

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 123

Subject *Student Assistance Act 1973*

Student Assistance Amendment Regulations 2005 (No. 1)

Subsection 56(1) of the *Student Assistance Act 1973* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which, by the Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The ABSTUDY Scheme (also known as the Aboriginal Study Assistance Scheme) provides benefits to Aboriginal and Torres Strait Islander people most in need of assistance to promote equity of educational opportunity.

The Australian Government has made a commitment to extend eligibility for Youth Allowance and Austudy payments to full-time new apprentices. The purpose of the Regulations is to amend the *Student Assistance Regulations 2003* (the Principal Regulations) to extend this initiative to the ABSTUDY Scheme, in order to ensure that ABSTUDY recipients are not disadvantaged.

Section 48 of the Act imposes an obligation on ABSTUDY payees to notify the Department of Education, Science and Training (the Department) within 14 days of the occurrence of an event prescribed by the Regulations. Part 2 of the Principal Regulations sets out prescribed definitions and events to clarify a recipient's obligations and support the administration of the ABSTUDY Scheme. The Principal Regulations also enable effective prosecutions under subsection 49(1) of the Act for failure to notify the occurrence of prescribed events.

Regulation 1 provides that the Regulations are referred to as the *Student Assistance Amendment Regulations 2005 (No. 1)*. Regulation 2 provides that the Regulations commence on 1 July 2005. Regulation 3 provides that Schedule 1 to the Regulations amends the Principal Regulations.

Item 1 in Schedule 1 amends the definition of ABSTUDY payee in regulation 5 of the Principal Regulations to include a reference to 'new apprentice'. Items 2, 3 and 4 of Schedule 1 amend the definitions of 'dependent student' and 'independent rate' in regulation 5 of the Principal Regulations to include reference to 'new apprentice'. Item 5 of Schedule 1 adds a definition of 'new apprentice' in regulation 5 of the Principal Regulations.

Item 6 in Schedule 1 amends the definitions of 'parent' and 'partner' in regulation 5 of the Principal Regulations, referring to new definitions in regulations 5C and 5D. Item 7 amends paragraph 5A(3)(d) (definition of 'dependent child') to increase the figures in subparagraphs 5A(3)(d)(i) and (ii) of the Principal Regulations.

Item 8 of Schedule 1 substitutes new definitions of 'independent status' and 'parent' in regulations 5B and 5C respectively of the Principal Regulations to include references to 'new apprentice'. Item 8 also inserts a new definition of 'partner' at regulation 5D in the Principal Regulations.

Item 9 of Schedule 1 makes a technical amendment to correct a reference to ‘ABSTUDY recipient’, which should read ‘ABSTUDY payee’.

Item 10 amends item 110 in the list of prescribed events in Schedule 1 to the Principal Regulations to include a reference to an ABSTUDY payee becoming, or ceasing to be a new apprentice as a prescribed event.

Item 11 makes a minor amendment to the prescribed event in item 116 in Schedule 1 to the Principal Regulations, regarding earning an amount of income which differs from the last estimate given to Centrelink.

Item 12 substitutes new items 118 and 118A in Schedule 1 to the Principal Regulations, which relate to the ABSTUDY payee changing his or her partner, or changing address, sharing or ceasing to share accommodation.

Item 13 inserts a number of new prescribed events as items 123 to 133 in Schedule 1 to the Principal Regulations. These new prescribed events require an ABSTUDY payee to notify the Department when he or she:

- becomes aware of circumstances affecting entitlement to remote area allowance;
- is away from home for which remote area allowance is paid, for a period longer than 8 weeks;
- has a partner or dependent child who dies;
- has a dependent child who is, or intends to be, overseas;
- ceases work temporarily or permanently;
- separates from his or her partner permanently;
- receives a payment from a compensation related claim; or
- receives a payment under the Department’s New Apprenticeships Scheme Living Away From Home Allowance.

Item 14 amends the prescribed event in item 302 of Schedule 1 to the Principal Regulations, to reflect the change made in item 110 to Schedule 1.

In making the Regulations, the Department of Education, Science and Training consulted with Centrelink, which administers and delivers the ABSTUDY Scheme on behalf of the Department.

The Regulations commenced on 1 July 2005.