





# **Labor 2013-14 Budget Savings (Measures No. 2) Act 2015**

**No. 169, 2015**

**An Act to amend the law relating to social security,  
student assistance and higher education support,  
and for related purposes**

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



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**An Act to amend the law relating to social security,  
student assistance and higher education support,  
and for related purposes**

*[Assented to 11 December 2015]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Labor 2013-14 Budget Savings  
(Measures No. 2) Act 2015*.

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	11 December 2015
2. Schedule 1	The start of the first 1 January that occurs on or after the day this Act receives the Royal Assent.	1 January 2016
3. Schedules 3 and 4	The day after this Act receives the Royal Assent.	12 December 2015

Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Student start-up loans**

### **Part 1—Amendments**

#### ***Bankruptcy Act 1966***

##### **1 After paragraph 82(3AB)(a)**

Insert:

- (aa) Part 2AA.3 of the *Social Security Act 1991* (student start-up loan debts);
- (ab) Division 3 or 4 of Part 2 of the *Student Assistance Act 1973* (ABSTUDY student start-up loan debts);

#### ***Income Tax Assessment Act 1936***

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

Insert:

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

##### **3 After paragraph 202(ga)**

Insert:

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

##### **4 Before paragraph 202(hac)**

Insert:

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

##### **5 After paragraph 202F(1)(fb)**

Insert:

- (fc) a decision to give a notice under subsection 1061ZVJD(1) of the *Social Security Act 1991*;
- (fd) a decision to give a notice under subsection 1061ZVJF(1) of the *Social Security Act 1991*;
- (fe) a decision to give a notice under subsection 11D(1) of the *Student Assistance Act 1973*;
- (ff) a decision to give a notice under subsection 11F(1) of the *Student Assistance Act 1973*;

***Income Tax Assessment Act 1997***

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

Add:  
see also *student start-up loans*

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

Insert:

**student start-up loans**

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

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

Insert:

- (cc) a payment made to reduce a debt to the Commonwealth under Chapter 2AA of the *Social Security Act 1991* or Part 2 of the *Student Assistance Act 1973*; or

**9 Subsection 995-1(1)**

Insert:

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

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

Insert:

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

## ***Social Security Act 1991***

### **11 After section 19A**

Insert:

#### **19AA Student start-up loan definitions**

For the purposes of Chapter 2AA:

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

*accumulated SSL debt* has the meaning given by section 1061ZVEC.

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

*Commissioner* means the Commissioner of Taxation.

*compulsory SSL repayment amount* means an amount that:

- (a) is required to be paid in respect of an accumulated SSL debt under section 1061ZVHA; and
- (b) is included in a notice of assessment made under section 1061ZVHC.

*enrolment test day* has the meaning given by subsection 1061ZVDA(5).

*former accumulated SSL debt* has the meaning given by section 1061ZVEB.

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

**HELP repayment income** has the same meaning as **repayment income** has in the *Higher Education Support Act 2003*.

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

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

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

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

**minimum HELP repayment income** has the same meaning as **minimum repayment income** has in the *Higher Education Support Act 2003*.

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

**qualification test day** has the meaning given by subsection 1061ZVBB(3).

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

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

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

**SSL debt** means a debt incurred under section 1061ZVDA.

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

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

## 12 Subsection 23(1)

Insert:

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*accumulated SSL debt* has the meaning given by section 1061ZVEC.

**13 Subsection 23(1)**

Insert:

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

**14 Subsection 23(1) (definition of *Commonwealth Education Costs Scholarship*)**

Repeal the definition, substitute:

*Commonwealth Education Costs Scholarship* means any scholarship provided to assist with education costs under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003*.

**15 Subsection 23(1)**

Insert:

*enrolment test day* has the meaning given by subsection 1061ZVDA(5).

**16 Subsection 23(1)**

Insert:

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

**17 Subsection 23(1)**

Insert:

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

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

Insert:

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

## 19 Subsection 23(1)

Insert:

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

## 20 Before paragraph 592F(1)(a)

Insert:

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

## 21 Before paragraph 592F(2)(a)

Insert:

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

- (i) youth allowance in respect of the person undertaking full-time study;
- (ii) austudy payment;
- (iii) payments under the ABSTUDY Scheme known as Living Allowance;

**22 Section 592M**

Omit “Part”, substitute “Act”.

**23 Subsection 592N(1)**

Omit “Part”, substitute “Act”.

**24 After Chapter 2A**

Insert:

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

**Part 2AA.1—Introduction**

**1061ZVAA Simplified outline of this Chapter**

Student start-up loans are social security payments that are income-contingent loans.

Broadly, full-time students who are receiving youth allowance or austudy might be qualified for a student start-up loan. A person can qualify for up to 2 loans each calendar year. To receive a loan, a person must make a claim before the end of the relevant period for each loan.

When the person’s income reaches the minimum repayment income under the *Higher Education Support Act 2003*, and the person has finished repaying any debt under that Act, the person must start repaying student start-up loan debt.

## Part 2AA.2—Qualification for and amount of student start-up loan

### 1061ZVBA Simplified outline of this Part

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

### 1061ZVBB Qualification for student start-up loan

#### *Receiving youth allowance*

- (1) A person is qualified for a student start-up loan for a qualification period if:
  - (a) on the person's qualification test day for the period:
    - (i) the person is qualified for youth allowance and youth allowance is payable to the person; and
    - (ii) the person is receiving youth allowance and would be receiving youth allowance if steps 2 and 3 of the method statement in point 1067G-A1 of the Youth Allowance Rate Calculator were disregarded for the purposes of working out the person's rate of that allowance; and
    - (iii) the person is qualified for youth allowance under section 540 in circumstances where paragraph 541(1)(a) (about full-time study) applies and the relevant course of education is an approved scholarship course; and
  - (b) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after that qualification test day; and
  - (c) the person notifies the Secretary of the person's tax file number.

Note 1: For *approved scholarship course*, see section 592M.

Note 2: If the condition in subparagraph (a)(iii) is no longer met in a certain period starting on the qualification test day, the amount of the loan might become an immediately recoverable debt, rather than an income-contingent SSL debt: see subsection 1223ABF(1).

*Receiving austudy payment*

- (2) A person is qualified for a student start-up loan for a qualification period if:
- (a) on the person's qualification test day for the period:
    - (i) the person is qualified for austudy payment and austudy payment is payable to the person; and
    - (ii) the person is receiving austudy payment and would be receiving austudy payment if steps 2 and 2A of the method statement in point 1067L-A1 of the Austudy Payment Rate Calculator were disregarded for the purposes of working out the person's rate of that payment; and
    - (iii) the person is qualified for austudy payment under section 568 in circumstances where subsection 569(1) (about qualifying study) applies and the relevant course of education is an approved scholarship course; and
  - (b) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after that qualification test day; and
  - (c) the person notifies the Secretary of the person's tax file number.

Note 1: For *approved scholarship course*, see section 592M.

Note 2: The person might incur a debt if the condition in subparagraph (a)(iii) is no longer met in a certain period starting on the qualification test day: see subsection 1223ABF(1).

*Qualification test day*

- (3) A person's **qualification test day** for a qualification period is the earliest of the following:
- (a) the day the Secretary determines the person's claim for a student start-up loan for the qualification period;
  - (b) if the approved scholarship course ends in the qualification period—the last day of the approved scholarship course;
  - (c) the last day of the qualification period.

**1061ZVBC Circumstances in which person is not qualified for student start-up loan**

- (1) Despite section 1061ZVBB, a person is not qualified for a student start-up loan for a qualification period if:
- (a) immediately before the person's qualification test day for the period:
    - (i) a determination is in effect that the person is qualified for a student start-up loan for the qualification period; or
    - (ii) a determination is in effect that the person is qualified for an ABSTUDY student start-up loan under the *Student Assistance Act 1973* for the qualification period; or
    - (iii) the person is a scholarship-entitled person (see subsection (2)); or
  - (b) in the period of 6 months ending immediately before that qualification test day, the person:
    - (i) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act; or
    - (ii) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act; or
    - (iii) has received the amount or value of a Commonwealth Education Costs Scholarship; or
    - (iv) was entitled to the amount or value of a Commonwealth Education Costs Scholarship but has not received the full entitlement only because the scholarship was suspended.
- (2) A person is a *scholarship-entitled person* if:
- (a) any of the following (a *scholarship*) was received by the person in respect of a time before the commencement of this section:
    - (i) a student start-up scholarship payment under section 592F;
    - (ii) a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment;

- (iii) the amount or value of a Commonwealth Education Costs Scholarship; and
- (b) for a continuous period since the time in respect of which the person received the scholarship, the person has been receiving at least one of the following:
  - (i) youth allowance in respect of the person undertaking full-time study;
  - (ii) austudy payment;
  - (iii) payments under the ABSTUDY Scheme known as Living Allowance.

### **1061ZVBD Amount of student start-up loan**

The amount of a student start-up loan for which a person is qualified is \$1,025.

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

## **Part 2AA.3—Indebtedness**

### **Division 1—Introduction**

#### **1061ZVCA Simplified outline of this Part**

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

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

### **Division 2—Incurring SSL debts**

#### **1061ZVDA SSL debts**

- (1) A person incurs an SSL debt to the Commonwealth if the person is paid a student start-up loan for a qualification period.

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

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

- (3) The amount of the person's SSL debt is the amount of the loan, reduced by any amount repaid before the day on which the debt is incurred.
- (4) Despite subsection (1), an SSL debt is not incurred, and is taken never to have been incurred, in relation to a loan if:
- (a) the loan has been fully repaid before the day on which the SSL debt in respect of the loan would be incurred; or
  - (b) the amount of the loan is a debt under section 1223 or 1223ABF; or
  - (c) the Secretary has formed an opinion under subsection 1223ABF(3) in relation to the loan (relating to exceptional circumstances beyond the person's control).
- (5) A person's *enrolment test day*, for a qualification period, is the earliest of the following days:
- (a) if the relevant approved scholarship course ends in the qualification period—the last day of that approved scholarship course;
  - (b) the last day of the qualification period;
  - (c) the 35th day of the period starting on whichever of the following applies:
    - (i) if the person's qualification test day for the qualification period was before the first day of the relevant approved scholarship course—the first day of that approved scholarship course;
    - (ii) otherwise—the qualification test day.

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

### **1061ZVDB SSL debt discharged by death**

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

Note: SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

### **1061ZVDC Notice to Commissioner**

- (1) If a person incurs an SSL debt, the Secretary must give the Commissioner a notice specifying the amount of the debt incurred by the person.
- (2) The Secretary may include in the notice any other details the Commissioner requests for the purpose of ensuring the Commissioner has the information needed to exercise powers or perform functions of the Commissioner under this Act.

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

#### **1061ZVEA Simplified outline of this Division**

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

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

- (a) the HELP debt indexation factor for 1 June in that financial year; and
- (b) the debts that the person incurs during the last 6 months of the preceding financial year; and
- (c) voluntary SSL repayments of the debt; and
- (d) compulsory SSL repayment amounts in respect of the debt.

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

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

**1061ZVEB Stage 1—working out a former accumulated SSL debt**

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

*Method statement*

- Step 1. Take the person's accumulated SSL debt for the immediately preceding financial year. (This amount is taken to be zero if the person has no accumulated SSL debt for that financial year.)
- Step 2. Add the sum of all of the SSL debts (if any) that the person incurred during the last 6 months of the immediately preceding financial year.
- Step 3. Subtract the sum of the amounts by which the person's debts referred to in steps 1 and 2 are reduced because of any voluntary SSL repayments that have been made during the period:
  - (a) starting on 1 June in the immediately preceding financial year; and
  - (b) ending immediately before the next 1 June.
- Step 4. Subtract the sum of all of the person's compulsory SSL repayment amounts that:
  - (a) were assessed during that period (excluding any assessed as a result of a return given before that period); or
  - (b) were assessed after the end of that period as a result of a return given before the end of that period.

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

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

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

### **1061ZVEC Stage 2—working out an accumulated SSL debt**

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

$$\text{Former accumulated SSL debt} + \text{SSL debts incurred} - \text{SSL debt repayments}$$

where:

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

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

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

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

**1061ZVED Rounding of amounts**

- (1) If, apart from this section, a person's accumulated SSL debt would be an amount consisting of a number of whole dollars and a number of cents, disregard the number of cents.
- (2) If, apart from this section, a person's accumulated SSL debt would be an amount of less than \$1.00, the person's accumulated SSL debt is taken to be zero.

**1061ZVEE Accumulated SSL debt discharges earlier debts**

- (1) The accumulated SSL debt that a person incurs on 1 June in a financial year discharges, or discharges the unpaid part of:
  - (a) any SSL debt that the person incurred during the calendar year immediately preceding that day; and
  - (b) any accumulated SSL debt that the person incurred on the immediately preceding 1 June.
- (2) Nothing in subsection (1) affects the application of Division 2 of this Part or sections 1061ZVEB and 1061ZVEC.

**1061ZVEF Accumulated SSL debt discharged by death**

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

Note: Accumulated SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

## **Part 2AA.4—Discharge of indebtedness**

### **Division 1—Introduction**

#### **1061ZVFA Simplified outline of this Part**

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

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

#### **1061ZVFB Debts under this Chapter**

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

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

#### **1061ZVGA Voluntary SSL repayments in respect of debts**

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

### **1061ZVGB Application of voluntary SSL repayments**

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

### **1061ZVGC Refunding of payments**

If:

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

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

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

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

#### **1061ZVHA Liability to repay amounts**

- (1) If:

- (a) a person's HELP repayment income for an income year exceeds the minimum HELP repayment income for the income year; and
- (b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an accumulated SSL debt;

the person is liable to pay to the Commonwealth, in accordance with this Division, so much of the person's repayable SSL debt for the income year as does not exceed the amount worked out by the formula:

Applicable percentage of HELP repayment income – HELP liability  
where:

***applicable percentage of HELP repayment income*** means the amount that is the percentage of the person's HELP repayment income applicable under the table in section 154-20 of the *Higher Education Support Act 2003*.

***HELP liability*** means any amount the person is liable to pay under section 154-1 of the *Higher Education Support Act 2003* for the income year in respect of an accumulated HELP debt.

- (2) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.
- (3) A person is not liable under this section to pay an amount for an income year if, under section 8 of the *Medicare Levy Act 1986*:
  - (a) no Medicare levy is payable by the person on the person's taxable income for the income year; or
  - (b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

### **1061ZVHB Repayable SSL debt for an income year**

- (1) A person's ***repayable SSL debt*** for an income year is:
  - (a) the person's accumulated SSL debt referred to in paragraph 1061ZVHA(1)(b) in relation to that income year; or
  - (b) if one or more amounts:
    - (i) have been paid in reduction of that debt; or

- (ii) have been assessed under section 1061ZVHC to be payable in respect of that debt;  
the amount (if any) remaining after deducting from that debt any amounts referred to in subparagraph (i) or (ii).
- (2) A reference in paragraph (1)(b) of this section to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

### **Subdivision B—Assessments**

#### **1061ZVHC Commissioner may make assessments**

The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

- (a) the person's accumulated SSL debt on 1 June immediately before the making of the assessment; and
- (b) the amount required to be paid in respect of the person's repayable SSL debt under section 1061ZVHA.

#### **1061ZVHD Notification of notices of assessment of tax**

If:

- (a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of an income year under section 174 of the *Income Tax Assessment Act 1936*; and
- (b) the Commissioner has made, in respect of the person, an assessment under paragraph 1061ZVHC(b) of this Act of the amounts referred to in that paragraph; and
- (c) notice of the assessment under that paragraph has not been served on the person;

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

### **1061ZVHE Commissioner may defer making assessments**

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

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

### **1061ZVHF Commissioner may amend assessments**

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

- (b) no amount is payable under the assessment.
- (2) The application:
  - (a) must be made within 2 years after the day on which the Commissioner gives notice of the assessment to the person; or
  - (b) must specify the reasons justifying a later application.
- (3) The Commissioner may, on application by a person under this section, amend an assessment made in respect of the person under section 1061ZVHC so that:
  - (a) the amount payable under the assessment is reduced; or
  - (b) no amount is payable under the assessment;if the Commissioner is of the opinion that:
  - (c) payment of the assessed amount has caused or would cause serious hardship to the person; or
  - (d) there are other special reasons that make it fair and reasonable to make the amendment.
- (4) The Commissioner must, as soon as practicable after an application is made under this section:
  - (a) consider the matter to which the application relates; and
  - (b) notify the applicant of the Commissioner's decision on the application.

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

## **Part 2AA.5—Tax administration matters**

### **1061ZVJA Simplified outline of this Part**

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

**1061ZVJB Verification of tax file numbers**

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

**1061ZVJC When person with tax file number incorrectly notifies number**

- (1) If the Commissioner is satisfied:
  - (a) that the tax file number that a person has notified to the Secretary for the purposes of paragraph 1061ZVBB(1)(c) or (2)(c):
    - (i) has been cancelled or withdrawn since the notification was given; or
    - (ii) is otherwise wrong; and
  - (b) that the person has a tax file number;the Commissioner may give to the Secretary written notice of the incorrect notification and of the person's tax file number.
- (2) That number is taken to be the number that the person notified to the Secretary.

**1061ZVJD When person without tax file number incorrectly notifies number**

- (1) If:
  - (a) the Commissioner is satisfied that the tax file number that a person notified to the Secretary for the purposes of paragraph 1061ZVBB(1)(c) or (2)(c):
    - (i) has been cancelled since the notification was given; or
    - (ii) is for any other reason not the person's tax file number; and
  - (b) the Commissioner is not satisfied that the person has a tax file number;

the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.

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

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

#### **1061ZVJE When tax file numbers are altered**

- (1) If the Commissioner issues, to a person who has notified a tax file number to the Secretary for the purposes of paragraph 1061ZVBB(1)(c) or (2)(c), a new tax file number in place of a tax file number that has been withdrawn, the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.
- (2) That new number is taken to be the number that the person notified to the Secretary.

#### **1061ZVJF When tax file numbers are cancelled**

- (1) If the Commissioner cancels a tax file number issued to a person who has notified the tax file number to the Secretary for the purposes of paragraph 1061ZVBB(1)(c) or (2)(c), the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.
- (2) The Commissioner must give a copy of any notice under subsection (1) to the person concerned, together with a written statement of the reasons for the decision to give the notice.

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

#### **1061ZVJG Returns, assessments, collection and recovery**

Subject to Part 2AA.4 and this Part:

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

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

### **1061ZVJH Charges and civil penalties for failing to meet obligations**

- (1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:
  - (a) any compulsory SSL repayment amount of a person were income tax payable by the person in respect of the income year in respect of which the assessment of that debt was made; and
  - (b) paragraphs 1061ZVBB(1)(c) and (2)(c), and Parts 2AA.3 and 2AA.4 and this Part, were income tax laws.
- (2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

### **1061ZVJJ Pay as you go (PAYG) withholding**

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

### **1061ZVJK Pay as you go (PAYG) instalments**

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

### **1061ZVJL Administration of this Chapter**

The Commissioner has the general administration of:

- (a) paragraphs 1061ZVBB(1)(c) and (2)(c); and
- (b) Parts 2AA.3 and 2AA.4 and this Part; and

**Schedule 1 Student start-up loans**  
**Part 1 Amendments**

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(c) Division 2A of Part 4 of the Administration Act (Internal review of certain Commissioner decisions relating to student start-up loans).

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

**25 Section 1190 (after table item 69)**

Insert:

**Student start-up loans**

69A.	student start-up loan amount	student start-up loan amount	section 1061ZVBD
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**26 Subsection 1191(1) (after table item 41)**

Insert:

**Student start-up loans**

41A.	student start-up loan amount	1 January	June	highest June quarter before reference quarter (but not earlier than June quarter 2016)	\$1.00
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**26A After subsection 1192(8A)**

Insert:

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

**27 Subsection 1222(2) (after table item 4D)**

Insert:

4E	1223ABF (debts in respect of student start-up loans)	deductions legal proceedings garnishee notice repayment by instalments	1231, 1234A 1232 1233 1234
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## **28 After section 1223ABE**

Insert:

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

- (1) If:
  - (a) a person is paid a student start-up loan for a qualification period; and
  - (b) the circumstances determined under subsection (2) apply to the person;then:
  - (c) the amount of the loan is a debt due to the Commonwealth; and
  - (d) the debt is taken to have arisen when the person was paid the loan.
- (2) The Minister may, by legislative instrument, determine circumstances in which subsection (1) applies to a person who has not met, or who has ceased to meet, the condition in subparagraph 1061ZVBB(1)(a)(iii) or (2)(a)(iii).
- (3) Subsection (1) does not apply to a person if, in the Secretary's opinion, the person did not meet, or ceased to meet, the condition in subparagraph 1061ZVBB(1)(a)(iii) or (2)(a)(iii) because of exceptional circumstances beyond the person's control.

## **30 At the end of subsection 1231(1AA)**

Add:

- ; and (c) must not make a determination that would reduce (including reduce to nil) a payment of a student start-up loan.

## **31 Paragraph 1234A(1)(b)**

After "social security payment", insert "(other than a student start-up loan)".

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

## **32 After Subdivision EA of Division 1 of Part 3**

Insert:

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

### **26C Time limit for claim**

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

### **33 At the end of section 36**

Add:

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

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

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

### **34 Subsection 39(1)**

Omit "subsection (3)", substitute "subsections (3) and (9)".

### **35 At the end of section 39**

Add:

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

### **36 After section 47DA**

Insert:

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

- (1) If a person is qualified for a student start-up loan for a qualification period:
  - (a) the loan becomes payable to the person on the day the Secretary determines the person's claim for the loan; and
  - (b) the Secretary must pay the amount of the loan to the person as soon as reasonably practicable after that day.
- (2) Despite subsection (1), if:
  - (a) a person is qualified for a student start-up loan for a qualification period because the person is receiving youth allowance; and
  - (b) the whole or a part of the person's instalment of youth allowance is paid to a parent of the person, under section 45 of this Act, in respect of a period that includes the day the Secretary determines the person's claim for the loan;  
the Secretary may pay the whole, or the same proportion, of the person's loan to that parent or to any other person.

#### **37 Subsection 55(1)**

After "47," insert "47DA, 47DB,".

#### **38 Section 58 (heading)**

Repeal the heading, substitute:

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

#### **39 Paragraph 58(1)(a)**

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

#### **40 Section 123A (at the end of the definition of *relevant payment*)**

Add:

; or (g) a payment of a student start-up loan.

#### **41 At the end of section 127**

Add:

- (4) The Secretary may not review:
- (a) a decision that is a reviewable decision under section 138A (decision by Commissioner about deferring or amending assessment relating to student start-up loans); or
  - (b) a decision under section 138D or 138F (decision following reconsideration of a decision that is a reviewable decision under section 138A); or
  - (c) a decision to give a notice under subsection 1061ZVJD(1) or 1061ZVJF(1) of the 1991 Act (decision by Commissioner to notify Secretary that incorrect or cancelled tax file number has been given in relation to student start-up loans).

**42 After paragraph 129(4)(d)**

Insert:

- (da) a decision that is a reviewable decision under section 138A (decision by Commissioner about deferring or amending assessment relating to student start-up loans); or
- (db) a decision under section 138D or 138F (decision following reconsideration of a decision that is a reviewable decision under section 138A); or
- (dc) a decision by the Commissioner to give a notice under subsection 1061ZVJD(1) or 1061ZVJF(1) of the 1991 Act (notifying Secretary that incorrect or cancelled tax file number has been given in relation to student start-up loans); or

**43 After Division 2 of Part 4**

Insert:

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

**138A Decisions reviewable under this Division**

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

- (a) a decision by the Commissioner under section 1061ZVHE of the 1991 Act (Commissioner may defer making assessments);

- (b) a decision by the Commissioner under section 1061ZVHF of the 1991 Act (Commissioner may amend assessments).

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

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

**138C Reviewer of decisions**

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

**138D Reviewer may reconsider reviewable decisions**

- (1) The reviewer of a reviewable decision may reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so.
  - (2) The reviewer may reconsider the decision even if:
    - (a) an application for reconsideration of the decision has been made under section 138F; or
    - (b) the decision has been confirmed, varied or set aside under section 138F and an application has been made under section 138H for review of the decision.
  - (3) After reconsidering the decision, the reviewer must:
    - (a) confirm the decision; or
    - (b) vary the decision; or
-

- (c) set the decision aside and substitute a new decision.
- (4) The reviewer's decision (the *decision on review*) to confirm, vary or set aside the decision takes effect:
  - (a) on the day specified in the decision on review; or
  - (b) if a day is not specified—on the day on which the decision on review was made.
- (5) The reviewer must give written notice of the decision on review to the person to whom that decision relates.
- (6) The notice:
  - (a) must be given within a reasonable period after the decision is made; and
  - (b) must contain a statement of the reasons for the reviewer's decision on review.

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

### **138E Notice to AAT Registrar**

If:

- (a) a reviewer makes a decision under subsection 138D(3); and
- (b) at the time of the reviewer's decision, a person has applied to the Administrative Appeals Tribunal for review of the decision reviewed by the reviewer;

the reviewer must give the Registrar of the Administrative Appeals Tribunal written notice of the reviewer's decision under subsection 138D(3).

### **138F Reconsideration of reviewable decisions on request**

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

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

### **138G Withdrawal of request**

- (1) A person who has requested the reviewer to reconsider a reviewable decision may, by written notice given to the reviewer, withdraw the request at any time before the review has been completed.
- (2) If a request is withdrawn, the request is taken never to have been made.

### **138H AAT review of reviewable decisions**

Applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions that have been confirmed,

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varied or set aside under section 138D (Reviewer may reconsider reviewable decisions) or 138F (Reconsideration of reviewable decisions on request).

### **138J Decision changed before AAT review completed**

#### *Decision varied*

- (1) If the reviewer varies a reviewable decision under subsection 138D(3) after an application has been made to the Administrative Appeals Tribunal for review of that decision but before the determination of the application, the application is taken to be an application for review of the decision as varied.

#### *Decision set aside and a new decision substituted*

- (2) If the reviewer sets aside a reviewable decision under subsection 138D(3) and substitutes a new decision, after an application has been made to the Administrative Appeals Tribunal for review of the reviewable decision but before the determination of the application, the application is taken to be an application for review of the new decision.

### **44 Before subsection 238(2)**

Insert:

- (1B) Subsection (1) does not apply to a social security payment that is a student start-up loan.

### ***Student Assistance Act 1973***

### **45 Subsection 3(1)**

Insert:

***ABSTUDY SSL debt*** means a debt incurred under section 8B.

### **46 Subsection 3(1)**

Insert:

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

Note: Part 2 is taken to be part of the ABSTUDY Scheme and ABSTUDY student start-up loans are taken to be made under the ABSTUDY Scheme: see section 7B.

**47 Subsection 3(1)**

Insert:

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

**48 Subsection 3(1)**

Insert:

*accumulated ABSTUDY SSL debt* has the meaning given by section 9C.

**49 Subsection 3(1)**

Insert:

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

**50 Subsection 3(1)**

Insert:

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

**51 Subsection 3(1)**

Insert:

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

**52 Subsection 3(1)**

Insert:

*Commonwealth Education Costs Scholarship* means any scholarship provided to assist with education costs under the Commonwealth Scholarships Guidelines made for the purposes of Part 2-4 of the *Higher Education Support Act 2003*.

**53 Subsection 3(1)**

Insert:

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

- (a) is required to be paid in respect of an accumulated ABSTUDY SSL debt under section 10F; and
- (b) is included in a notice of assessment made under section 10H.

**54 Subsection 3(1)**

Insert:

*enrolment test day* has the meaning given by subsection 8B(5).

**55 Subsection 3(1)**

Insert:

*former accumulated ABSTUDY SSL debt* has the meaning given by section 9B.

**56 Subsection 3(1)**

Insert:

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

**57 Subsection 3(1)**

Insert:

*HELP repayment income* has the same meaning as *repayment income* has in the *Higher Education Support Act 2003*.

**58 Subsection 3(1) (definition of *income tax law*)**

Repeal the definition, substitute:

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

**59 Subsection 3(1)**

Insert:

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*minimum HELP repayment income* has the same meaning as *minimum repayment income* has in the *Higher Education Support Act 2003*.

**60 Subsection 3(1)**

Insert:

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

**61 Subsection 3(1)**

Insert:

*qualification test day*, for a qualification period for an ABSTUDY student start-up loan, has the meaning given by subsection 7C(2).

**62 Subsection 3(1)**

Insert:

*repayable ABSTUDY SSL debt* has the meaning given by section 10G.

**63 Subsection 3(1)**

Insert:

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

**64 Subsection 3(1)**

Insert:

*scholarship-entitled person* has the meaning given by subsection 7D(2).

**65 Subsection 3(1)**

Insert:

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

## 66 Subsection 3(1)

Insert:

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

## 67 After Part 1

Insert:

# Part 2—ABSTUDY student start-up loans

## Division 1—Introduction

### 6A Simplified outline of this Part

ABSTUDY student start-up loans are income-contingent loans made under the ABSTUDY Scheme.

Broadly, full-time students who are receiving Living Allowance might be qualified for an ABSTUDY student start-up loan. A person can qualify for up to 2 loans each calendar year. To receive a loan, a person must make a claim before the end of the relevant period for each loan.

When the person's income reaches the minimum repayment income under the *Higher Education Support Act 2003*, and the person has finished repaying any debt under that Act, or under the *Social Security Act 1991* in relation to a student start-up loan under Chapter 2AA of that Act, the person must start repaying ABSTUDY student start-up loan debt.

## **Division 2—Qualification for and amount of ABSTUDY student start-up loan**

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

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

### **7B ABSTUDY Scheme**

- (1) For the purposes of a reference in this Act or another law to the ABSTUDY Scheme:
  - (a) this Part is taken to be part of the ABSTUDY Scheme; and
  - (b) ABSTUDY student start-up loans are taken to be made under the ABSTUDY Scheme.
- (2) This Part does not limit the ABSTUDY Scheme. In particular, the ABSTUDY Scheme may make provision for matters relating to ABSTUDY student start-up loans for which provision is not made in this Act.

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

- (1) A person is qualified for an ABSTUDY student start-up loan for a qualification period if:
  - (a) on the person's qualification test day for the period:
    - (i) the person is qualified for a payment known as Living Allowance under the ABSTUDY Scheme and Living Allowance is payable to the person; and
    - (ii) the person is receiving Living Allowance and would be receiving Living Allowance if any amounts of pharmaceutical allowance and rent assistance payable to the person under the ABSTUDY Scheme were disregarded for the purposes of working out the person's rate of that allowance; and
    - (iii) the person is qualified for Living Allowance because the person is undertaking full-time study in a course of education that is an approved scholarship course; and

- (b) the Secretary is satisfied that the person is not likely to receive the amount or value of a Commonwealth Education Costs Scholarship in the period of 6 months starting immediately after that qualification test day; and
- (c) the person notifies the Secretary of the person's tax file number.

Note: If the condition in subparagraph (a)(iii) is no longer met in a certain period starting on the qualification test day, the amount of the loan might become an immediately recoverable debt, rather than an income-contingent SSL debt: subsection 38A(1) and section 39.

*Qualification test day*

- (2) A person's **qualification test day** for a qualification period is the earliest of the following:
  - (a) the day the Secretary determines the person's claim for an ABSTUDY student start-up loan for the qualification period;
  - (b) if the approved scholarship course ends in the qualification period—the last day of the approved scholarship course;
  - (c) the last day of the qualification period.

**7D Circumstances in which person is not qualified for ABSTUDY student start-up loan**

- (1) Despite section 7C, a person is not qualified for an ABSTUDY student start-up loan for a qualification period if:
  - (a) immediately before the person's qualification test day for the period:
    - (i) a determination is in effect that the person is qualified for an ABSTUDY student start-up loan for the qualification period; or
    - (ii) a determination is in effect that the person is qualified for a student start-up loan under the *Social Security Act 1991* for the qualification period; or
    - (iii) the person is a scholarship-entitled person (see subsection (2)); or
  - (b) in the period of 6 months ending immediately before that qualification test day, the person:
    - (i) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 117 of the *Veterans' Entitlements Act 1986*; or

- (ii) has received a payment known as a student start-up scholarship payment under the scheme referred to in section 258 of the *Military Rehabilitation and Compensation Act 2004*; or
  - (iii) has received the amount or value of a Commonwealth Education Costs Scholarship; or
  - (iv) was entitled to the amount or value of a Commonwealth Education Costs Scholarship but has not received the full entitlement only because the scholarship was suspended.
- (2) A person is a ***scholarship-entitled person*** if:
- (a) any of the following (a ***scholarship***) was received by the person in respect of a time before the commencement of this section:
    - (i) a student start-up scholarship payment under section 592F of the *Social Security Act 1991*;
    - (ii) a payment under the ABSTUDY Scheme known as an ABSTUDY student start-up scholarship payment;
    - (iii) the amount or value of a Commonwealth Education Costs Scholarship; and
  - (b) for a continuous period since the time in respect of which the person received the scholarship, the person has been receiving at least one of the following:
    - (i) youth allowance (within the meaning of the *Social Security Act 1991*) in respect of the person undertaking full-time study (within the meaning of that Act);
    - (ii) austudy payment (within the meaning of that Act);
    - (iii) payments under the ABSTUDY Scheme known as Living Allowance.

#### **7E Amount of ABSTUDY student start-up loan**

- (1) The amount of an ABSTUDY student start-up loan for which a person is qualified is \$1,025.
- (2) The amount of an ABSTUDY student start-up loan is to be indexed under Division 2 of Part 3.16 of the *Social Security Act 1991*, on each 1 January, as if it were a student start-up loan amount referred to in the table in subsection 1191(1) of that Act. The indexed

amount is taken to be the amount specified in subsection (1) on and from that 1 January.

### Division 3—Indebtedness: incurring ABSTUDY SSL debts

#### 8A Simplified outline of this Division

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

#### 8B ABSTUDY SSL debts

- (1) A person incurs an ABSTUDY SSL debt to the Commonwealth if the person is paid an ABSTUDY student start-up loan for a qualification period.
- (2) The ABSTUDY SSL debt is incurred by the person on the later of:
  - (a) the day the person was paid the loan; and
  - (b) the day after the person's enrolment test day for the qualification period.

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

- (3) The amount of the person's ABSTUDY SSL debt is the amount of the loan, reduced by any amount repaid before the day on which the debt is incurred.
- (4) Despite subsection (1), an ABSTUDY SSL debt is not incurred, and is taken never to have been incurred, in relation to a loan if:
  - (a) the loan has been fully repaid before the day on which the ABSTUDY SSL debt in respect of the loan would be incurred; or
  - (b) the amount of the loan is a debt under section 39; or
  - (c) the Secretary has formed an opinion under subsection 38A(3) in relation to the loan (relating to exceptional circumstances beyond the person's control).
- (5) A person's *enrolment test day*, for a qualification period, is the earliest of the following days:

- (a) if the relevant approved scholarship course ends in the qualification period—the last day of that approved scholarship course;
- (b) the last day of the qualification period;
- (c) the 35th day of the period starting on whichever of the following applies:
  - (i) if the person’s qualification test day for the qualification period was before the first day of the relevant approved scholarship course—the first day of that approved scholarship course;
  - (ii) otherwise—the qualification test day.

### **8C ABSTUDY SSL debt discharged by death**

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

Note: ABSTUDY SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

### **8D Notice to Commissioner**

- (1) If a person incurs an ABSTUDY SSL debt, the Secretary must give the Commissioner a notice specifying the amount of the debt incurred by the person.
- (2) The Secretary may include in the notice any other details the Commissioner requests for the purpose of ensuring the Commissioner has the information needed to exercise powers or perform functions of the Commissioner under this Act.

## **Division 4—Indebtedness: working out accumulated ABSTUDY SSL debts**

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

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

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

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

- (a) the HELP debt indexation factor for 1 June in that financial year; and
- (b) the debts that the person incurs during the last 6 months of the preceding financial year; and
- (c) voluntary ABSTUDY SSL repayments of the debt; and
- (d) compulsory ABSTUDY SSL repayment amounts in respect of the debt.

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

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

**9B Stage 1—working out a former accumulated ABSTUDY SSL debt**

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

*Method statement*

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

- Step 2. Add the sum of all of the ABSTUDY SSL debts (if any) that the person incurred during the last 6 months of the immediately preceding financial year.
- Step 3. Subtract the sum of the amounts by which the person's debts referred to in steps 1 and 2 are reduced because of any voluntary ABSTUDY SSL repayments that have been made during the period:
- (a) starting on 1 June in the immediately preceding financial year; and
  - (b) ending immediately before the next 1 June.
- Step 4. Subtract the sum of all of the person's compulsory ABSTUDY SSL repayment amounts that:
- (a) were assessed during that period (excluding any assessed as a result of a return given before that period); or
  - (b) were assessed after the end of that period as a result of a return given before the end of that period.
- Step 5. Subtract the sum of the amounts by which any compulsory ABSTUDY SSL repayment amount of the person is increased (whether as a result of an increase in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.
- Step 6. Add the sum of the amounts by which any compulsory ABSTUDY SSL repayment amount of the person is reduced (whether as a result of a reduction in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.

- (2) For the purposes of this section, an assessment, or an amendment of an assessment, is taken to have been made on the day specified

in the notice of assessment, or notice of amended assessment, as the date of issue of that notice.

**9C Stage 2—working out an accumulated ABSTUDY SSL debt**

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

$$\text{Former accumulated ABSTUDY SSL debt} + \text{ABSTUDY SSL debts incurred} - \text{ABSTUDY SSL debt repayments}$$

where:

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

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

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

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

**9D Rounding of amounts**

- (1) If, apart from this section, a person's accumulated ABSTUDY SSL debt would be an amount consisting of a number of whole dollars and a number of cents, disregard the number of cents.
- (2) If, apart from this section, a person's accumulated ABSTUDY SSL debt would be an amount of less than \$1.00, the person's accumulated ABSTUDY SSL debt is taken to be zero.

**9E Accumulated ABSTUDY SSL debt discharges earlier debts**

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

- (a) any ABSTUDY SSL debt that the person incurred during the calendar year immediately preceding that day; and
  - (b) any accumulated ABSTUDY SSL debt that the person incurred on the immediately preceding 1 June.
- (2) Nothing in subsection (1) affects the application of section 8B, 8C, 9B or 9C.

### **9F Accumulated ABSTUDY SSL debt discharged by death**

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

Note: Accumulated ABSTUDY SSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

## **Division 5—Discharge of indebtedness**

### **Subdivision A—Introduction**

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

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

The person is required to make repayments, of amounts based on his or her income, if that income is above a particular amount and if the person has repaid the person's accumulated HELP debts arising under the *Higher Education Support Act 2003* and accumulated SSL debts arising under Chapter 2AA of the *Social Security Act 1991*. The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax and those other income-contingent loan debts.

### **10B Debts under this Part**

- (1) The debts under this Part are:
  - (a) ABSTUDY SSL debts; and
  - (b) accumulated ABSTUDY SSL debts.
- (2) To avoid doubt, debts that arise under section 39 are not debts under this Part.
- (3) To avoid doubt, nothing in this section affects section 7B (about the relationship of this Part to the ABSTUDY Scheme).

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

#### **10C Voluntary ABSTUDY SSL repayments in respect of debts**

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

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

- (1) Any money a person pays under this Subdivision to meet the person's debts to the Commonwealth under this Part is to be applied in payment of those debts as the person directs at the time of the payment.
- (2) If the person has not given any directions, or the directions given do not adequately deal with the matter, any money available is to be applied as follows:
  - (a) first, in discharge or reduction of any accumulated ABSTUDY SSL debt of the person;
  - (b) second, in discharge or reduction of:
    - (i) any ABSTUDY SSL debt of the person; or
    - (ii) if there is more than one such debt, those debts in the order in which they were incurred.

#### **10E Refunding of payments**

If:

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- (a) a person pays an amount to the Commonwealth under this Subdivision; and
- (b) the amount exceeds the sum of:
  - (i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Part; and
  - (ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

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

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

#### **10F Liability to repay amounts**

- (1) If:
  - (a) a person's HELP repayment income for an income year exceeds the minimum HELP repayment income for the income year; and
  - (b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an accumulated ABSTUDY SSL debt;

the person is liable to pay to the Commonwealth, in accordance with this Subdivision, so much of the person's repayable ABSTUDY SSL debt for the income year as does not exceed the amount worked out by the formula:

$$\frac{\text{Applicable percentage of HELP repayment income}}{\text{Relevant income-contingent loans liability}}$$

where:

***applicable percentage of HELP repayment income*** means the amount that is the percentage of the person's HELP repayment income applicable under the table in section 154-20 of the *Higher Education Support Act 2003*.

***relevant income-contingent loans liability*** means the amount that is the sum of the following:

- (a) any amount the person is liable to pay under section 154-1 of the *Higher Education Support Act 2003* for the income year in respect of an accumulated HELP debt;

- (b) any amount the person is liable to pay under section 1061ZVHA of the *Social Security Act 1991* for the income year in respect of an accumulated SSL debt.
- (2) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.
- (3) A person is not liable under this section to pay an amount for an income year if, under section 8 of the *Medicare Levy Act 1986*:
  - (a) no Medicare levy is payable by the person on the person's taxable income for the income year; or
  - (b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

### 10G Repayable ABSTUDY SSL debt for an income year

- (1) A person's *repayable ABSTUDY SSL debt* for an income year is:
  - (a) the person's accumulated ABSTUDY SSL debt referred to in paragraph 10F(1)(b) in relation to that income year; or
  - (b) if one or more amounts:
    - (i) have been paid in reduction of that debt; or
    - (ii) have been assessed under section 10H to be payable in respect of that debt;the amount (if any) remaining after deducting from that debt any amounts referred to in subparagraph (i) or (ii).
- (2) A reference in paragraph (1)(b) of this section to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

### Subdivision D—Assessments

#### 10H Commissioner may make assessments

The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

- (a) the person's accumulated ABSTUDY SSL debt on 1 June immediately before the making of the assessment; and

- (b) the amount required to be paid in respect of the person's repayable SSL debt under section 10F.

#### **10J Notification of notices of assessment of tax**

If:

- (a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of an income year under section 174 of the *Income Tax Assessment Act 1936*; and
- (b) the Commissioner has made, in respect of the person, an assessment under paragraph 10H(b) of this Act of the amounts referred to in that paragraph; and
- (c) notice of the assessment under that paragraph has not been served on the person;

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

#### **10K Commissioner may defer making assessments**

- (1) A person may apply in the approved form to the Commissioner for deferral of the making of an assessment in respect of the person under section 10H.
- (2) The application must specify:
  - (a) the income year for which the deferral is being sought; and
  - (b) the reasons for seeking the deferral.
- (3) The income year specified in the application must be:
  - (a) the income year in which the person makes the application; or
  - (b) the immediately preceding income year; or
  - (c) the immediately succeeding income year.
- (4) The Commissioner may, on application by a person under this section, defer making an assessment in respect of the person under section 10H if the Commissioner is of the opinion that:
  - (a) if the assessment were made, payment of the assessed amount would cause serious hardship to the person; or

- (b) there are other special reasons that make it fair and reasonable to defer making the assessment.
- (5) The Commissioner may defer making the assessment for any period that he or she thinks appropriate.
- (6) The Commissioner must, as soon as practicable after an application is made under this section:
  - (a) consider the matter to which the application relates; and
  - (b) notify the applicant of the Commissioner's decision on the application.

Note: Deferrals of making assessments, or refusals of applications, are reviewable under Division 1A of Part 9.

### **10L Commissioner may amend assessments**

- (1) A person may apply in the approved form to the Commissioner for an amendment of an assessment made in respect of the person under section 10H so that:
  - (a) the amount payable under the assessment is reduced; or
  - (b) no amount is payable under the assessment.
- (2) The application:
  - (a) must be made within 2 years after the day on which the Commissioner gives notice of the assessment to the person; or
  - (b) must specify the reasons justifying a later application.
- (3) The Commissioner may, on application by a person under this section, amend an assessment made in respect of the person under section 10H so that:
  - (a) the amount payable under the assessment is reduced; or
  - (b) no amount is payable under the assessment;if the Commissioner is of the opinion that:
  - (c) payment of the assessed amount has caused or would cause serious hardship to the person; or
  - (d) there are other special reasons that make it fair and reasonable to make the amendment.
- (4) The Commissioner must, as soon as practicable after an application is made under this section:

- (a) consider the matter to which the application relates; and
- (b) notify the applicant of the Commissioner's decision on the application.

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

## **Division 6—Tax administration matters**

### **11A Simplified outline of this Division**

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

### **11B Verification of tax file numbers**

- (1) The Secretary may provide to the Commissioner a tax file number that a person has notified to the Secretary for the purposes of paragraph 7C(1)(c), for the purpose of verifying that the number is the person's tax file number.
- (2) If the Commissioner is satisfied that the number is the person's tax file number, the Commissioner may give the Secretary a written notice informing the Secretary accordingly.

### **11C When person with tax file number incorrectly notifies number**

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

- (2) That number is taken to be the number that the person notified to the Secretary.

**11D When person without tax file number incorrectly notifies number**

- (1) If:
- (a) the Commissioner is satisfied that the tax file number that a person notified to the Secretary for the purposes of paragraph 7C(1)(c):
    - (i) has been cancelled since the notification was given; or
    - (ii) is for any other reason not the person's tax file number;and
  - (b) the Commissioner is not satisfied that the person has a tax file number;
- the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.
- (2) The Commissioner must give a copy of any notice under subsection (1) of this section to the person concerned, together with a written statement of the reasons for the decision to give the notice.

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

**11E When tax file numbers are altered**

- (1) If the Commissioner issues, to a person who has notified a tax file number to the Secretary for the purposes of paragraph 7C(1)(c), a new tax file number in place of a tax file number that has been withdrawn, the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.
- (2) That new number is taken to be the number that the person notified to the Secretary.

**11F When tax file numbers are cancelled**

- (1) If the Commissioner cancels a tax file number issued to a person who has notified the tax file number to the Secretary for the

purposes of paragraph 7C(1)(c), the Commissioner may give to the Secretary a written notice informing the Secretary accordingly.

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

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

### **11G Returns, assessments, collection and recovery**

Subject to Division 5 and this Division:

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

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

### **11H Charges and civil penalties for failing to meet obligations**

- (1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:
- (a) any compulsory ABSTUDY SSL repayment amount of a person were income tax payable by the person in respect of the income year in respect of which the assessment of that debt was made; and
  - (b) paragraph 7C(1)(c), and Divisions 3, 4 and 5 and this Division, were income tax laws.
- (2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

### **11J Pay as you go (PAYG) withholding**

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

### **11K Pay as you go (PAYG) instalments**

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

### **11L Administration of this Part**

The Commissioner has the general administration of:

- (a) paragraph 7C(1)(c); and
- (b) Divisions 3, 4 and 5 and this Division; and
- (c) Division 1A of Part 9 (Internal review of certain Commissioner decisions relating to ABSTUDY student start-up loans).

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

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

Insert:

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

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

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

### **71 After section 38**

Insert:

### **38A ABSTUDY student start-up loan overpayments**

- (1) If:
- (a) a person is paid an ABSTUDY student start-up loan for a qualification period; and
  - (b) the circumstances determined under subsection (2) apply to the person;
- then the amount of the loan is an *ABSTUDY student start-up loan overpayment*.
- (2) The Minister may, by legislative instrument, determine circumstances in which subsection (1) applies to a person who has not met, or who has ceased to meet, the condition in subparagraph 7C(1)(a)(iii).
- (3) Subsection (1) does not apply to a person if, in the Secretary's opinion, the person did not meet, or ceased to meet, the condition in subparagraph 7C(1)(a)(iii) because of exceptional circumstances beyond the person's control.

### **72 Section 39**

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

### **73 Paragraph 39(a)**

Omit "or (b)", substitute ", (aa) or (b)".

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

Add:

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

### **75 At the end of section 39AA**

Add "(other than from the amount of an ABSTUDY student start-up loan)".

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

Omit "subsection (6)", substitute "subsections (6) and (7)".

**77 Subsection 44A(7)**

Repeal the subsection, substitute:

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

**78 After subsection 55A(1)**

Insert:

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

**79 Section 302**

Before “Unless”, insert “(1)”.

**80 At the end of section 302**

Add:

- (2) This Division does not apply to:
- (a) a decision to give a notice under subsection 11D(1) or 11F(1) (decision by Commissioner to notify Secretary that incorrect or cancelled tax file number has been given in relation to ABSTUDY student start-up loan); or
  - (b) a decision that is a reviewable decision under section 308A (decision by Commissioner about deferring or amending assessment relating to ABSTUDY student start-up loans); or
  - (c) a decision under section 308D or 308F (decision following reconsideration of a decision that is a reviewable decision under section 308A).

**81 After Division 1 of Part 9**

Insert:

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

### **308A Decisions reviewable under this Division**

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

- (a) a decision by the Commissioner under section 10K (Commissioner may defer making assessments);
- (b) a decision by the Commissioner under section 10L (Commissioner may amend assessments).

### **308B Commissioner must give reasons for reviewable decisions**

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

### **308C Reviewer of decisions**

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

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

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

- (2) The reviewer may reconsider the decision even if:
  - (a) an application for reconsideration of the decision has been made under section 308F; or
  - (b) the decision has been confirmed, varied or set aside under section 308F and an application has been made under section 308H for review of the decision.
- (3) After reconsidering the decision, the reviewer must:
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) set the decision aside and substitute a new decision.
- (4) The reviewer's decision (the *decision on review*) to confirm, vary or set aside the decision takes effect:
  - (a) on the day specified in the decision on review; or
  - (b) if a day is not specified—on the day on which the decision on review was made.
- (5) The reviewer must give written notice of the decision on review to the person to whom that decision relates.
- (6) The notice:
  - (a) must be given within a reasonable period after the decision is made; and
  - (b) must contain a statement of the reasons for the reviewer's decision on review.

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

### **308E Notice to AAT Registrar**

If:

- (a) a reviewer makes a decision under subsection 308D(3); and
- (b) at the time of the reviewer's decision, a person has applied to the Administrative Appeals Tribunal for review of the decision reviewed by the reviewer;

the reviewer must give the Registrar of the Administrative Appeals Tribunal written notice of the reviewer's decision under subsection 308D(3).

### **308F Reconsideration of reviewable decisions on request**

- (1) A person whose interests are affected by a reviewable decision may request the reviewer to reconsider the decision.
  - (2) The person's request must be made by written notice given to the reviewer within 28 days, or such longer period as the reviewer allows, after the day on which the person first received notice of the decision.
  - (3) The notice must set out the reasons for making the request.
  - (4) After receiving the request, the reviewer must reconsider the decision and:
    - (a) confirm the decision; or
    - (b) vary the decision; or
    - (c) set the decision aside and substitute a new decision.
  - (5) The reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
    - (a) on the day specified in the decision on review; or
    - (b) if a day is not specified—on the day on which the decision on review was made.
  - (6) The reviewer must give the person written notice of the decision on review.
  - (7) The notice:
    - (a) must be given within a reasonable period after the decision on review is made; and
    - (b) must contain a statement of the reasons for the decision on review.
- Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.
- (8) The reviewer is taken, for the purposes of this Division, to have confirmed the decision if the reviewer does not give notice of a decision to the person within 45 days after receiving the person's request.

### **308G Withdrawal of request**

- (1) A person who has requested the reviewer to reconsider a reviewable decision may, by written notice given to the reviewer, withdraw the request at any time before the review has been completed.
- (2) If a request is withdrawn, the request is taken never to have been made.

### **308H AAT review of reviewable decisions**

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

### **308J Decision changed before AAT review completed**

#### *Decision varied*

- (1) If the reviewer varies a reviewable decision under subsection 308D(3) after an application has been made to the Administrative Appeals Tribunal for review of that decision but before the determination of the application, the application is taken to be an application for review of the decision as varied.

#### *Decision set aside and a new decision substituted*

- (2) If the reviewer sets aside a reviewable decision under subsection 308D(3) and substitutes a new decision, after an application has been made to the Administrative Appeals Tribunal for review of the reviewable decision but before the determination of the application, the application is taken to be an application for review of the new decision.

## ***Taxation Administration Act 1953***

### **82 Section 8AAZA**

Insert:

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

**83 Section 8AAZA**

Insert:

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

**84 After paragraph 8AAZLD(aa)**

Insert:

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

**85 Paragraph 8WA(1AA)(b)**

After “(ga),”, insert “(gaa),”.

**86 Paragraph 8WA(1AA)(b)**

Before “(hac),”, insert “(hab),”.

**87 Paragraphs 8WB(1A)(a) and (b)**

After “(ga),”, insert “(gaa),”.

**88 Paragraphs 8WB(1A)(a) and (b)**

Before “(hac),”, insert “(hab),”.

**89 Section 6-1 in Schedule 1**

Omit “, liability to repay contributions under the Higher Education Contribution Scheme (HECS), liability to repay debts under the Higher Education Loan Program (HELP), liability to repay debts in relation to trade support loan and liability to repay financial supplement debts under the Student Financial Supplement Scheme (SFSS)”, substitute “and liability to repay debts under certain income-contingent loan schemes”.

**90 After paragraph 11-1(ca) in Schedule 1**

Insert:

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

**91 Subsection 15-25(1) in Schedule 1**

After “(ca),”, insert “(cb), (cc),”.

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

Insert:

- (cb) the percentage referred to in the definition of *applicable percentage of HELP repayment income* in subsection 1061ZVHA(1) (about repayments of accumulated SSL debt) of the *Social Security Act 1991* for any financial year starting after the commencement of this paragraph;
- (cc) the percentage referred to in the definition of *applicable percentage of HELP repayment income* in subsection 10F(1) (about repayments of accumulated ABSTUDY SSL debt) of the *Student Assistance Act 1973* for any financial year starting after the commencement of this paragraph;

**93 Paragraph 15-50(1)(b) in Schedule 1**

After “(ca),”, insert “(cb), (cc),”.

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

Insert:

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

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

Insert:

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

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

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

After “3,” insert “3AA, 3AB,”.

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

Insert:

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

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

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

After “3”, insert “, 3AA, 3AB”.

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

Insert:

36B	compulsory SSL repayment amount under the <i>Social Security Act 1991</i>	5-5	<i>Income Tax Assessment Act 1997</i>
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**Schedule 1** Student start-up loans

**Part 1** Amendments

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36C	compulsory ABSTUDY SSL repayment amount under the <i>Student Assistance Act 1973</i>	5-5	<i>Income Tax Assessment Act 1997</i>
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***Taxation (Interest on Overpayments and Early Payments)  
Act 1983***

**100 Subsection 3(1)**

Insert:

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

**101 Subsection 3(1)**

Insert:

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

**102 Section 3C (after table item 45)**

Insert:

46	Amounts that are treated under Part 2AA.5 of the <i>Social Security Act 1991</i> as if they were income tax
47	Amounts that are treated under Division 6 of Part 2 of the <i>Student Assistance Act 1973</i> as if they were income tax

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**103 After subparagraph 8A(1)(a)(ia)**

Insert:

- (ib) compulsory SSL repayment amount; or
- (ic) compulsory ABSTUDY SSL repayment amount; or

**104 After paragraph 8A(2)(ba)**

Insert:

- (bb) compulsory SSL repayment amount; or
- (bc) compulsory ABSTUDY SSL repayment amount; or

**105 After subparagraph 8E(1)(d)(iii)**

Insert:

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

**106 After subparagraph 8E(2)(d)(iii)**

Insert:

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

**107 After paragraph 12A(1A)(b)**

Insert:

- (ba) compulsory SSL repayment amount;
- (bb) compulsory ABSTUDY SSL repayment amount;

***Trade Support Loans Act 2014***

**108 Section 3**

After "under that Act", insert "and certain other income-contingent loan schemes".

**109 Section 39**

After "under that Act", insert "and any debts under certain other income-contingent loan schemes".

**110 Subsection 46(1)**

Omit all the words after "the formula:", substitute:

Applicable percentage of repayment income  $\frac{\text{Relevant income-contingent loans liability}}{\text{Relevant income-contingent loans liability}}$

where:

***applicable percentage of repayment income*** means the amount that is the percentage of the person's repayment income applicable under the table in section 154-20 of the *Higher Education Support Act 2003*.

***relevant income-contingent loans liability*** means the amount that is the sum of the following:

- (a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* for the income year in respect of an accumulated HELP debt;
- (b) any amount the person is liable to pay under section 1061ZVHA of the *Social Security Act 1991* for the income year in respect of an accumulated SSL debt;
- (c) any amount the person is liable to pay under section 10F of the *Student Assistance Act 1973* in respect of an accumulated ABSTUDY SSL debt.

## **Part 2—Saving provision**

### **111 Saving provision—approved scholarship courses**

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

## **Schedule 3—Removal of up-front payment discount**

### ***Higher Education Support Act 2003***

#### **1 Section 36-50**

Repeal the section.

#### **2 Paragraph 90-1(f)**

Repeal the paragraph, substitute:

- (f) the student \*meets the tax file number requirements (see section 187-1); and

#### **3 Subsection 93-15(1)**

After “is a payment of”, insert “all or”.

#### **4 Subsection 93-15(3)**

Repeal the subsection (including the notes).

#### **5 Sections 96-1, 96-5 and 96-10**

Repeal the sections, substitute:

#### **96-1 Payments to higher education providers**

If a student is entitled to an amount of \*HECS-HELP assistance for a unit of study with a higher education provider, the Commonwealth must:

- (a) as a benefit to the student, lend to the student the amount of HECS-HELP assistance; and
- (b) pay to the provider the amount lent in discharge of the student’s liability to pay his or her \*student contribution amount for the unit.

#### **6 Subsection 137-5(1)**

Omit “or 96-5”.

**7 Paragraph 193-1(5)(b)**

Omit “90%”, substitute “100%”.

**8 Paragraph 193-5(1)(d)**

Omit “90% of”.

**9 Subclause 1(1) of Schedule 1 (definition of *HECS-HELP discount*)**

Repeal the definition.

**10 Application**

The amendments made by this Schedule apply in relation to an up-front payment made in relation to a unit of study that has a census date on or after 1 January 2017.

## **Schedule 4—Removal of voluntary repayment bonus**

### ***Higher Education Support Act 2003***

#### **1 Section 129-1**

Omit “(which may attract a repayment bonus)”.

#### **2 Subsection 140-5(1) (example)**

Omit “2011” (wherever occurring), substitute “2013”.

#### **3 Subsection 140-5(1) (example)**

Omit “(which includes a voluntary repayment bonus of \$25)”.

#### **4 Subsection 140-5(1) (example)**

Omit “2012” (wherever occurring), substitute “2014”.

#### **5 Subsection 140-5(1) (example)**

Omit “2010-11”, substitute “2012-13”.

#### **6 Section 148-1**

Omit “In some cases these may attract a 5% repayment bonus.”.

#### **7 Section 151-5**

Repeal the section.

#### **8 Application**

The amendments made by this Schedule apply in relation to a voluntary repayment made on or after 1 January 2017, regardless of when the debt to which the repayment relates was incurred.

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*[Minister's second reading speech made in—  
House of Representatives on 26 November 2015  
Senate on 2 December 2015]*

(208/15)

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