

Chapter 2

Main Provisions of the bill

Schedule 1 – Youth Allowance, Part 1 - Independence criteria

2.1 **Items 1 and 2** of Schedule 1 amend section 1067A of the *Social Security Act 1991* (the Act). Section 1067A of the Act sets out the circumstances when a person is regarded as independent.

2.2 Subsection 1067A(4) of the Act allows a person to be independent because of the person's age. Item 1 repeals and substitutes subsection 1067A(4). Currently, a person is independent if they are at least 25 years old. New subsection 1067A(4) will apply for the purposes of Youth Allowance and rent assistance for Youth Allowance, and will reduce the age of independence over time – 24 years for the year 2010, 23 years for the year 2011 and 22 years for a year after 2011.

2.3 The significance of a person being independent for Youth Allowance purposes is that parental income and assets are disregarded in assessing the person's rate of payment. This amendment addresses a finding of the *Review of Australian Higher Education* (the Bradley Review) that the age of independence is high by international standards.

2.4 **Item 2** amends subsection 1067A(10) of the Act. Currently, subsection 1067A(10) provides that a person is independent because they have supported themselves through paid work (also called the 'workforce participation criteria') consisting of:

- (a) full-time employment of at least 30 hours per week for at least 18 months during any period of 2 years; or
- (b) part-time employment of at least 15 hours per week for at least 2 years since the person last left secondary school; or
- (c) a period of or periods of employment over an 18 month period since the person last left secondary school, earning the person at least the equivalent of 75% of:
 - (i) the maximum rate of pay under Wage Level A of a transitional Australian Pay and Classification Scale or modern award generally applicable to trainees; or
 - (ii) that maximum rate as varied or replaced from time to time by Fair Work Australia.

2.5 **New subsection 1067A(10A)** disapplies paragraphs (b) and (c) of the workforce participation criterion outlined above. The effect of this change is that from 1 January 2010, a person can only demonstrate that they are independent for the purposes of Youth Allowance and rent assistance for Youth Allowance using the

workforce participation criteria if they have been employed for at least 30 hours per week for at least 18 months during any period of 2 years.

2.6 The workforce participation criterion in paragraph 1067A(10)(b) and (c) will be 'grandfathered' to apply to two categories of people:

- people in receipt of Youth Allowance and regarded as independent under those criteria prior to 1 January 2010 (**new subsection 1067A(10B)**); and
- people who completed secondary school in 2008, and took a year off study in 2009, before commencing university full-time in the first half of 2010. The person must be required to live away from home when commencing university in 2010 (**new subsection 1067A(10C)**).¹

Schedule 1 – Youth Allowance, Part 2 – Parental income test and family actual means test

2.7 **Items 5-9** amend point 1067G-A1 of the Act, the method statement for the Youth Allowance Rate Calculator. Currently, the parental income test and family actual means test are applied as alternatives: whichever test results in the greater reduction to a person's rate will apply. After the reduction for parental income or family actual means is applied, the personal income test is then applied to the remaining rate of payment to work out the reduction to a person's rate because of their own income.

2.8 Items 5-9 amend the order in which the three tests are applied to a person's rate. The three tests will be applied alternatively, and whichever results in the greatest reduction to the person's rate will apply, and the other two tests will not apply.

2.9 **Item 12** repeals points 1067G-F22, 1067G-F23, 1067G-F24 and 1067G-F25 in relation to parental income free area of the parental income test for dependent Youth Allowance and substitutes them with a **new point 1067F-22**. Currently, the parental income free area is \$32,800, with additional amounts being added to that income free area for dependent children.

2.10 The effect of new point 1067G-F22 is that, for the purposes of the parental income test, a person's parental income free area for Youth Allowance is aligned with the income free area for Family Tax Benefit Part A, which is currently \$44,165.

2.11 **Item 13** amends Submodule 6 of Module F of the Youth Allowance Rate Calculator regarding the reduction in payment rate for parental income. Item 13 repeals points 1067G-F26, 1067G-F27 and 1067G-F28 and substitute them with new points 1067G-F26, 1067G-F27, 1067G-F28, 1067G-F29 and 1067G-F30.

2.12 Currently, when a person's parental income is over the parental income free area, the person's rate of Youth Allowance is reduced by 25 cents for every excess

1 See also section 1067D of the Act for the definition of 'required to live away from home'.

dollar of parental income. The amendments in Item 13 change the rate of reduction to 20 cents for every dollar. Further, the 20 per cent taper rate will be apportioned between members of the same family who are subject to the income test.

2.13 The amendments in Item 13 only capture persons in the family who have been granted Youth Allowance or a non-legislative parentally income tested income support payment and are subject to the parental income test. A child in a family who is not receiving a parentally income tested income support payment will not be included in the 20 per cent apportionment of the taper.

2.14 Paragraph 1067G-H29 provides for an income free area for a person undertaking full-time study. **Items 18 and 19** amend paragraphs 1067G-H29(a) and (aa) to increase the income free area from \$236 to \$400 a fortnight.

2.15 Points 1067G-J1 – J11 of the Act make provision for the student income bank. The student income bank allows students receiving Youth Allowance or Austudy to accumulate credits for unused parts of the ordinary income free area, to offset income earned in later fortnights that is over the ordinary income free area. Currently, the amount of credit that can be accumulated in a person's income bank is limited to \$6,000. **Division 4 of Schedule 1** of the bill amends the Act to increase the limit of credit that can be accumulated to \$10,000. The increase of the income bank credit aligns with the increase in the ordinary income free area.

Schedule 2 – Scholarship payments for students

2.16 **Item 4** inserts a new Part 2.11B into Chapter 2 of the Act. The new **Part 2.11B** contains the substantive provisions for the Start-up Scholarship and the Relocation Scholarship.

2.17 **Division 1 of Part 2.11B** sets out the provisions for the Start-up Scholarship. **Section 592F** sets out the qualification criteria for the Start-up Scholarship, including that:

- the person must have qualified for Youth Allowance or Austudy;
- the person must be receiving part of the basic rate component of Youth Allowance or Austudy; and
- the Secretary is satisfied that within 35 days the person will either start to undertake the course or continue to undertake the course.

2.18 The qualifying provisions are designed to ensure that if a person is later found to not be qualified for Youth Allowance or Austudy payments that they were receiving, a debt can be raised for any Start-up Scholarship payment that was paid for that time.

2.19 The qualifying provisions also enable a person to qualify for a Start-up Scholarship payment, up to 35 days before they commence a course of study. This allows for the payment of the Start-up Scholarship payments up to 35 days before the beginning of a semester. However, **item 23** in Part 2 of Schedule 2 of the bill inserts a

new **section 1223ABE** into the Act, providing that a person will have to repay the Start-up Scholarship payment where the person does not subsequently commence the course of study, or withdraws from the course within 35 days of the course commencing.

2.20 New **section 592G** sets out the circumstances in which a person is disqualified from the payment of the Start-up Scholarship. A person will not qualify for the Start-up Scholarship if, in the six months before qualifying for the scholarship, they qualified for an equivalent scholarship payment (**subsections 592G(1) and (2)**). However, under **subsection 592G(3)** the Secretary may shorten the preclusion period to a period less than six months. The discretion in **subsection 592G(3)** can not be used to grant a student more than two Start-up Scholarship payments in a calendar year (see **subsection 592G(4)**).

2.21 New **section 592H** provides that the amount of the Start-up Scholarship is \$1,127.

2.22 **Division 2 of Part 2.11B** sets out the provisions for the Relocation Scholarship. New **section 592J** sets out the qualification criteria for the Relocation Scholarship payments, including:

- the person must be qualified for Youth Allowance;
- the person must be receiving part of the basic rate component of Youth Allowance;
- the person is independent for a specified reason, or is not independent but is required to live away from home;
- the Secretary is satisfied that within 35 days the person will either start to undertake the course or continue to undertake the course.

2.23 Like the Start-up Scholarship, the qualifying provisions for the Relocation Scholarship are designed to ensure that if a person is later found not to be qualified for the Youth Allowance that the person was receiving, a debt may also be raised for any scholarship payment that was paid for that time.

2.24 **Paragraph 592J(c)** provides that not all Youth Allowance recipients will be eligible for a Relocation Scholarship payment. Independent Youth Allowance recipients will only qualify for a Relocation Scholarship payment if they are independent for one or more of the following reasons:

- the person has a dependent child;
- the person is an orphan;
- the person's parents are unable to exercise parental responsibilities for a specified reason;
- the person is a refugee;
- the person is in State care;

- it is unreasonable for the person to live at home;
- the person is specially disadvantaged.

2.25 Youth Allowance recipients who are not independent will only qualify for a Relocation Scholarship if they are required to live away from home (**subsection 592J(d)**). Section 1067D of the Act sets out when a person is required to live away from home.

2.26 New **section 592K** sets out the circumstances in which a person will be disqualified from receiving the Relocation Scholarship. Essentially, the provisions of s592K disqualify a person from receiving the Relocation Scholarship if they have received a Relocation Scholarship payment (or equivalent scholarship payment) in the 12 months prior to the qualification time for the payment.

2.27 However, the Secretary does have the discretion to shorten the preclusion period of 12 months (**subsection 592K(3)**), but can not exercise that discretion to enable a person to receive more than two Relocation Scholarship payments in two successive calendar years (**subsection 592J(4)**). Subsections 592J(3) and (4) are designed to provide flexibility as to when the Relocation Scholarships are paid to a person.

2.28 New **section 592L** provides for the amount of the Relocation Scholarship. Initially the Relocation Scholarship will be \$4,000 (**subsection 592L(1)**). Subsequent payments of the scholarship will be \$1,000 (**subsection 592L(3)**).

2.29 **Item 12** inserts new subparagraphs into subsection 8(8) of the Act, which prescribes payments which are not income for the purposes of the Act. New **subparagraphs 8(8)(y)(viiia) and (viiab)** provide that the Start-up and Relocation Scholarships will not be considered as income for the purpose of social security law.

2.30 **Items 13 and 14** insert new provisions into subsection 8(8) of the Act to exempt scholarship payments from being considered as income for the purposes of the Act, up to a threshold amount. **Paragraph 8(8)(zjd)** provides that the payment of a scholarship, other than an 'excluded payment', will not be considered income for the purposes of the Act, as long as it does not exceed a person's threshold amount.

2.31 New **subsection 8(8AA)** defines 'excluded payment' for the purposes of new paragraph 8(8)(zjd) and includes the Start-up and Relocation Scholarships. New **subsection 8(8AB)** provides that for the purposes of paragraph 8(8)(zjd) a person's threshold amount is \$6,762.

2.32 Effectively, these amendments mean that 'excluded payments' are not exempt income for the purposes of paragraph 8(8)(zjd), but they are exempt as income for the purposes of the Act under other provisions in subsection 8(8). This means that in addition to the excluded payments in subsection 8(8AA) a person will be able to receive payments of scholarships totalling \$6,762, before the payments will have any effect on the person's income support payment.

