



Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Act 2008

No. 149, 2008

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

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

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Schooling requirements		3
Part 1—Amendment of Acts		3
<i>A New Tax System (Family Assistance) Act 1999</i>		3
<i>Social Security (Administration) Act 1999</i>		4
<i>Student Assistance Act 1973</i>		22
<i>Veterans' Entitlements Act 1986</i>		24
Part 2—Application of amendments		26



Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Act 2008

No. 149, 2008

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

[Assented to 11 December 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Veterans'
Entitlements Legislation Amendment (Schooling Requirements) Act
2008*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Schooling requirements

Part 1—Amendment of Acts

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (at the end of the definition of *receiving*)

Add:

- ; and (c) in relation to a social security pension, a social security benefit, a service pension or income support supplement—has a meaning affected by section 3AA (which deals with the suspension of payments under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*).

2 After section 3

Insert:

3AA Meaning of *receiving* affected by suspension of certain schooling requirement payments

Scope

- (1) This section applies for the purpose of construing references to a person receiving payments (***affected schooling requirement payments***) covered by subsection (2), if the references are in the following provisions:
 - (a) section 50S of the Family Assistance Administration Act;
 - (b) clauses 1 and 38L of Schedule 1 to this Act;
 - (c) clause 7 of Schedule 2 to this Act.
- (2) The affected schooling requirement payments are the following:
 - (a) a social security pension;
 - (b) a social security benefit;
 - (c) a service pension;
 - (d) income support supplement.

Note: These payments are ***schooling requirement payments*** within the meaning of the *Social Security (Administration) Act 1999* (see section 124D of that Act).

General rule—person taken to receive payment during suspension

- (3) In this Act, subject to subsections (4) and (5):

receiving is taken to include a reference to a person being prevented from receiving an affected schooling requirement payment because the payment is suspended under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*.

Note: See also the definition of **receiving** in subsection 3(1), and subsections 3(8) and (9).

Exception—more than 13 weeks continuous suspension

- (4) Subsection (3) does not apply in relation to the suspension of an affected schooling requirement payment if the payment has been suspended for a continuous period of more than 13 weeks.
- (5) However, if the period of suspension referred to in subsection (4) started in the income year preceding the income year in which the 13 weeks referred to in that subsection elapsed, that subsection does not apply in relation to the suspension until the start of the later income year.

Social Security (Administration) Act 1999

3 After section 37

Insert:

37AA Grant of claim—schooling requirements

- (1) Without limiting subsection 37(1), the Secretary must determine that a claim for a schooling requirement payment is to be granted if the Secretary is satisfied that:
- (a) the person is qualified, or is expected to be qualified, for the payment; and
 - (b) the payment would be payable if it were not for the application of subsection 124G(1) or 124L(1).
- (2) Subsection (1) does not apply to a schooling requirement payment under the Veterans' Entitlements Act.

- Note 1: **Schooling requirement payments** are social security benefits, social security pensions and certain payments under the Veterans' Entitlements Act (see section 124D of this Act).
- Note 2: Section 124G and 124L provide that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice or an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).
- Note 3: If the payment is suspended under section 124H or 124M (because of the application of subsection 124G(1) or 124L(1)) on the day the claim is granted, the start day for the payment is deferred until the suspension ends (at the earliest) (see clause 5 of Schedule 2).

4 Paragraph 85(1)(a)

Repeal the paragraph, substitute:

- (a) a person's social security payment is:
- (i) cancelled by force of section 93 or 94; or
 - (ii) cancelled or suspended under section 80, 81 or 82; or
 - (iii) cancelled under Part 3C (schooling requirements); and

Note: For reconsideration of the suspension of a schooling requirement payment, see sections 124J and 124N.

5 Paragraph 123(1)(c)

Omit "or 82", substitute ", 82, 124H or 124M".

6 After Part 3B

Insert:

Part 3C—Schooling requirements

Division 1—General

124 Scope

- (1) This Part applies to a person (a **schooling requirement person**) in relation to another person (a **child**) at a particular time if:
- (a) either of the following applies at that time in relation to a schooling requirement payment:
 - (i) a claim by the person for the payment is being determined (under this Act or the Veterans' Entitlements Act);

- (ii) a claim by the person for the payment has been granted, and the payment has not been cancelled (under this Act or the Veterans' Entitlements Act); and
 - (b) either:
 - (i) the child is a schooling requirement child of the person at that time; or
 - (ii) the child was a schooling requirement child of the person at any time within a period provided by the schooling requirement determination before that time; and
 - (c) the child is required, under a law of a State or Territory:
 - (i) to be enrolled at a school; or
 - (ii) to attend a school at times required under that law.
- (2) If this Part stops applying to a person while the person's schooling requirement payment is suspended under this Part, section 124J or 124N (each of which provides for when payments become payable after suspension) applies as if:
- (a) this Part continued to apply to the person; and
 - (b) the reconsideration day for the purposes of the relevant section were the day on which this Part stopped applying; and
 - (c) the Secretary were satisfied that subsection 124G(1) or 124L(1), as the case requires, no longer applied to the person as at the reconsideration day.

124A Enrolment and attendance at school

In this Part:

attendance, at a school, includes attendance at a place, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to attend a school.

enrolment, at a school, includes anything, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at a school.

person responsible, for the operation of a school, includes:

- (a) a person responsible for schooling (or for the administration of schooling) at a place, other than a school, to which the definition of *attendance* applies; and
- (b) a person responsible for schooling (or for the administration of schooling) in relation to which alternative enrolment of a kind mentioned in the definition of *enrolment* applies.

124B Schooling requirement child

Schooling requirement child

- (1) For the purposes of this Act, a person (the *first person*) is a *schooling requirement child* of another person at a particular time if:
 - (a) at that time, the first person is a dependent child of the other person; or
 - (b) all of the following conditions are satisfied:
 - (i) that time occurs during a schooling requirement period;
 - (ii) under a family law order, or a registered parenting plan or parenting plan (within the meaning of the *Family Law Act 1975*), that is in force during the schooling requirement period, the first person is supposed to live or spend time with the other person;
 - (iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the schooling requirement period, the first person would have been in the other person's care for at least 14% of that period.

Schooling requirement period

- (2) For the purposes of subsection (1), a *schooling requirement period* is a period worked out in accordance with the schooling requirement determination.
- (3) A period worked out under subsection (2) may be a recurring period (for example, a fortnight).
- (4) For the purposes of this section, it is immaterial whether a schooling requirement period begins before or after the commencement of this section.

Family law order

(5) In this section:

family law order has the same meaning as in section 123TC.

124C Schooling requirement determination

For the purposes of this Part, the Minister may, by legislative instrument, make a determination (the *schooling requirement determination*) relating to school enrolment and attendance.

124D Schooling requirement payments

In this Act:

schooling requirement payment means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) one of the following payments under the Veterans' Entitlements Act:
 - (i) Defence Force Income Support Allowance;
 - (ii) income support supplement;
 - (iii) service pension.

124E Application to payments under the Veterans' Entitlements Act

- (1) For the purposes of this Part, the provisions of this Act covered by subsection (2) apply (to the extent mentioned in that subsection) in relation to schooling requirement payments that are made under the Veterans' Entitlements Act as if the payments were schooling requirement payments that are social security payments.
- (2) The provisions of this Act covered by this subsection are as follows:
 - (a) Part 1 (which includes provisions relating to the application of the *Criminal Code* and interpretation);
 - (b) section 85 and Division 9 of Part 3, to the extent that these provisions relate to the cancellation of schooling requirement payments under this Part;

Note: These provisions deal with the reconsideration of decisions in relation to social security payments.

- (c) Division 10 of Part 3 (continuing effect of determinations), to the extent that the Division relates to the suspension and cancellation of schooling requirement payments under this Part;
- (d) Part 4 (review of decisions), to the extent that the Part relates to the suspension and cancellation of schooling requirement payments under this Part;
- (e) Part 5 (information management), to the extent necessary or convenient for the administration of this Part;
- (f) Part 6 (offences), to the extent that the Part relates to acts or omissions occurring in relation to the administration of this Part;
- (g) Part 7 (which includes provisions relating to delegations and regulations etc.), to the extent necessary or convenient for the administration of this Part;
- (h) Schedule 1 (Dictionary).

Division 2—School enrolment

124F School enrolment—enrolment notices

Enrolment notices generally

- (1) The Secretary may give a notice (an *enrolment notice*) to a schooling requirement person about the person's child, requiring the person to give the Secretary evidence (in accordance with the notice) that the child is enrolled at a school as required by a law of a State or Territory.
- (2) Without limiting subsection (1), an enrolment notice may require evidence of enrolment to be given in the form of a written or oral statement by the schooling requirement person, or another person, confirming enrolment.
- (3) The enrolment notice must give details of:
 - (a) how to comply with the notice; and
 - (b) the initial period for compliance with the notice, and the Secretary's power to extend that period (see subsections (4) and (5)); and
 - (c) the consequences under this Division of not complying with the notice.

Initial period for compliance

- (4) The enrolment notice must state an initial period for compliance with the notice of at least 14 days after the notice is given.
- (5) The Secretary may extend the initial period for compliance stated in the enrolment notice before or after the end of the stated period.

124G School enrolment—condition of schooling requirement payments

- (1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an enrolment notice given to the person under section 124F.
- (2) Subsection (1) does not apply to the schooling requirement person in relation to an enrolment notice, as at a particular day, if:
 - (a) the initial compliance period stated in the notice (as extended, if at all, under subsection 124F(5)) has not ended at that day; or
 - (b) the Secretary is satisfied that:
 - (i) as at that day, the person has a reasonable excuse, as determined in accordance with the schooling requirement determination (if any), for failing to comply with the enrolment notice; or
 - (ii) in the special circumstances of the case applying as at that day, as determined in accordance with the schooling requirement determination (if any), it is appropriate that the subsection should not apply as at that day.
- (3) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124H.
- (4) For a schooling requirement payment under the Veterans' Entitlements Act:
 - (a) this section does not apply in relation to the grant of the payment; but
 - (b) this section otherwise applies in relation to the payment.

124H School enrolment—suspension or cancellation for non-compliance with enrolment notice

Scope

- (1) This section applies if, as at a particular day:
 - (a) a schooling requirement person has been given an enrolment notice; and
 - (b) a schooling requirement payment is not payable to the person because subsection 124G(1) applies to the person as at that day.

Note: Section 124G provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice after the end of the initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Suspension or cancellation of payment

- (2) The Secretary must:
 - (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the enrolment notice—determine that the payment is to be suspended or cancelled; or
 - (b) in any other case—determine that the payment is to be suspended.

Payment may be suspended more than once

- (3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular enrolment notice.

Note: Following suspension of a schooling requirement payment, the payment may become payable again under section 124J. Subsection 124H(3) allows for a further suspension of the payment even after the payment has become payable again.

Payment may be suspended even if not yet received

- (4) The Secretary may suspend a schooling requirement person's schooling requirement payment under this section even if the person has not started to receive the payment.

Note: An enrolment notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124G(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

124J School enrolment—when payments become payable after suspension

Scope

- (1) This section applies if, on a particular day (the *reconsideration day*):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124H; and
 - (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
 - (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124G(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124G provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Determination that payment is payable

- (2) The Secretary must determine:
- (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans' Entitlements Act, as the case requires); and
 - (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

Entitlement to arrears—suspension for total period of up to 13 weeks

- (3) If the payment has been suspended under section 124H for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular enrolment notice, the date of effect of the determination under subsection (2) is the day on which the latest suspension determination was made under section 124H in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124H (see subsection 124H(3)).

Entitlement to arrears—suspension for total period of 13 weeks or more

- (4) If subsection (3) does not apply, the date of effect of the determination under subsection (2) is:
- (a) the reconsideration day; or
 - (b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).
- (5) For the purposes of subsection (4), the Secretary may vary a determination under subsection (2) to state an earlier date of effect, if the determination:
- (a) does not include such a statement; or
 - (b) includes such a statement in relation to a later day.

How arrears are paid

- (6) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, as provided by the determination under subsection (2).
- (7) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (2).

Non-application of general provisions for date of effect

- (8) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (2).

Division 3—School attendance

124K School attendance—attendance notices

Scope

- (1) This section applies if:
- (a) a schooling requirement person's child is enrolled at a school in a State or Territory; and
 - (b) a person responsible for the operation of the school gives the Secretary written notice that:
 - (i) the child is failing to attend school, as required by the law of that State or Territory, to the satisfaction of the person responsible; and
 - (ii) the schooling requirement person is failing to take reasonable steps to ensure that the child attends school, as required by the law of that State or Territory, to the satisfaction of the person responsible.

Attendance notice

- (2) The Secretary may give a notice (an **attendance notice**) to the schooling requirement person, requiring the person to take reasonable steps, as determined in accordance with the schooling requirement determination (if any), to ensure that the child attends school as required by the law of that State or Territory.
- (3) The attendance notice must give details of:
- (a) how to comply with the notice; and
 - (b) the initial period for compliance with the notice, and the Secretary's power to extend that period (under subsections (4) and (5)); and
 - (c) the consequences under this Division of not complying with the notice.

Initial period for compliance

- (4) The attendance notice must state an initial period for compliance with the notice of at least 28 days after the notice is given.
- (5) The Secretary may extend the initial period for compliance stated in the attendance notice before or after the end of the stated period.

124L School attendance—condition of schooling requirement payments

- (1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an attendance notice given to the person under section 124K.
- (2) Subsection (1) does not apply to the schooling requirement person in relation to an attendance notice, as at a particular day, if:
 - (a) the initial compliance period stated in the notice (as extended, if at all, under subsection 124K(5)) has not ended at that day; or
 - (b) the Secretary is satisfied that:
 - (i) as at that day, the person has a reasonable excuse, as determined in accordance with the schooling requirement determination (if any), for failing to comply with the attendance notice; or
 - (ii) in the special circumstances of the case applying as at that day, as determined in accordance with the schooling requirement determination (if any), it is appropriate that the subsection should not apply as at that day.
- (3) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124M.
- (4) For a schooling requirement payment under the Veterans' Entitlements Act:
 - (a) this section does not apply in relation to the grant of the payment; but
 - (b) this section otherwise applies in relation to the payment.

124M School attendance—suspension or cancellation for non-compliance with attendance notice

Scope

- (1) This section applies if, as at a particular day:
 - (a) a schooling requirement person has been given an attendance notice; and
 - (b) a schooling requirement payment is not payable to the person because subsection 124L(1) applies to the person as at that day.

Note: Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of the initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Suspension or cancellation of payment

- (2) The Secretary must:
 - (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the attendance notice—determine that the payment is to be suspended or cancelled; or
 - (b) in any other case—determine that the payment is to be suspended.

Payment may be suspended more than once

- (3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular attendance notice.

Note: Following suspension of a schooling requirement payment, the payment may become payable again under section 124N. Subsection 124M(3) allows for a further suspension of the payment even after the payment has become payable again.

Payment may be suspended even if not yet received

- (4) The Secretary may suspend a schooling requirement person's schooling requirement payment under this section even if the person has not started to receive the payment.

Note: An attendance notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124L(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

124N School attendance—when payments become payable after suspension

Scope

- (1) This section applies if, on a particular day (the **reconsideration day**):
 - (a) a person's schooling requirement payment has been, and remains, suspended under section 124M; and
 - (b) a person responsible for the operation of a school in a State or Territory at which the person's child is enrolled gives the Secretary written notice that the child is attending school, as required by the law of that State or Territory, to the satisfaction of the person responsible.
- (2) This section also applies if, on a particular day (the **reconsideration day**):
 - (a) a person's schooling requirement payment has been, and remains, suspended under section 124M; and
 - (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
 - (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124L(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Determination that payment is payable

- (3) The Secretary must determine:
 - (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision

of the social security law or the Veterans' Entitlements Act, as the case requires); and

- (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

Entitlement to arrears—suspension for total period of up to 13 weeks

- (4) If the payment has been suspended under section 124M for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular attendance notice, the date of effect of the determination under subsection (3) is the day on which the latest suspension determination was made under section 124M in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124M (see subsection 124M(3)).

Entitlement to arrears—suspension for total period of 13 weeks or more

- (5) If subsection (4) does not apply, the date of effect of the determination under subsection (3) is:
 - (a) the reconsideration day; or
 - (b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).
- (6) For the purposes of subsection (5), the Secretary may vary a determination under subsection (3) to state an earlier date of effect, if the determination:
 - (a) does not include such a statement; or
 - (b) includes such a statement in relation to a later day.

How arrears are paid

- (7) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or

otherwise, in accordance with the determination under subsection (3).

- (8) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (3).

Non-application of general provisions for date of effect

- (9) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (3).

Division 4—Information about schooling

124P Schooling requirements—information about schooling

- (1) Despite any law (whether written or unwritten) in force in a State or Territory:
- (a) a State or Territory; or
 - (b) a non-government school authority; or
 - (c) any other person who is responsible for the operation of one or more schools;
- may, for the purposes of this Part, give the Secretary information about the enrolment, or non-enrolment, of children at school.
- (2) Despite any law (whether written or unwritten) in force in a State or Territory:
- (a) a State or Territory; or
 - (b) a non-government school authority; or
 - (c) any other person who is responsible for the operation of one or more schools;
- may, for the purposes of this Part, give the Secretary information about the attendance, or non-attendance, of children at school.

7 Section 124

Renumber as section 124Q.

8 After paragraph 195(1)(ca)

Insert:

- (cb) to facilitate the administration of Part 3C (schooling requirements);
-

9 At the end of subsection 195(2)

Add:

- ; (k) for the purposes of Part 3C (schooling requirements), in relation to a schooling requirement child—any information relevant to the child’s past or present enrolment, or attendance, at school (within the meaning of that Part).

10 Subsection 202(2A) (note)

Repeal the note.

11 Subsections 202(6) and (7)

Repeal the subsections, substitute:

Enrolment and attendance at school

- (6) If protected information relates to a matter covered by subsection (7), a person may do any of the following:
 - (a) obtain the information;
 - (b) make a record of the information;
 - (c) disclose the information to a person responsible for the operation of the relevant school, or any other school;
 - (d) otherwise use the information.
- (7) This subsection covers matters in relation to the following:
 - (a) the enrolment, or non-enrolment, of a child at a school;
 - (b) a person whose child is, or is not, enrolled at a school;
 - (c) the attendance, or non-attendance, of a child at a school;
 - (d) a person whose child is, or is not, attending a school.
- (8) If a person does something under subsection (6) for the purposes of Part 3C (schooling requirements), in subsection (6) or (7) of this section the following terms have the same meaning as in Part 3C (see section 124A):
 - (a) ***attendance*** (at a school);
 - (b) ***enrolment*** (at a school);
 - (c) ***person responsible*** (for the operation of a school).

Note: In addition to the requirements of this section, information disclosed under this section must be dealt with in accordance with section 14 of the *Privacy Act 1988*.

12 Subclause 1(1) of Schedule 1

Insert:

attendance, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

13 Subclause 1(1) of Schedule 1

Insert:

attendance notice has the meaning given by section 124K.

14 Subclause 1(1) of Schedule 1

Insert:

enrolment, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

15 Subclause 1(1) of Schedule 1

Insert:

enrolment notice has the meaning given by section 124F.

16 Subclause 1(1) of Schedule 1

Insert:

person responsible, for the operation of a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

17 Subclause 1(1) of Schedule 1

Insert:

schooling requirement child has the meaning given by section 124B.

18 Subclause 1(1) of Schedule 1

Insert:

schooling requirement determination has the meaning given by section 124C.

19 Subclause 1(1) of Schedule 1

Insert:

schooling requirement payment has the meaning given by section 124D.

20 Subclause 1(1) of Schedule 1

Insert:

schooling requirement person has the meaning given by section 124.

21 Subclause 5(2) of Schedule 2 (at the end of the definition of *exclusion period*)

Add:

; and (f) if the payment is a schooling requirement payment within the meaning of Part 3C—a period during which the payment is suspended under section 124H or 124M.

Student Assistance Act 1973

22 Subsection 3(1) (definition of *protected information*)

Repeal the definition, substitute:

protected information means information about a person that:

- (a) has been obtained for the purposes of this Act (including the purposes of the administration of the ABSTUDY scheme); and
- (b) is held in the records of:
 - (i) the Department; or
 - (ii) a Department administered by a Minister responsible for the administration of the *Social Security Act 1991*; or
 - (iii) the Agency.

23 At the end of subsection 343(1)

Add:

; or (e) for the purposes of the administration of the ABSTUDY scheme—a child's past or present enrolment, or attendance, at a school.

24 At the end of section 343

Add:

- (2) In subsection (1), the following terms have the same meaning as in Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999* (see section 124A of that Act):
- (a) **attendance** (at a school);
 - (b) **enrolment** (at a school).

25 Section 348

After “this Act”, insert “(including the purposes of the administration of the ABSTUDY scheme)”.

26 At the end of subsection 351(1)

Add “(including the purposes of the administration of the ABSTUDY scheme)”.

27 Paragraph 351(2)(d)

After “this Act”, insert “(including the purposes of the administration of the ABSTUDY scheme)”.

28 At the end of section 351

Add:

Protected information about ABSTUDY scheme schooling requirements

- (4) If protected information relates to the enrolment (or non-enrolment) or the attendance (or non-attendance) of a child at a school, a person may do any of the following:
- (a) obtain the information;
 - (b) make a record of the information;
 - (c) disclose the information to a person responsible for the operation of the school, or any other school;
 - (d) otherwise use the information.
- (5) In subsection (4), the following terms have the same meaning as in Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999* (see section 124A of that Act):
- (a) **attendance** (at a school);
 - (b) **enrolment** (at a school);

(c) *person responsible* (for the operation of a school).

Veterans' Entitlements Act 1986

29 Paragraph 36A(1)(d)

Repeal the paragraph, substitute:

- (d) the pension is cancelled or suspended:
 - (i) under this Act (see sections 56E, 56EA, 56J and 56K);
or
 - (ii) under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*; or

Note: See section 124E of the *Social Security (Administration) Act 1999*.

30 Paragraph 37A(1)(d)

Repeal the paragraph, substitute:

- (d) the pension is cancelled or suspended:
 - (i) under this Act (see sections 56E, 56EA, 56J and 56K);
or
 - (ii) under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*; or

Note: See section 124E of the *Social Security (Administration) Act 1999*.

31 Paragraph 38A(1)(d)

Repeal the paragraph, substitute:

- (d) the pension is cancelled or suspended:
 - (i) under this Act (see sections 56E, 56EA, 56J and 56K);
or
 - (ii) under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*; or

Note: See section 124E of the *Social Security (Administration) Act 1999*.

32 Paragraph 45B(1)(d)

Repeal the paragraph, substitute:

- (d) the pension is cancelled or suspended:

- (i) under this Act (see sections 56E, 56EA, 56J and 56K);
or
- (ii) under Part 3C (schooling requirements) of the *Social Security (Administration) Act 1999*; or

Note: See section 124E of the *Social Security (Administration) Act 1999*.

33 Subsection 125(1)

Omit “(1) Subject to this Act and Part 3B”, substitute “Subject to this Act and Parts 3B and 3C”.

Part 2—Application of amendments

34 Payments to which amendments apply

The amendments made by Part 1 of this Schedule apply in relation to a schooling requirement payment (within the meaning of the *Social Security (Administration) Act 1999* as amended by this Act) whether it is claimed, or granted, before, on or after the day on which the amendments commence.

[*Minister's second reading speech made in—
House of Representatives on 27 August 2008
Senate on 15 September 2008*]

(156/08)
