it not expected to continue to undertake study for 35 days after the course commences. Effectively, a person will not qualify for a scholarship payment in the final 35 days of a semester.

Paragraphs 592F(1)(e) and (2)(e): These provisions mean that a Commonwealth Education Costs Scholarship takes precedence over a student start-up scholarship payment. If a person is likely to receive a Commonwealth Education Costs Scholarship within six months, the person will not be entitled to a student start-up scholarship payment. As student start-up scholarship payments are generally intended to replace Commonwealth Education Costs Scholarships, a person should not be entitled to both forms of scholarships at the same time.

Section 592G - Disqualification criteria

In addition to the qualification criteria provided in new section 592F, new section 592G provides circumstances in which a person is not qualified for a student start-up scholarship payment. A person will be disqualified from a student start-up scholarship payment under section 592G, even if the person is otherwise qualified under section 592F.

New subsections 592G(1) and (2) will provide that a person is not qualified for a student start-up scholarship payment if, in the period of 6 months (or shorter period determined under subsection (3)) ending immediately before what would otherwise be the person’s qualification time:
- the person has qualified for a student start-up scholarship payment; or
- the person has received a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment; or
- the person has qualified for a payment under the Veterans’ Children Education Scheme known as a student start-up scholarship payment; or
- the person has qualified for a payment under the Military Rehabilitation and Compensation Act Education and Training Scheme known as a student start-up scholarship payment; or
- the person has received the amount or value of a Commonwealth Education Costs Scholarship; or
- if the person was entitled to receive a Commonwealth Education Costs Scholarship - the person has not received the full entitlement only because the scholarship was suspended.

Subsections 592G(1) and (2) will prevent a person from qualifying for a student start-up scholarship payment where they have received an equivalent scholarship payment.
(as prescribed by that subsection) in the 6 months prior to what would otherwise be the qualification time for that payment. This preclusion is qualified by subsection (3).

New subsection 592G(3) allows the Secretary to determine that the preclusion period of 6 months is to be shortened to less than 6 months (but to a minimum of 2 months) where the Secretary considers that making the determination would enable the person to qualify for a student start-up scholarship payment in relation to the course or near the day on which the approved scholarship course started or starts.

New subsection 592G(4) will further provide that the Secretary must not make a determination under new subsection 592G(3) where the effect of the determination would be to enable the person to receive more than 2 student start-up scholarship payments (whether or not in respect of the same approved scholarship course) in a calendar year.

New subsections 592G(3) and (4) will allow flexibility as to when the student start-up scholarship payments are paid to a person. The intention of the payments is to provide students with a payment at the start of each semester, based on a standard 2 semester year, to assist with start-up costs of studying for that semester. However, there are circumstances where making the two payments 6 months apart based on a 2 semester basis will not suit individual students, such as when a student qualifies for a payment late in a semester, or attends an institution that does not have biannual semesters.

**Example:** Juan becomes qualified for a student start-up scholarship payment in October 2010 (he has studied throughout 2010 but has only just started to receive youth allowance). Juan continues his course in 2011. Ordinarily, Juan would not become qualified for another student start-up scholarship payment until April 2011 (ie six months). However, a decision maker decides to reduce the six month period to four months to allow Juan to qualify for and receive a student start-up scholarship payment in February 2011, in time for the commencement of the first semester of 2011.

Juan may next be qualified for a student start-up scholarship payment in August 2011 (six months). This six month period could be shortened (eg if the second semester commences in July 2011). But the period could not be shortened to before July 2011 because that would enable Juan to receive a third student start-up scholarship payment in 2011. Because of subsection 502G(4), this is not permissible.

**Section 592H – Amount of student start-up scholarship payment**

New section 592H provides that the amount of the student start-up scholarship payment is $1,127. As payments will usually made every six months, the scholarship will generally be an annual amount of $2,254, paid in two instalments. A note explains that this amount is indexed annually in line with CPI increases as per sections 1190 to 1194 of the Social Security Act.
Division 2 – Relocation scholarship payments

Division 2 of new Part 2.11B provides the qualification criteria for the relocation scholarship payment.

Section 592J - Qualification criteria

Section 592J sets out the qualification criteria for a relocation scholarship payment.

To qualify for a relocation scholarship payment, each of the following must occur at the same time:
- the person is qualified for youth allowance (paragraph 592J(a));
- youth allowance is payable to the person (paragraph 592J(a));
- the person is receiving youth allowance (paragraph 592J(b));
- the person is receiving part of the basic rate component of youth allowance, or youth disability supplement (paragraph 592J(b)) (i.e. the person is not receiving only that component of youth allowance or a study payment that consists of pharmaceutical allowance and rent assistance);
- the person is independent for a specified reason, or is not independent but is required to live away from home (paragraph 592J(c));
- the person is receiving youth allowance because the person is undertaking full-time study in an approved scholarship course (paragraph 592J(d));
- the Secretary is satisfied that within 35 days, the person will either start to undertake the course or to continue to undertake the course (paragraph 592J(e));
- the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Accommodation Scholarship in the following 12 months (paragraph 592J(f)).

Paragraphs 592J(a)-(b): While a person must be receiving youth allowance to qualify for a scholarship payment, the person must also be qualified for youth allowance, and youth allowance must be payable to the person.

This provision is designed to ensure that if a person is later found not to be qualified for the youth allowance that the person was receiving (or the allowance was not payable), a debt may also be raised for any scholarship payment that was paid for that time.

A person must also be in receipt of youth allowance even if the payment did not include an amount for rent assistance or pharmaceutical allowance. Under section 1210, a reduction for income is applied first against the maximum basic rate component of a rate plus youth disability supplement, then against rent assistance and pharmaceutical allowance. If a person’s rate of payment has been reduced so that only rent assistance or pharmaceutical allowance is paid, the person will not be qualified for a scholarship payment.

Paragraph 592J(c): Not all youth allowance students recipients will be eligible for a relocation scholarship payment.
A youth allowance recipient who is independent will only be qualified for a relocation scholarship payment if the person is independent for one or more of the following reasons:

- the person has a dependent child (subsection 1067A(3));
- the person is an orphan (subsection 1067A(5));
- the person’s parents are unable to exercise parental responsibilities for a specified reason (subsection 1067A(6));
- the person is a refugee (subsection 1067A(7));
- the person is in State care (subsection 1067A(8));
- it is unreasonable for the person to live at home (subsection 1067A(9));
- the person is specially disadvantaged (subsection 1067A(11)).

A youth allowance recipient who is not independent will only be qualified for a scholarship if the person is required to live away from home (see section 1067D).

Paragraph 592J(d): Courses will be approved by the Minister under the new section 592N.

Paragraph 592J(e): This provision enables a person to qualify for a scholarship payment up to 35 days before the person’s starts to undertake the course of study. Commences to undertake study does not mean an intention to study; it means actually undertaking study (i.e. the first day of a course). If a decision maker considers that the person will commence study in an approved course, a scholarship payment may be made. In practice, this allows for the payment of scholarships up to 35 days before the beginning of a semester.

While a relocation scholarship payment may be paid up to 35 days in advance of the person proposing to start to undertake the course or continuing to undertake the course, new section 1223ABE will mean that the person will have to repay the scholarship payment where the person does not subsequently commence the course of study for which the scholarship payment is made, or withdraws from the course of study within 35 days of the course commencing.

Also, this provision means that a person will not be qualified for a scholarship if the person is undertaking study but it not expected to continue to undertake study for 35 days after the course commences. Effectively, a person will not qualify for a scholarship payment in the final 35 days of a semester.

Paragraph 592J(f): This provision means that a Commonwealth Accommodation Costs Scholarship takes precedence over a relocation scholarship payment. If a person is likely to receive a Commonwealth Accommodation Scholarship within 12 months, the person will not be entitled to a student relocation scholarship payment. As relocation scholarship payments are generally intended to replace Commonwealth Accommodation Scholarships, a person should not be entitled to both forms of scholarships at the same time.

Section 592K - Disqualification criteria

In addition to the qualification criteria provided in new section 592J, new section 592K provides circumstances in which a person is not qualified for a student start-up
s Scholarship payment. A person will be disqualified from a student start-up scholarship payment under section 592J, even if the person is otherwise qualified under section 592K.

New subsections 592K(1) and (2) will provide that a person is not qualified for a relocation scholarship payment if, in the period of 12 months (or shorter period determined under subsection (3)) ending immediately before what would otherwise be the person’s qualification time:

- the person has qualified for a relocation scholarship payment; or
- the person has received a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship payment; or
- the person has qualified for a payment under the Veterans’ Children Education Scheme known as a relocation scholarship payment; or
- the person has qualified for a payment under the Military Rehabilitation and Compensation Act Education and Training Scheme known as a relocation scholarship payment; or
- the person has received the amount or value of a Commonwealth Accommodation Scholarship; or
- if the person was entitled to receive a Commonwealth Accommodation Scholarship - the person has not received the full entitlement only because the scholarship was suspended.

Subsections 592K(1) and (2) will prevent a person from qualifying for a relocation scholarship payment where they have received an equivalent scholarship payment (as prescribed by that subsection) in the 12 months prior to what would otherwise be the qualification time for that payment. This preclusion is qualified by subsection (3).

New subsection 592K(3) allows the Secretary to determine that the preclusion period of 12 months is to be shortened to less than 12 months (but to a minimum of 3 months) where the Secretary considers that making the determination would enable the person to qualify for a relocation scholarship payment on or near 1 January in a year.

New subsection 592K(4) will further provide that the Secretary must not make a determination under new subsection 592K(3) where the effect of the determination would be to enable the person to receive more than 2 relocation scholarship payments (whether or not in respect of the same approved scholarship course) in a period of two successive calendar years.

New subsections 592K(3) and (4) will allow flexibility as to when the relocation scholarship payments are paid to a person. The intention of the payments is to provide students with a payment at the start of each calendar year of study, to assist with the relocation costs associated with studying for that year. However, there are circumstances where making the two payments 12 months apart will not suit individual students, such as when a student qualifies for a payment late in a year.

Example: Erika becomes qualified for a relocation scholarship payment in July 2010 (she has commenced her new course in the second semester of 2010). Erika continues her course in 2011. Ordinarily, Erika would not become qualified for another relocation scholarship payment until July 2011.
(ie 12 months). However, a decision maker decides to reduce the 12 month period to eight months to allow Erika to qualify for and receive a relocation scholarship payment in February 2011, in time for the commencement of the 2011 academic year.

New subsection 592K(5) will preclude qualification for a relocation scholarship where the person is over the age of independence (subsection 1067A(4)). The age of independence is being reduced to 22 by 2012 (see Schedule 1 to the Bill). However, this preclusion will not apply to a person who has already received a relocation scholarship payment or equivalent payment before attaining the age of independence.

Section 592L – Amount of relocation scholarship payment

If a person has previously received a relocation scholarship payment or equivalent, the amount of the relocation scholarship payment is $1,000 (subsection 592L(3)).

If the person has not received a relocation scholarship payment or equivalent, the amount of the relocation scholarship payment will be $4,000 (subsection 592L(1)).

However, if the person became independent for a specified reason or became required to live away from home more than six months ago, and the person undertook an approved course in the previous calendar year, the amount of the relocation scholarship payment will be $1,000, even if the person has not received a relocation scholarship or equivalent before. The $4,000 is aimed to assist people to relocate to study, so the $4,000 is not intended to be available to a person who has already relocated and commenced study.

Example 1: Harry is from Broken Hill and finishes secondary school in 2010. In December 2010, Harry moves to Sydney in advance of commencing a university course there. Harry will be entitled to a $4,000 relocation scholarship payment because he has not received a relocation scholarship payment or equivalent before, and the preclusion in subsection 592L(2) does not apply.

Example 2: Rosie is from Brisbane. In 2010, Rosie leaves home to study a university course in Armidale. However, Rosie does not qualify for a relocation scholarship in 2010 because she is not receiving youth allowance. In 2012, Rosie is still studying at Armidale and becomes qualified for youth allowance. Rosie will be entitled to a relocation scholarship payment for the first time, but the payment will be $1,000 because she became required to live away from home more than six months prior to qualifying for the payment.

A note to section 592L explains that the amount of a relocation scholarship payment is indexed annually in line with CPI increases as per sections 1190 to 1194 of the Social Security Act.
Division 3 – Approved scholarship course

Division 3 of new Part 2.11B will provide a definition of approved scholarship course. This is defined in new section 592M as being:

- a course of study or instruction approved by the Minister under a legislative instrument; or
- where no such instrument is in force - a course determined to be a tertiary course under section 5D of the Student Assistance Act 1973.

New subsection 592N(1) will provide the legislative basis for the Minister to make a legislative instrument approving a course of study or instruction as an approved scholarship course for the purposes of Part 2.11B.

New subsection 592N(2) will provide that, despite subsection 14(2) of the Legislative Instruments Act 2003, a determination made under new subsection 592N(1) may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force at a particular time; or as in force or existing from time to time.

Subsection 592N(2) is necessary because it is intended that the Minister will approve courses by reference to certain non-legislative instruments of a regulatory nature. For example, the Australian Qualifications Framework provides for a national qualification system for schools, vocational education and training and the higher education sector. It is likely that some classes of courses will be approved by reference to their status in the Australian Qualifications Framework. The instrument under section 592N is likely to have to incorporate instruments associated with the Framework (eg the Implementation Handbook) as in force from time to time, so that the instrument does not become out of date with changes to the Framework. Some non-legislative regulatory instruments that apply to higher education on a State and Territory basis may also be incorporated.

It is intended that only very limited non-legislative instruments would be incorporated as in force from time to time. The instrument under subsection 592N(2) will itself be subject to Parliamentary scrutiny as a disallowable instrument.

Part 2–Related Amendments

Higher Education Support Act 2003

Item 5 – At the end of paragraph 46-20(2)

Inserts new paragraphs 46-20(2)(m) and (n).

Subsection 46-20(2) provides a list of matters which the Commonwealth Scholarships Guidelines may provide for in relation to indirectly-paid standard Commonwealth scholarships and postgraduate research Commonwealth scholarships.

New paragraphs 46-20(2)(m) and (n) will allow for the Commonwealth Scholarships Guidelines to provide for information that providers are required to give to Centrelink.
and certain persons involved in the administration of the Veterans’ Entitlements Act 1986 or the Military Rehabilitation and Compensation Act 2004.

Qualification for student start-up scholarship payments and relocation scholarship payments (and their equivalents under the Veterans’ Entitlements Act 1986 or the Military Rehabilitation and Compensation Act 2004) will depend upon a person’s receipt of indirectly paid standard Commonwealth scholarships, such as Commonwealth Education Costs Scholarships and Commonwealth Accommodation Scholarships. Accordingly, Centrelink and persons administering the Veterans’ Entitlements Act 1986 or the Military Rehabilitation and Compensation Act 2004 will need to have information about a person’s receipt of Commonwealth scholarships to assess the person’s entitlement to social security and veterans’ entitlements scholarships.

Items 6 to 9 – Subclause 1(1) of Schedule 1

Inserts definitions of Centrelink, employee of Centrelink, Military Rehabilitation and Compensation Commission and Repatriation Commission into the dictionary in Schedule 1 to HESA.

Centrelink is defined as the Commonwealth Services Delivery Agency established by the Commonwealth Services Delivery Agency Act 1997.

employee of Centrelink is defined as an employee within the meaning of the Commonwealth Services Delivery Agency Act 1997.

Military Rehabilitation and Compensation Commission is defined as the Commission established by section 361 of the Military Rehabilitation and Compensation Act 2004.

Repatriation Commission is defined as the body corporate continued in existence by section 179 of the Veterans’ Entitlements Act 1986.

Military Rehabilitation and Compensation Act 2004

Item 10 – After paragraph 258(3)(a)

Inserts new paragraph 258(3)(aa). Subsection 258(1) allows the Commission to determine, in writing, a scheme to provide education and training for certain persons. Subsection 258(3) provides a list of matters that the scheme may provide for. This amendment provides that the scheme may provide for the payment of scholarships for eligible young persons who are being provided with education or training under the scheme. The intention is to use this power to pay student start-up scholarship payments and relocation scholarship payments under the Military Rehabilitation and Compensation Act Education and Training Scheme.
**Social Security Act 1991**

**Item 11 – Subsection 5(1)**

Inserts a reference to new Part 2.11B into the definition of independent. This amendment provides that the definition of independent contained in section 1067A of the Social Security Act will apply to new Part 2.11B, which will provide for student start-up scholarship payments and relocation scholarship payments.

**Item 12– After subparagraph 8(8)(y)(vii)**

Subsection 8(8) of the Social Security Act prescribes that a number of amounts are not income for the purposes of the Act. Item 12 inserts new subparagraphs (y)(viiaa) and (viiab) into that subsection. This will ensure that student start-up scholarship payments and relocation scholarship payments made under the Veterans’ Children Education Scheme or the Military Rehabilitation and Compensation Act Education and Training Scheme are not considered income for the purposes of the social security law (so, for example, will not be considered in any income test applied under that law).

**Item 13 – After paragraph 8(8)(zjc)**

Inserts new paragraph 8(8)(zjd).

New paragraph 8(8)(zjd) will provide that a payment of a scholarship paid to a person during a calendar year (other than an excluded payment):
- for the person to study, or to undertake research, at an education institution; or
- for the person’s achievement in studying, or in undertaking research, at an education institution;
up to a person’s threshold amount for that calendar year is not income for the purposes of the Social Security Act.

New subsection (8AB) contained in item 5 provides that for the purposes of paragraph 8(8)(zjd), a person’s threshold amount for a calendar year is $6,762 less any amount excluded under that paragraph for that person and that year.

The effect of new paragraph 8(8)(zjd) is to exempt as income (for the purposes of the Social Security Act) payments of scholarship amounts of up to $6,672 paid to a person for a purpose as specified in new paragraph 8(8)(zjd) in a calendar year. This amount will not be treated as income and will therefore be exempt from the income test in addition to any amount a person receives by way of an excluded scholarship. Excluded scholarships include both the new start-up scholarship and the relocation scholarship.

The threshold amount of $6,672 above which money from scholarships is considered income for the purposes of the social security law is indexed annually from 2011 by CPI, see items 19 to 21.
Item 14 – After subsection 8(8)

Inserts new subsections 8(8AA) and (8AB).

New subsection 8(8AA) provides a definition of *excluded payment* for the purposes of paragraph 8(8)(zjd). Each of the following is an *excluded payment* for the purposes of 8(8)(zjd):

- a Commonwealth Trade Learning Scholarship;
- an approved scholarship;
- a Commonwealth Education Costs Scholarship;
- a Commonwealth Accommodation Scholarship;
- a scholarship payment paid under Part 2.11B of the Social Security Act;
- a scholarship payment under the ABSTUDY Scheme;
- a payment known as a student start-up scholarship payment, or a relocation scholarship under the Veterans’ Children Education Scheme; and
- a payment known as a student start-up scholarship payment, or relocation scholarship under the Military Rehabilitation and Compensation Act Education and Training Scheme.

The effect of this provision is that excluded payments are not exempt income under new paragraph 8(8)(zjd); however, all of the excluded payments (including the new student start-up and relocation scholarships paid under Part 2.11B of the Social Security Act) are all already exempt from the income test under other parts of subsection 8(8). This means that in addition to the excluded payments listed in new subsection 8(8AA) a person will be able to receive payments of scholarships totalling $6,672 before the payments will have any effect on the person’s income support payment.

New subsection 8(8AB) provides that, for the purposes of 8(8)(zjd) a person’s threshold amount for a calendar year is $6,762.

A note to new subsection 8(8AB) explains that the threshold amount is indexed annually in line with CPI increases as per sections 1190 to 1194 of the Social Security Act.

An example to the new subsection 8(8AA) explains how this provision operates.

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

Inserts a reference to new Part 2.11B (scholarship payments) into the note after the definition of *independent* in subsection 1067(1). This amendment clarifies that the definition of independent for youth allowance purposes contained in section 1067A will apply to new Part 2.11B.
Items 16 and 17 – Subsections 1067A(1) and (4)

These items insert references to new Part 2.11B (scholarship payments) into subsections 1067A(1) and (4) concerning when a person is regarded as independent for the purposes of youth allowance. These amendments will clarify that the provisions concerning when a person is independent contained in section 1067A will apply to new Part 2.11B.

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

These items insert references to new Part 2.11B (scholarship payments) into subsections 1067B(1) and 1067D(1) concerning when a person is taken to be an accommodated independent person and when a person is taken to be required to live away from home. These amendments will clarify that the provisions concerning when a person is taken to be an accommodated independent person and when a person is taken to be required to live away from home apply to new Part 2.11B.

Items 19, 20 and 21

These items provide for the indexation of the scholarship threshold amount, the student start-up scholarship payment and the relocation scholarship payment to the Consumer Price Index from 2011.

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

Inserts a reference to new section 1223ABE into the table in subsection 1222(2). This amendment, which explains the ways in which a debt arising under new section 1223ABE can be recovered, is consequential to item 23.

Item 23 – After section 1223ABD

Inserts new section 1223ABE. This section is designed to ensure that students who receive student start-up scholarship payments or relocation scholarship payments must repay those scholarships if they fail to commence and undertake the courses of study in respect of which the payments are made.

Subsection 1223ABE(1) provides a scholarship payment will be a debt if the payment was paid to a person on the basis that the person proposed to commence a course, and the person subsequently does not commence a course. Students will be able to qualify for scholarship payments up to 35 days before a course commences. This provision ensures that a student must subsequently commence the course to retain the scholarship payment.

Subsection 1223ABE(2) concerns the scenario where the student is paid a scholarship because they propose to start a course, they commence the course as proposed, but then ceases to undertake the course (e.g. withdraws from the course) within 35 days of the commencement of the course. In that case the scholarship payment will be a debt.
Subsection 1223ABE(3) concerns the scenario where a student is paid a scholarship because the person is already undertaking a course. In this case, a debt will arise if the person is not continuing to undertake the course for 35 days (e.g., if the person withdraws from the course).

Each of these provisions is subject to an exception where the person’s failure to commence or continue to undertake the course is due to exceptional circumstances beyond the person’s control.

Example 1: Pamela proposes to commence a degree program in March 2010. She qualifies for a student start-up scholarship payment in February 2010 (35 days in advance) and is paid $1,127. However, Pamela fails to commence the course, and incurs a debt of $1,127.

Example 2: James proposes to commence a degree program in July 2010. He qualifies for a relocation and student start-up scholarship payment in June 2010 (35 days in advance) and is paid a total of $5,127. James commences his course on 14 July, but withdraws from the course on 2 August. James has a debt of $5,127 because he withdrew from the course within 35 days of the commencement of the course. However, James satisfies Centrelink that he was forced to withdraw from the course because of a serious illness, and confirms this with medical evidence. Centrelink decides that James was forced to withdraw from the course because of exceptional circumstances beyond his control, so there is no debt.

**Social Security (Administration) Act 1999**

**Item 24 – After section 12G**

Inserts new section 12H. This section clarifies that a claim is not required for a student start-up scholarship payment or a relocation scholarship payment. Payments will generally be automatically made by Centrelink on the basis of information known to Centrelink. Nevertheless, a person will be able to make a claim if they think they are eligible for a payment and, for whatever reason, have not received one.

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

Inserts new paragraphs 47(1)(ba) and (bb) into subsection 47(1). Section 47 provides a list of lump sum benefits and how they are to be paid to a person. New paragraphs 47(1)(ba) and (bb) amend the definition of lump sum benefit contained in subsection 47(1) to include the student start-up scholarship payment and relocation scholarship payment.
Item 26 – Subsection 47(4)

Inserts a reference to new subsection 47D into subsection 47(4). This amendment is consequential to item 27.

Item 27 – After section 47C

Inserts new section 47D.

New section 47D provides that where a person qualifies for the student start-up scholarship payment or relocation scholarship payment and all or a proportion of that person’s youth allowance is being paid to the person’s parent, the whole amount, or the same proportion of youth allowance that is being paid to the person’s parent, of the student start-up scholarship payment or relocation scholarship payment may be paid to the person’s parent or another person (such as a university college where the student is residing).

Item 28 – After Subdivision DB of Division 5 of Part 3B

Inserts new subdivision DC into Division 5 of Part 3B regarding the income management of the student start-up scholarship payment and relocation scholarship payment.

New section 123XPE will provide that where a person is subject to the income management regime and a student start-up scholarship is payable to the person, this amount will be placed in the person’s income management account.

New section 123XPF will provide that where a person is subject to the income management regime and a relocation scholarship is payable to the person, this amount will be placed in the person’s income management account.

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

Inserts new subparagraph 195(2)(i)(xviii).

Section 195 of the Administration Act allows the Secretary to require a person to give information about a class of persons to the Department for a number of purposes listed in subsection (1). Subsection 195(2) contains an exhaustive list of the information that the Secretary may require about each person in the class of persons for the purposes of subsection (1).

This amendment will allow the Secretary to require a person to give information to the Department regarding the amount or value of a Commonwealth Education Costs Scholarship, or of a Commonwealth Accommodation Scholarship, received by a person.
This provision allows Centrelink to require persons (e.g., higher education providers) to give Centrelink information about persons in receipt of Commonwealth Education Costs Scholarships or Commonwealth Accommodation Scholarships. This power is necessary because receipt of those scholarships is relevant to a person’s qualification for a student start-up scholarship payment or relocation scholarship payment.

**Item 30 – Subsection 202(1)**

Repeals and substitutes subsection 202(1).

This amendment will insert a reference to Commonwealth scholarships payable under Part 2-4 of HESA into subsection 202(1) allowing a person to obtain protected information if the information is obtained for the purposes of administering Commonwealth scholarships payable under Part 2-4 of HESA. This allows higher education providers to use information about a person’s receipt of social security payments to assess the person’s entitlement to a Commonwealth scholarship.

**Item 31 – After paragraph 202(2)(da)**

Inserts new paragraph 202(2)(db).

Subsection 202(2) allows a person to:
- make a record of protected information; or
- disclose such information to any person; or
- otherwise use such information;

if the information is made for certain purposes contained in that subsection.

This amendment will allow a person to record, disclose or otherwise use protected information for the purposes of the administration of Commonwealth scholarships payable under Part 2-4 of HESA. This amendment supplements item 30; it allows Centrelink to disclose information about a person’s receipt of social security payments to persons such as higher education providers for the purposes of assessing the person’s entitlement to a Commonwealth scholarship.

**Veterans’ Entitlements Act 1986**

**Item 32 - After paragraph 5H(8)(f)**

Inserts new paragraph 5H(8)(fa).

This amendment provides that student start-up scholarship payments and relocation scholarship payments paid under the Veteran’s Children Education Scheme are not income under the *Veterans’ Entitlements Act 1986*. 
Item 33 – After paragraph 5H(8)(hd)

Inserts new paragraph 5H(8)(he).

This amendment mirrors the amendment to the Social Security Act made by items 13 and 14. If a scholarship is exempt from the social security income test under paragraph 8(8)(zjd) of the Social Security Act, it will also be exempt income for the purposes of the Veterans’ Entitlements Act 1986.

Item 34 – Application

Provides that the exemption of merit and equity based scholarships up to the threshold amount under the Social Security Act and the Veterans’ Entitlements Act 1986 applies to scholarships paid on or after the commencement of the exemption. If a scholarship is awarded before commencement, but paid after commencement, the new exemptions will apply to the scholarship.
Schedule 3— Training supplement for parenting payment

*Social Security Act 1991*

**Item 1 – Paragraph 503B(1)(b)**

Substitutes paragraph 503B(1)(b) of the Act.

This amendment corrects an oversight in the *Social Security Amendment (Training Incentives) Act 2009*, which introduced a training supplement of $41.60 per fortnight to certain newstart allowance and parenting payment recipients who undertake approved courses of training or study.

It was intended that any parenting payment recipient who had participation requirements and who had not completed year 12 or an equivalent level of education, or held vocational qualifications which would benefit from upgrading, would be able to undertake an approved course of training or study. However, by oversight, the legislation failed to extend the training supplement to parenting payment (partnered) recipients who were subject to participation requirements under transitional arrangements associated with the 1 July 2006 changes to the rules for this payment.

The Bill will correct the oversight by providing the training supplement to all parenting payment recipients who are subject to participation requirements. The amendment will commence on 1 July (i.e., it will be retrospective) to ensure that no parenting payment recipients are adversely affected by the oversight. While the amendment is retrospective, it is beneficial.

**Item 2 – At the end of subsection 503B(1)**

 Inserts a note referring readers to the meaning of “subject to participation requirements” in subsection 23(1) of the Act.