





# **Social Services and Other Legislation Amendment (Student Assistance and Other Measures) Act 2021**

**No. 42, 2021**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**An Act to amend the law relating to student  
assistance and social security, and for related  
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*[Assented to 27 May 2021]*

The Parliament of Australia enacts:

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*No. 42, 2021      Social Services and Other Legislation Amendment (Student Assistance  
and Other Measures) Act 2021      1*

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## 1 Short title

This Act is the *Social Services and Other Legislation Amendment (Student Assistance and Other Measures) Act 2021*.

## 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.

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<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. The whole of this Act	The day after this Act receives the Royal Assent.	28 May 2021

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Tax file numbers**

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

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

Insert:

*TFN declaration* has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

#### **2 Before section 44A**

Insert:

### **Division 1—Provision and use of tax file numbers**

#### **3 Section 44A**

Repeal the section.

#### **4 After section 44A**

Insert:

#### **45 Requesting tax file numbers**

- (1) The Secretary may request, but not compel, a person in Australia to give the Secretary a statement of the person's tax file number if the person:
  - (a) is making, or has made, a claim for a benefit under a current special educational assistance scheme; or
  - (b) is receiving a benefit under a current special educational assistance scheme.

Note: For the consequences of not satisfying the request, see section 47.

- (2) A request under this section may be made orally or in writing.

## 46 How request for tax file number is satisfied

### *Satisfying request for tax file number*

- (1) If the Secretary requests a person under section 45 to give the Secretary a statement of the person's tax file number, the person satisfies the request by giving the Secretary, within the period mentioned in subsection (2) of this section (if applicable):
  - (a) the statement of the person's tax file number; or
  - (b) both of the following:
    - (i) a TFN declaration that contains the statement required by subsection (3) of this section;
    - (ii) a document in which the person authorises the Commissioner of Taxation to tell the Secretary the matters mentioned in subsection (4) of this section.

### *Period for satisfying request—person is receiving a benefit under a current special educational assistance scheme*

- (2) If the person is receiving a benefit under a current special educational assistance scheme, the material mentioned in paragraph (1)(a) or (b) must be given within 28 days after the making of the request.

### *Requirements for declarations*

- (3) For the purposes of subparagraph (1)(b)(i), the statement is:
  - (a) a statement that the person:
    - (i) has a tax file number but does not know what it is; and
    - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; or
  - (b) a statement that an application by the person for a tax file number is pending.

### *Requirements for authorisation documents*

- (4) For the purposes of subparagraph (1)(b)(ii), the matters are as follows:
  - (a) if the TFN declaration contains a statement mentioned in paragraph (3)(a):

- (i) whether the person has a tax file number; and
- (ii) if the person has a tax file number—that number;
- (b) if the TFN declaration contains a statement mentioned in paragraph (3)(b):
  - (i) if a tax file number is issued to the person—that number; or
  - (ii) if the application for a tax file number is refused or is withdrawn—that fact.

#### **47 Consequences of not giving tax file number**

##### *Consequences of not satisfying request for tax file number*

- (1) If the Secretary makes a request of a person under section 45, the consequences set out in the following table apply if the person does not satisfy the request in accordance with section 46.

<b>Consequences of not satisfying request for tax file number</b>		
<b>Item</b>	<b>If the request under section 45 was given to ...</b>	<b>the consequence is ...</b>
1	a person: <ul style="list-style-type: none"> <li>(a) who is making a claim for a benefit under a current special educational assistance scheme; or</li> <li>(b) who has made a claim for a benefit under a current special educational assistance scheme, but the claim has not been determined</li> </ul>	the benefit is not payable
2	a person who is receiving a benefit under a current special educational assistance scheme	at the end of 28 days after the Secretary made the request, the benefit ceases to be payable

Note: The Secretary may exempt a person from the operation of this subsection: see subsection (3).

**Schedule 1** Tax file numbers

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*Consequences of person not having tax file number after giving declaration*

- (2) If:
- (a) the Secretary makes a request of a person under section 45; and
  - (b) the person satisfies the request by giving the Secretary:
    - (i) a TFN declaration that contains the statement required by subsection 46(3); and
    - (ii) a document in which the person authorises the Commissioner of Taxation to tell the Secretary the matters mentioned in subsection 46(4); and
  - (c) the Commissioner of Taxation tells the Secretary that the person does not have a tax file number or that any of the following apply in relation to the person:
    - (i) the person has not applied for a tax file number;
    - (ii) an application by the person for a tax file number has been refused;
    - (iii) the person has withdrawn an application for a tax file number;

the consequences set out in the following table apply.

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**Consequences of person not having tax file number after giving declaration**

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<b>Item</b>	<b>If the request under section 45 was given to ...</b>	<b>the consequence is ...</b>
1	a person: <ul style="list-style-type: none"><li>(a) who is making a claim for a benefit under a current special educational assistance scheme; or</li><li>(b) who has made a claim for a benefit under a current special educational assistance scheme, but the claim has not been determined</li></ul>	the benefit is not payable
2	a person who is receiving a benefit under a current special educational assistance scheme	the benefit ceases to be payable

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Note: The Secretary may exempt a person from the operation of this subsection: see subsection (3).

### *Exemptions*

- (3) The Secretary may exempt a person who has been given a request under section 45 from the operation of subsection (1) or (2) of this section.

## **47A Use of tax file numbers**

- (1) For the purposes of a current special educational assistance scheme, the Secretary may require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, that was contained in TFN declarations lodged with the Commissioner under Division 3 of Part VA of the *Income Tax Assessment Act 1936*.
- (2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the following purposes:
- (a) to detect cases in which amounts of benefits under a current special educational assistance scheme have been paid when they should not have been paid;
  - (b) to verify, in respect of persons who have made claims for benefits under a current special educational assistance scheme, the qualification of those persons for those benefits;
  - (c) to establish whether the rates or amounts of benefits under a current special educational assistance scheme that are being, or have been, paid are, or were, correct.

## **5 Application and transitional provisions**

- (1) Paragraph 45(1)(a) of the *Student Assistance Act 1973*, as inserted by this Schedule, applies in relation to the following:
- (a) a claim that a person commences to make on or after the commencement of this item;
  - (b) a claim that a person made before that commencement, but that had not been determined before that commencement;
  - (c) a claim that a person commenced making before that commencement, but that had not been made before that commencement.

- (2) Paragraph 45(1)(b) of the *Student Assistance Act 1973*, as inserted by this Schedule, applies in relation to a person who is receiving a benefit on or after the commencement of this item (whether the person commenced receiving the benefit before, on or after that commencement).
- (3) A tax file number of a person given to the Secretary under section 44A of the *Student Assistance Act 1973* before the commencement of this item in relation to a current special educational assistance scheme is taken on and after that commencement to have been given to the Secretary under section 46 of that Act.
- (4) Paragraphs 47A(2)(a) and (c) of the *Student Assistance Act 1973*, as inserted by this Schedule, apply in relation to the payment of benefits on or after the commencement of this item.
- (5) Paragraph 47A(2)(b) of the *Student Assistance Act 1973*, as inserted by this Schedule, applies in relation to the following:
  - (a) a claim made by a person on or after the commencement of this item;
  - (b) a claim made by a person before that commencement, but that had not been determined before that commencement.

## **Schedule 2—Information management provisions**

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

#### **1 Subsection 23(1)**

Insert:

***current special educational assistance scheme*** means:

- (a) the Assistance for Isolated Children Scheme; or
- (b) the ABSTUDY Scheme (also known as the Aboriginal Study Assistance Scheme).

#### **2 Subparagraphs 1073BB(8)(a)(vi) and (b)(vi)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

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

#### **3 Subsection 3(1) (paragraph (a) of the definition of *protected information*)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

#### **4 Paragraph 343(1)(e)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

#### **5 Subsection 348(1)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

**6 Subsection 351(1)**

Omit “or the *Dental Benefits Act 2008* (including the purposes of the administration of the ABSTUDY scheme)”, substitute “(including the purposes of the administration of a current special educational assistance scheme) or the *Dental Benefits Act 2008*”.

**7 Subsection 351(1) (note 1)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

**8 Paragraph 351(2)(d)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

**9 Subsection 351(2) (note 1)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

**10 Subsection 351(4) (heading)**

Omit “*ABSTUDY scheme*”.

**11 Subsection 351A(1)**

Omit “the ABSTUDY scheme” (wherever occurring), substitute “a current special educational assistance scheme”.

**12 Subsection 351A(2)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

**13 Paragraph 351A(3)(c)**

Omit “the ABSTUDY scheme”, substitute “a current special educational assistance scheme”.

## **Schedule 3—Other amendments**

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

#### **1 Subsection 23(1) (definition of *social security law*)**

Omit “subsections (17) and (18)”, substitute “subsection (17)”.

#### **2 Subsections 23(17) and (18)**

Repeal the subsections, substitute:

- (17) For the purposes of this Act, the *social security law* is:
- (a) this Act; and
  - (b) the Administration Act; and
  - (c) any other Act, or provision of an Act, that is expressed to form part of the social security law; and
  - (d) a legislative instrument made under an Act or provision referred to in paragraph (a), (b) or (c).

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

#### **3 Subsections 3(3) and (4)**

Repeal the subsections.

#### **4 Subsection 3(6)**

Repeal the subsection, substitute:

- (6) Unless a contrary intention appears, a reference in this Act (other than section 243) to this Act includes a reference to regulations made under section 243.

#### **5 Section 4**

Repeal the section.

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

#### **6 Subsection 3(1)**

Omit “(1)”.

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**7 Subsections 3(2) and (3)**

Repeal the subsections.

***Veterans' Entitlements Act 1986***

**8 Subsection 5Q(1) (definition of *social security law*)**

Repeal the definition, substitute:

*social security law* has the same meaning as in the Social Security Act.

**9 Application provision**

Paragraph 23(17)(d) of the *Social Security Act 1991*, as substituted by this Schedule, applies in relation to a legislative instrument made before, on or after the commencement of this item.

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[*Minister's second reading speech made in—  
House of Representatives on 4 February 2021  
Senate on 13 May 2021*]

(2/21)

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