



## **ETR Payments Administrative Scheme (FaHCSIA) Determination 2012**

*Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012*

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I, JENNY MACKLIN, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform make this Determination under subitem 24(1) of Part 2 of Schedule 1 to the *Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012*.

Dated

28<sup>th</sup> June

2012

J Macklin

Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform

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# Chapter 1—General provisions

## Part 1—Preliminary

### 1.01 Name of Determination

This Determination is the *ETR Payments Administrative Scheme (FaHCSIA) Determination 2012*.

### 1.02 Commencement

This Determination commences on the day after it is registered.

### 1.03 Purpose

- (1) This Determination gives effect to subitem 24(1) of Part 2 of Schedule 1 to the *Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2011*, in which the Minister may determine an administrative scheme under which education tax refund payments may be made to persons in particular circumstances.
- (2) This Determination provides for ETR payments to be made in circumstances in which the Minister considers that Part 7A of the Family Assistance Act or Part VIIH of the Veterans' Entitlements Act does not produce appropriate results in relation to circumstances that occur in the financial year starting on 1 July 2011.

## Part 2—Interpretation

### 1.04 Definitions

- (1) In this Determination:

**8 May 2012 FTB rate**—see section 2.04.

**ABSTUDY** has the same meaning as in subsection 23(1) of the Social Security Act.

**approved care organisation** has the same meaning as in subsection 3(1) of the Family Assistance Act.

**approved form**—see section 4.01.

**DSP** means the disability support pension.

**DVA education allowance** means an education allowance under section 3.2, 3.3, 3.4, 3.6 or 3.6A of the Veterans' Children Education Scheme or under section 3.2, 3.3, 3.4 or 3.6 of the Military Rehabilitation and Compensation Act Education and Training Scheme.

**eligible student**—see section 2.01.

**entitled person**—see section 2.03.

**entitlement category**—see section 2.01.

**entitlement criteria**—see section 2.01.

**ETR payment** (short for Education Tax Refund payment) means a payment that is made under this Determination.

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**Family Assistance Act** means the *A New Tax System (Family Assistance) Act 1999*.

**Family Assistance Administration Act** means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**family assistance law** has the same meaning as in section 3 of the Family Assistance Act.

**family tax benefit** means a benefit under Division 1 of Part 3 of the Family Assistance Act.

**FTB** means family tax benefit.

**FTB child** has the same meaning as in Subdivision A of Division 1 of Part 3 of the Family Assistance Act.

**FTB criterion**—see section 2.04.

**income year** has the same meaning as in subsection 3(1) of the Family Assistance Act.

**member of a couple** has the same meaning as in the Social Security Act.

**Military Rehabilitation and Compensation Act** means the *Military Rehabilitation and Compensation Act 2004*.

**Military Rehabilitation and Compensation Act Education and Training Scheme** means the scheme made under section 258 of the Military Rehabilitation and Compensation Act.

**partner** has the same meaning as in the Social Security Act.

**pensioner education supplement** means pensioner education supplement under Part 2.24A of the Social Security Act or pensioner education supplement under the scheme known as the ABSTUDY scheme.

**prescribed educational scheme** has the same meaning as in subsection 5(1) of the Social Security Act.

**qualifying study** means undertaking study (within the meaning of Part 2.24A of the Social Security Act) in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act or undertaking study in respect of a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

**required information**—see section 4.01.

**secondary course** means a course within the meaning of subsection 543(2AB) of the Social Security Act or a course of education determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act or, in relation to a DVA education allowance, secondary education.

**Secretary** means the Secretary of the Department responsible for the administration of this Determination.

**shared care percentage** has the same meaning as in section 59 of the Family Assistance Act.

**Social Security Act** means the *Social Security Act 1991*.

**Social Security Administration Act** means the *Social Security (Administration) Act 1999*.

**social security benefit** has the same meaning as in subsection 23(1) of the *Social Security Act 1991*.

**social security pension** has the same meaning as in subsection 23(1) of the *Social Security Act 1991*.

**statutory scheme** means both the scheme for ETR payments established under Division 4C of Part 3 of the Family Assistance Act and the scheme established by section 118ZZVH of the Veterans' Entitlements Act.

**Veterans' Children Education Scheme** means the scheme made under section 117 of the Veterans' Entitlements Act.

**Veterans' Entitlement Act** means the *Veterans' Entitlements Act 1986*.

- (2) The members of a couple are **partnered** for the purposes of this Determination.

### 1.05 Other rules for interpreting this Determination

- (1) A term used in this Determination in relation to payment of FTB has the same meaning as in the Family Assistance Act.
- (2) A term used in this Determination in relation to payments or allowances for individuals has the same meaning as in the Social Security Act.
- (3) A term used in this Determination in relation to veterans' entitlements has the same meaning as in the Veterans' Entitlements Act or the Military Rehabilitation and Compensation Act.

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## Chapter 2—Entitlement to ETR payment

### Part 1—General

#### 2.01 Entitlement categories and criteria

- (1) Each of the sections in Part 2 of this chapter is an **entitlement category**.
- (2) The **entitlement criteria** for a particular entitlement category are the criteria set out for that category in Part 2 of this chapter.
- (3) The **eligible student** for a particular entitlement category is set out for that category in Part 2 of this chapter.

**Note 1:** There can be more than one eligible student for some entitlement categories. Also, some categories do not provide for eligible students.

**Note 2:** Some entitlement categories also have a number of subcategories, with each subcategory having its own criteria and descriptions of who is an eligible student.

#### 2.02 General rules about more than one entitlement under this Chapter

- (1) If an ETR payment is made to a person under this Determination, no other person meets the entitlement criteria in relation to that person.
- (2) If a person would meet the entitlement criteria for more than one entitlement category, the person meets the entitlement criteria for the category which provides the highest amount of ETR payment under Chapter 3 and no other category.

#### 2.03 When a person is entitled to an ETR payment

- (1) If the Secretary is satisfied that a person meets the entitlement criteria for an entitlement category, the person is entitled to an ETR payment under this Determination.

**Note:** The rate of payment is worked out in accordance with Chapter 3 of this Determination.

- (2) A person who is entitled to an ETR payment is called an **entitled person**.
- (3) To avoid doubt, the Secretary may be satisfied of the matter in subsection (1) whether or not the person makes a claim under Chapter 4 of this Determination.

#### 2.04 When a person meets the FTB criterion

- (1) A person meets the **FTB criterion** if:
  - (a) as at 8 May 2012 a determination under section 16 or 17 of the Family Assistance Administration Act is in force in relation to the person; and
  - (b) the person's rate of FTB on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 of the Family Assistance Act, consisted of or included a Part A rate greater than nil.
- (2) A person's **8 May 2012 FTB rate** is the amount worked out in accordance with paragraph (1)(b).

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## Part 2—Entitlement categories and criteria

### 2.05 Early primary school starters

- (1) A person meets the criteria for this entitlement category if:
  - (a) the person meets the FTB criterion; and
  - (b) the person's 8 May 2012 FTB rate takes into account one or more FTB children of the person born on or after 1 August 2007; and
  - (c) one or more of the FTB children mentioned in paragraph (b) participated in a course of primary education on 8 May 2012.
- (2) Each of the children mentioned in paragraph (1)(c) is an eligible student for this entitlement category.

### 2.06 Early secondary school starters

- (1) A person meets the criteria for this entitlement category if:
  - (a) the person meets the FTB criterion; and
  - (b) the person's 8 May 2012 rate takes into account one or more FTB children of the person who were born on or after 1 August 2000; and
  - (c) one or more of the FTB children mentioned in paragraph (b) undertook full-time study in respect of a secondary course on 8 May 2012.
- (2) Each of the children mentioned in paragraph 1(c) is an eligible student for this entitlement category.

### 2.07 Individuals turning between 20 and 25 in 2012

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

#### *FTB*

- (2) A person meets the criteria for this entitlement subcategory if:
  - (a) the person meets the FTB criterion; and
  - (b) the person's 8 May 2012 rate takes into account one or more FTB children of the person who were born after 1 July 1986 but before 1 January 1993; and
  - (c) one or more of the FTB children mentioned in paragraph (b) was undertaking full-time study in respect of a secondary course on 8 May 2012.
- (3) Each of the children mentioned in paragraph (c) is an eligible student for this entitlement subcategory.

#### *DVA education allowance*

- (4) A student is an eligible student for this entitlement subcategory if:
  - (a) the student was born after 1 July 1986 but before 1 January 1993; and
  - (b) on 8 May 2012, the student was undertaking full-time study in a secondary course.



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- (5) A person meets the criteria for this entitlement category if:
- (a) the whole or part of a DVA education allowance was paid in respect of an eligible student; and
  - (b) the allowance was in respect of a period that included 8 May 2012; and
  - (c) on 8 May 2012, the person was a parent or guardian of the eligible student; and
  - (d) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the allowance was paid to a parent or guardian of the eligible student and no amount of the allowance was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

*Social security pension, social security benefit or prescribed educational scheme payment*

- (6) A person meets the criteria for this entitlement category if:
- (a) the person has been paid an instalment of social security pension, social security benefit or a prescribed educational scheme payment; and
  - (b) the instalment was paid in respect of a period that included 8 May 2012; and
  - (c) the instalment was in relation to the person; and
  - (d) the person was born after 1 July 1986 but before 1 January 1993; and
  - (e) on 8 May 2012 the person was undertaking full-time study in respect of a secondary course or if the person was receiving pensioner education supplement, the person was undertaking qualifying study; and
  - (f) the social security pension, social security benefit or payment under a prescribed educational scheme was payable to the person in respect of 8 May 2012.

**2.08 Individuals receiving other payments not eligible under statutory scheme**

- (1) A person meets the criteria for this entitlement category if:
- (a) the person has been paid an instalment of social security pension, social security benefit or a prescribed educational scheme payment; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the instalment was in relation to the person; and
  - (d) the person was born on or after 1 January 1993 and on or before 8 May 1996; and
  - (e) on 8 May 2012 the person was undertaking full-time study in respect of a secondary course or if the person was receiving pensioner education supplement, the person was undertaking qualifying study; and

- (f) the social security pension, social security benefit or payment under a prescribed educational scheme payment was payable to the person in respect of 8 May 2012.

## **2.09 Individuals in part-time secondary study on 8 May 2012**

- (1) A person meets the criteria for this entitlement category if:
  - (a) the person has been paid an instalment of social security pension, social security benefit or payment under a prescribed educational scheme payment; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the instalment was in relation to the person; and
  - (d) the person was born after 1 July 1986; and
  - (e) the person was undertaking study in respect of a secondary course for at least one day in the six month period beginning 1 January 2012; and
  - (f) the social security pension, social security benefit or payment under a prescribed educational scheme payment is payable to the person in respect of 8 May 2012.

## **2.10 Individuals aged under 16 years receiving income support**

- (1) A person meets the criteria for this entitlement category if:
  - (a) the person has been paid an instalment of social security pension, social security benefit or payment under a prescribed educational scheme payment; and
  - (b) the instalment was in respect of a period that included 8 May 2012; and
  - (c) the instalment was in relation to the person; and
  - (d) the person was born after 8 May 1996; and
  - (e) on 8 May 2012, the person was undertaking a course of primary education or undertaking full-time study in respect of a secondary course; and
  - (f) the social security pension, social security benefit or payment under a prescribed educational scheme payment was payable to the person in respect of 8 May 2012.

## **2.11 Individuals with a nil rate of income support on 8 May 2012**

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

### *Youth allowance*

- (2) A student is an eligible student for this entitlement subcategory if:
  - (a) the student was born after 1 July 1986; and
  - (b) on 8 May 2012, the student was undertaking full-time study in a secondary course.

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- (3) A person meets the criteria for this entitlement subcategory if:
- (a) an instalment of youth allowance was paid to the person in respect of the eligible student; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year other than in respect of 8 May 2012; and
  - (c) the instalment was paid to the person on behalf of the eligible student in accordance with subsection 45(1) of the Social Security Administration Act or as payment nominee in accordance with Part 3A of the Social Security Administration Act.

#### *ABSTUDY*

- (4) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986; and
  - (b) on 8 May 2012, the student was undertaking full-time study in a secondary course.
- (5) A person meets the criteria for this entitlement subcategory if:
- (a) the whole or part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid in respect of the eligible student; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year other than in respect of 8 May 2012; and
  - (c) on 8 May 2012, the person was a parent or guardian of the eligible student; and
  - (d) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the instalment was paid to a parent or guardian of the eligible student and no amount of the instalment was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

#### *DSP and pensioner education supplement*

- (6) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986; and
  - (b) on 8 May 2012, the eligible student was undertaking qualifying study.
- (7) A person meets the criteria for this entitlement category if:
- (a) an instalment of DSP under Part 2.3 of the Social Security Act has been paid to the person; and
  - (b) an instalment of pensioner education supplement under Part 2.24A of the Social Security Act or the scheme known as the ABSTUDY scheme has been paid (whether or not to the person); and

- (c) both instalments mentioned in paragraph (a) and (b) were payable in respect of a period at any time during the 2011-2012 income year, but not in respect of 8 May 2012; and
- (d) both instalments mentioned in paragraph (a) and (b) related to an eligible student; and
- (e) both payments were not payable in respect of 8 May 2012; and
- (f) the instalment was paid to the person as payment nominee in accordance with Part 3A of the Social Security Administration Act.

*Social security pension, social security benefit or prescribed educational scheme payment*

- (8) A person meets the criteria for this entitlement subcategory if:
- (a) the person has been paid an instalment of social security pension, social security benefit or prescribed educational scheme payment; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year; and
  - (c) the instalment was in relation to the person; and
  - (d) the person was born after 1 July 1986; and
  - (e) on 8 May 2012, the person was undertaking full-time study in respect of a secondary course or if the person was receiving pensioner education supplement, the person was undertaking qualifying study; and
  - (f) the instalment was not payable in respect of 8 May 2012.

## **2.12 Individuals who ceased secondary study before 8 May 2012**

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

*FTB*

- (2) A person meets the criteria for this entitlement subcategory if:
- (a) at any point in the 2011-2012 income year, a determination under section 16 or 17 of the Family Assistance Administration Act is in force in relation to the person; and
  - (b) the person's rate of FTB on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 of the Family Assistance Act, consisted of or included a Part A rate greater than nil; and
  - (c) the rate worked out under paragraph (b) takes into account one or more FTB children (disregarding the child income cut-out in subsection 22A(2) of the Family Assistance Act) of the person who were born after 1 July 1986 but on or before 8 May 1996; and
  - (d) one or more of the FTB children mentioned in paragraph (c) was not a senior secondary school child on 8 May 2012, but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (3) Each of the children mentioned in paragraph 1(d) is an eligible student for this entitlement subcategory.

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*Youth allowance*

- (4) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986 but on or before 8 May 1996; and
  - (b) the student was not in secondary study on 8 May 2012 but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (5) A person meets the criteria for this entitlement subcategory if:
- (a) the person has been paid an instalment of youth allowance in respect of the eligible student; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year; and
  - (c) the instalment was paid to the person on behalf of the eligible student in accordance with subsection 45(1) of the Social Security Administration Act; or as payment nominee in accordance with Part 3A of the Social Security Administration Act.

*ABSTUDY*

- (6) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986 but on or before 8 May 1996; and
  - (b) the student was not in secondary study on 8 May 2012 but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (7) A person meets the criteria for this entitlement subcategory if:
- (a) the whole or part of an instalment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance was paid in respect of the eligible student; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year; and
  - (c) on 8 May 2012, the person was a parent or guardian of the eligible student; and
  - (d) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the instalment was paid to a parent or guardian of the eligible student and no amount of the instalment was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

*DSP and pensioner education supplement*

- (8) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986 but on or before 8 May 1996; and

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- (b) the student was not in secondary study on 8 May 2012 but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (9) A person meets the criteria for this entitlement subcategory if:
- (a) an instalment of DSP under Part 2.3 of the Social Security Act has been paid to the person and the instalment was in respect of a period at any point in the 2011-2012 income year; and
  - (b) an instalment of pensioner education supplement under Part 2.24A of the Social Security Act or the ABSTUDY scheme has been paid (whether or not to the person) and the instalment was in respect of a period at any point in the 2011-2012 income year; and
  - (c) the instalments related to an eligible student; and
  - (d) the instalment was paid to the person as payment nominee in accordance with Part 3A of the Social Security Administration Act.

*DVA education allowance*

- (10) A student is an eligible student for this entitlement subcategory if:
- (a) the eligible student was born after 1 July 1986 but before or on 8 May 1996; and
  - (b) the student was not in secondary study on 8 May 2012 but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (11) A person meets the criteria for this entitlement subcategory if:
- (a) the whole or part of a DVA education allowance was paid in respect of an eligible student; and
  - (b) the DVA education allowance was in respect of a period at any point in the 2011-2012 income year; and
  - (c) the person was a parent or guardian of the eligible student; and
  - (d) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the allowance was paid to a parent or guardian of the eligible student and no amount of the allowance was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

*Social security pension, social security benefit or prescribed educational scheme payments*

- (12) A person meets the criteria for this entitlement subcategory if:
- (a) the person has been paid an instalment of social security pension, social security benefit or prescribed educational scheme payment; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year; and

- (c) the instalment was in relation to the person; and
- (d) the person was born after 1 July 1986 but before or on 8 May 1996; and
- (e) the person was not in secondary study on 8 May 2012 but had undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.

### 2.13 Student who died before 8 May 2012

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

#### *FTB*

- (2) A person meets the criteria for this entitlement subcategory if:
- (a) at any point in the 2011-2012 income year, a determination under section 16 or 17 of the Family Assistance Administration Act is in force in relation to the person; and
  - (b) the person's rate of FTB on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 of the Family Assistance Act, consisted of or included a Part A rate greater than nil; and
  - (c) the rate under paragraph (b) was worked out taking into account one or more FTB children of the person who were born after 1 July 1986 but who died more than 14 weeks before 8 May 2012; and
  - (d) one or more of the FTB children mentioned in paragraph (c) had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the 2011-2012 income year.
- (3) Each of the children mentioned in paragraph (d) is an eligible student for this entitlement subcategory.

**Note:** An individual would have been entitled to an ETR payment in respect of an eligible student under the *Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012* for FTB children who died 14 weeks or less before 8 May 2012.

#### *Social security pension, social security benefit or prescribed educational scheme payments*

- (4) A student is an eligible student for this entitlement subcategory if:
- (a) the eligible student was born after 1 July 1986 but died before 8 May 2012; and
  - (b) the student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the 2011-2012 income year.
- (5) A person meets the criteria for this entitlement category if:
- (a) an instalment of social security pension, social security benefit or a prescribed educational scheme payment was paid (whether or not to the person) in respect of an eligible student; and
  - (b) the instalment was in respect of a period at any point in the 2011-2012 income year; and

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- (c) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the instalment was paid to a parent or guardian of the eligible student—the parent or guardian with whom the eligible student usually lived who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.

## **2.14 Individuals with a change in circumstances before 8 May 2012**

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

### *FTB*

- (2) Each of the children mentioned in paragraph (3)(d) is an eligible student for this entitlement subcategory.
- (3) Subject to subsection (4), a person meets the criteria for this entitlement subcategory if:
  - (a) at any point in the 2011-2012 income year, a determination under section 16 or 17 of the Family Assistance Administration Act is in force in relation to the person; and
  - (b) the person's rate of FTB on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 of the Family Assistance Act, consisted of or included a Part A rate greater than nil; and
  - (c) the rate was worked out under paragraph (b) taking into account one or more FTB children of the person who were born after 1 July 1986; and
  - (d) one or more of the FTB children mentioned in paragraph (c) had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012; and
  - (e) in the period 1 July 2011 to 7 May 2012:
    - (i) the person became no longer entitled to FTB Part A due to a change in circumstances not including a variation to an estimate of adjusted taxable income; or
    - (ii) the person's rate of FTB Part A took into account the eligible student, but the eligible student was not taken into account on 8 May 2012; or
    - (iii) the person had a higher or no shared care percentage for the eligible student, but had a shared care percentage or a lower shared care percentage for the eligible student on 8 May 2012.
- (4) However, the person is not entitled to an ETR payment for an eligible student if under this entitlement subcategory:
  - (a) the person has been paid an ETR payment under the statutory scheme for the same child, the amount of which was not reduced under section 102C of the Family Assistance Act; or



- (b) was a member of a couple on 8 May 2012 and the partner of the person has been paid an ETR payment for the same child; or
- (c) is a member of a couple, and the partner of the person was paid an ETR payment for the same eligible student; or
- (d) the eligible student has been paid an ETR payment under the statutory scheme and the eligible student was living at home or not independent on 8 May 2012.

*DVA education allowance*

- (5) A student is an eligible student for this entitlement subcategory if:
  - (a) the student was born after 1 July 1986; and
  - (b) the student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012.
- (6) Subject to subsection (7), a person meets the criteria for this entitlement subcategory if:
  - (a) at any point in the 2011-12 income year, the whole or part of a DVA education allowance was paid in respect of an eligible student; and
  - (b) in the period 1 July 2011 to 7 May 2012;
    - (i) a DVA education allowance for the eligible student was reduced to nil due to a change in circumstances; or
    - (ii) the portion of a DVA education allowance paid for the eligible student was greater than the portion paid in relation to the eligible student on 8 May 2012; and
  - (c) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the allowance was paid to a parent or guardian of the eligible student and no amount of the allowance was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.
- (7) However, a person is not entitled to an ETR payment for an eligible student under this entitlement subcategory if:
  - (a) as at 8 May 2012, a determination under section 16 of the Family Assistance Administration Act is in force in relation to the person; or
  - (b) the person has been paid an ETR payment under the statutory scheme for the same child, the amount of which was not reduced under section 118ZZVC of the Veterans' Entitlements Act; or
  - (c) was a member of a couple on 8 May 2012 and the partner of the person has been paid an ETR payment for the same child; or
  - (d) is a member of a couple, and the partner of the person was paid an ETR payment for the same child; or

- (e) the eligible student has been paid an ETR payment under the statutory scheme and the eligible student was living at home or not independent on 8 May 2012.

## **2.15 Individuals with a change in circumstances on or after 9 May 2012**

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

### *FTB*

- (2) Each of the children mentioned in paragraph (3)(d) is an eligible student for this entitlement subcategory.
- (3) Subject to subsection (4), a person meets the criteria for this entitlement subcategory if:
  - (a) at any point in the 2011-2012 income year, a determination under section 16 or 17 of the Family Assistance Administration Act is in force in relation to the person; and
  - (b) the person's rate of FTB on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1 of the Family Assistance Act, consisted of or included a Part A rate greater than nil; and
  - (c) the rate was worked out under paragraph (b) taking into account one or more FTB children of the person who were born after 1 July 1986; and
  - (d) one or more of the FTB children mentioned in paragraph (c) had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the six month period beginning 1 July 2011 or 1 January 2012; and
  - (e) in the period 9 May 2012 to 30 June 2012:
    - (i) the person became entitled to FTB Part A due to a change in circumstances not including a variation to or a new estimate of adjusted taxable income; or
    - (ii) the person's rate of FTB Part A took into account the eligible student, but the eligible student was not taken into account on 8 May 2012; or
    - (iii) the person had a higher or no shared care percentage for the eligible student, but had a shared care percentage or a lower shared care percentage for the eligible student on 8 May 2012; and
- (4) However, a person is not entitled to an ETR payment for an eligible student under this subcategory if:
  - (a) the person has been paid an ETR payment under the statutory scheme for the same child, the amount of which was not reduced under section 102C of the Family Assistance Act; or
  - (b) was a member of a couple on 8 May 2012 and the partner of the person has been paid an ETR payment for the same child; or
  - (c) is a member of a couple, and the partner was paid an ETR payment for the same child; or

- 
- (d) the eligible student has been paid an ETR payment under the statutory scheme and the eligible student was living at home or not independent on 8 May 2012.

*DVA education allowance*

- (5) A student is an eligible student for this entitlement subcategory if:
- (a) the student was born after 1 July 1986; and
  - (b) the student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the six month period 1 July 2011 or 1 January 2012.
- (6) Subject to subsection (7), a person meets the criteria for this entitlement subcategory if:
- (a) at any point in the 2011-12 income year, the whole or part of a DVA education allowance was paid in respect of an eligible student; and
  - (b) in the period 9 May 2012 to 30 June 2012;
    - (i) a DVA education allowance for the eligible student was granted; or
    - (ii) the portion of a DVA education allowance paid for the eligible student was greater than the portion paid in relation to the eligible student on 8 May 2012; and
  - (c) the person is either:
    - (i) the parent or guardian to whom the whole or part was paid; or
    - (ii) if no amount of the allowance was paid to a parent or guardian of the eligible student and no amount of the allowance was paid to the eligible student—the parent or guardian with whom the eligible student usually lives who is determined by the Secretary to be the most appropriate parent or guardian to be entitled to an ETR payment under this section.
- (7) However, a person is not entitled to an ETR payment for an eligible student under this subcategory if:
- (a) as at 8 May 2012, a determination under section 16 of the Family Assistance Administration Act is in force in relation to the person; or
  - (b) the person has been paid an ETR payment under the statutory scheme for the same child, the amount of which was not reduced under section 118ZZVC of the Veterans' Entitlements Act; or
  - (c) the person was a member of a couple on 8 May 2012 and the partner of the person has been paid an ETR payment for the same child; or
  - (d) the person is a member of a couple, and the partner was paid an ETR payment for the same child; or
  - (e) the eligible student has been paid an ETR payment under the statutory scheme and the eligible student was living at home or not independent on 8 May 2012.

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**2.16 A person able to demonstrate they were entitled for an amount under the Education Tax Refund that is greater than the amount paid under the statutory scheme**

- (1) This entitlement category has a number of subcategories, each of which contains entitlement criteria and descriptions of who is an eligible student.

*Greater entitlement under this Determination than statutory scheme in relation to another individual*

- (2) Subject to subsection (4), a person meets the criteria for this entitlement subcategory if:
- (a) the person would have been entitled to a tax offset under subsection 61-610(1) of the *Income Tax Assessment Act 1997* if it had been in place for the income year beginning 1 July 2011; and
  - (b) the amount of the tax offset under paragraph (a) would have been greater than the amount paid for that individual under the statutory scheme.
- (3) The individuals described in subsection 61-610(1) are eligible students for this subcategory.
- (4) However, a person is not entitled to an ETR payment for an eligible student under this subcategory if the eligible student has been paid an ETR payment under the statutory scheme and the eligible student was living at home or not independent on 8 May 2012.

*Greater entitlement under this Determination than statutory scheme in relation to independent students*

- (5) A person meets the criteria for this entitlement subcategory if:
- (a) the person would have been entitled to a tax offset under subsection 61-610(2) of the *Income Tax Assessment Act 1997* if it had been in place for the income year beginning 1 July 2011; and
  - (b) the amount of the tax offset under paragraph (a) would have been greater than the amount paid for that individual under the statutory scheme.

## Chapter 3—Calculating the amount of an ETR payment

### 3.01 Calculation of ETR payment amount

If the Secretary is satisfied, in accordance with section 2.03 of this Determination, that a person is entitled to an ETR payment, the Secretary must calculate the amount of the ETR payment in accordance with this Chapter.

### 3.02 Calculation of amount for early primary school starters

- (1) For an entitled person under section 2.05:
  - (a) the amount of an ETR payment to an entitled person is \$409 for each eligible student, unless paragraph (b) applies to reduce the amount;
  - (b) the amount of an ETR payment to an entitled person for an eligible student is to be worked out in accordance with section 102C of the Family Assistance Act as if those subsections apply to the amount of an ETR payment to an eligible student.

### 3.03 Calculation of amount for early secondary school starters

- (1) For an entitled person under section 2.06:
  - (a) the amount of an ETR payment to an entitled person is \$409 for each eligible student, unless paragraph (b) applies to reduce the amount;
 

**Note:** The individual would have also been entitled to receive a \$409 primary school payment for the child under the statutory scheme in Part 7A of the Family Assistance Act. The \$409 amount under this section is a “top-up” payment for each eligible student.
  - (b) the amount of an ETR payment to an individual for an eligible student is to be worked out in accordance with section 102C of the Family Assistance Act as if those subsections apply to the amount of an ETR payment to an eligible student.

### 3.04 Calculation of amount for individuals turning between 20 and 25 in 2012

- (1) For an entitled person under section 2.07, the amount of ETR payment is worked out as follows:

*Method statement*

- Step 1. For an entitled person, add up the number of days in the period 1 July to 31 December 2011 the eligible student or the person was aged under 25 years.
- Step 2. Divide the result of Step 1 by 184 (which is the number of days in the period referred to in Step 1). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 3. Multiply the result of Step 2 by \$409.
- Step 4. For an entitled person, add up the number of days in the period 1 January to 30 June 2012 the eligible student or the person was aged under 25 years.
- Step 5. Divide the result of Step 4 by 182 (which is the number of days in the period referred to in Step 4). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 6. Multiply the result of Step 5 by \$409.

Step 7.	Add the result from Step 3 to the result from Step 6.
Step 8.	Where the person has a percentage for the eligible student under section 28, section 29, section 59 of the Family Assistance Act or received a portion of a DVA education allowance for the eligible student on 8 May 2012, apply the percentage to the result from Step 7 to get the person's final ETR payment amount. Otherwise, the result from Step 7 is the person's final ETR payment amount.
<b>Note:</b>	Where the eligible student or person was aged less than 25 years for the entire 2011-2012 income year, the ETR amount payable is generally \$818.

- (2) For the purposes of Step 8, the portion of DVA education allowance to be applied is calculated by dividing the amount of the applicable part by the amount of the allowance concerned.

### **3.05 Calculation of amount for individuals receiving other payments not eligible under statutory scheme**

For an entitled person under section 2.08, the person is entitled to an ETR payment amount of \$818.

### **3.06 Calculation of amount for individuals in part-time secondary study on 8 May 2012**

For an entitled person under section 2.09, the person is entitled to an ETR payment amount of \$818.

### **3.07 Calculation of amount for individuals aged under 16 years receiving income support**

- (1) For a entitled person under section 2.10, the person is entitled to an ETR payment amount of:
- (a) if the person was in primary education on 8 May 2012—\$409; or
  - (b) if the person was in secondary study on 8 May 2012—\$818.

### **3.08 Calculation of amount for individuals with a nil rate of income support on 8 May 2012**

For a person entitled under section 2.11, the amount of ETR payment is worked out as follows:

<i>Method statement</i>	
Step 1.	Add up the number of days in the period 1 July to 31 December 2011 the entitled person or eligible student was aged under 25 and a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student or person.
Step 2.	Divide the result of Step 1 by 184 (the number of days in the period referred to in Step 1). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
Step 3.	Multiply the result from step 2 by \$409.
Step 4.	Add up the number of days in the period 1 January to 30 June 2012 the entitled person or eligible student was aged under 25 and a social security pension, social security benefit or payments under the prescribed educational scheme was payable in respect of the eligible student or person.

- Step 5. Divide the result of Step 4 by 182 (the number of days in the period referred to in Step 4). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 6. Multiply the result from step 5 by \$409.
- Step 7. Add the result from Step 3 to the result from Step 6.
- Note:** An entitled person would be entitled to a pro-rated amount of an ETR payment of \$818 for the days in the 2011-2012 income year the eligible student or person was entitled to the relevant payment.

### 3.09 Calculation of amount for individuals who ceased secondary study before 8 May 2012

- (1) For an entitled person under section 2.12, the amount of ETR payment is worked out as follows:

*Method statement*

- Step 1. Add up the number of days in the period 1 July to 31 December 2011 that the entitled person satisfied the following:
- (a) any one of the following is true:
    - (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student or would have taken the eligible student into account if the child income cut-out in subsection 22A(2) of the Family Assistance Act was disregarded; or
    - (ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student; or
    - (iii) a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student or person; and
  - (b) the eligible student or person was aged less than 25 years; and
  - (c) the eligible student or person undertook study in respect of a secondary course on at least one day in the period.
- If, on a particular day, the person had a percentage of care (under section 28, 29 or 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.
- Step 2. Divide the result of Step 1 by 184 (which is the number of days in the period referred to in Step 1). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 3. Multiple the result from Step 2 by \$409.
- Step 4. Add up the number of days in the period 1 January to 30 June 2012 that the person satisfied the following:
- (a) any one of the following is true:
    - (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student or would have taken the eligible student into account of the child income cut-out in subsection 22A(2) of the Family Assistance Act was disregarded; or
    - (ii) the person was paid the whole or part of a DVA

	education allowance in respect of the eligible student; or
	(iii) a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student or person; and
	(b) the eligible student or person was aged less than 25 years; and
	(c) the eligible student or person undertook secondary study for at least one day in the period.
	If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.
Step 5.	Divide the result of Step 4 by 182 (the number of days referred to in the period in Step 4). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
Step 6.	Multiply the result from Step 5 by \$409.
Step 7.	Add the result from Step 3 to the result from Step 6 to calculate the entitled person's ETR payment amount.
<b>Note:</b>	If the student or person ceased secondary study in the 1 July to 31 December 2011 period, the amount of ETR payment payable would be a maximum of \$409. If the student or person ceased secondary study in the 1 January to 30 June 2012 period, the amount of ETR payment payable would be a maximum of \$818.

- (2) For the purposes of the method in subsection (1), the portion of DVA education allowance to be applied is calculated by dividing the amount of the applicable part by the amount of the allowance concerned.

### 3.10 Calculation of amount for individuals in respect of students who died before 8 May 2012

- (1) For an entitled person under section 2.13, the amount of ETR payment is worked out as follows:

<i>Method statement</i>	
Step 1.	Add up the number of days in the 2011-2012 income year that the entitled person satisfied the following:
	(a) any one of the following is true:
	(i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student; or
	(ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student; or
	(iii) a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student; and
	(b) the eligible student would have been aged less than 25 years; and
	(c) the eligible student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the 2011-2012 income year.
	If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or



received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.

- Step 2. Divide the result of Step 1 by 366 (the number of days in the 2011-2012 income year). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 3. Multiply the result from Step 2 by \$409 (eligible student was in primary education) or \$818 (eligible student was in secondary study).
- Note:** The child only needed to be in study for one day in the income year for a person to receive an amount of ETR payment under this category.

- (2) For the purposes of Step 1, the portion of DVA education allowance to be applied is calculated by dividing the amount of the applicable part by the amount of the allowance concerned.

### 3.11 Calculation of amount for individuals with a change in circumstances before 8 May 2012

- (1) For an entitled person under section 2.14, the amount of ETR payment is worked out as follows:

#### *Method statement*

- Step 1. Add up the number of days in the period 1 July to 31 December 2011 that the entitled person satisfied the following:

- (a) either of the following is true:
- (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student; or
  - (ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student; and
- (b) the eligible student was aged less than 25 years; and
- (c) the eligible student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the period.

If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.

- Step 2. Divide the result of Step 1 by 184 (the number of days in the period referred to in Step 1). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).

- Step 3. Multiply the result from Step 2 by \$204.50 (eligible student in primary education) or \$409 (eligible student in secondary study).

- Step 4. Add up the number of days in the period 1 January to 30 June 2012 that the individual satisfied the following:

- (a) either of the following is true:
- (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student; or
  - (ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student;

and

- (b) the eligible student was aged less than 25 years; and
- (c) the eligible student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the period.

If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.

- Step 5. Divide the result of Step 4 by 182 (the number of days referred to in Step 4). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
- Step 6. Multiply the result from Step 5 by \$204.50 (eligible student in primary education) or \$409 (eligible student in secondary study).
- Step 7. Add the result from Step 3 to the result from Step 6 to calculate the individual's ETR payment amount.
- Step 8. Where the person was not paid to an ETR payment under the statutory scheme in respect of the student, the result from Step 7 is the person's final ETR payment. However, where the individual was paid an ETR payment under the statutory scheme in respect of the student, compare the result from Step 7 with the individual's ETR payment under the statutory scheme for the student and if the result from Step 7 is higher, the individual would be entitled to the difference between the two amounts.

**Note 1:** A person may have already been paid an amount under the statutory scheme, and in this circumstance would only be eligible for a "top-up" payment under this category.

**Note 2:** A person who was not paid under the statutory scheme due to losing care of a dependent child prior to 8 May 2012 may be entitled to an ETR payment under this category. The amount of ETR payment will be pro-rated based on the days and percentages of care in relation to the duration the child was dependent on the person. The amount paid will be up to \$409 for a child in primary school for the entire 2011-2012 income year and up to \$818 for a child in secondary study for the entire 2011-2012 income year.

**Note 3:** A person who had a higher shared care percentage for a dependent child before 8 May 2012, but due to a change in care arrangements was paid a lower amount of the ETR payment under the statutory scheme, would be entitled to an ETR payment "top-up" to recognise the higher level of care they provided before 8 May 2012. The top-up amount paid will be pro-rated based on the days and percentages of care. The final top-up amount that a carer may receive will be up to \$409 for a child in primary school and up to \$818 for a child in secondary study.

- (2) For the purposes of the method in subsection (1), the portion of DVA education allowance to be applied is calculated by dividing the amount of the applicable part by the amount of the allowance concerned.

### 3.12 Calculation of amount for individuals with a change in circumstances on or after 9 May 2012

For an entitled person under section 2.15, the amount of ETR payment is worked out using the method statement in section 3.11.

**Note:** As a person may have already been paid an amount under the statutory scheme, the individual may only be entitled to receive a "top-up" amount under this category.

### 3.13 Calculation of amount for individuals able to demonstrate they were eligible for an amount under the Education Tax Refund that is greater than the amount paid under the statutory scheme

- (1) For an entitled person under section 2.16, the amount of ETR payment is worked out as follows:

*Method statement*

Step 1. Add up the number of days in the period 1 July to 31 December 2011 that the entitled person satisfied the following:

- (a) either of the following is true:
  - (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student; or
  - (ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student; or
  - (iii) a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student or person; and
- (b) the eligible student was aged less than 25 years; and
- (c) the eligible student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the period.

If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.

Step 2. Divide the result of Step 1 by 184 (the number of days in the period referred to in Step 1). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).

Step 3. Multiply the result from Step 2 by \$204.50 (eligible student in primary education or \$409 (eligible student in secondary study).

Step 4. Add up the number of days in the period 1 January to 30 June 2012 that the individual satisfied the following:

- (d) either of the following is true:
  - (i) the person was entitled to an FTB Part A rate greater than nil that took into account the eligible student; or
  - (ii) the person was paid the whole or part of a DVA education allowance in respect of the eligible student; or
  - (iii) a social security pension, social security benefit or payment under a prescribed educational scheme was payable in respect of the eligible student or person; and
- (e) the eligible student was aged less than 25 years; and
- (f) the eligible student had participated in a course of primary education or undertaken study in respect of a secondary course on at least one day in the period.

If, on a particular day, the person had a percentage of care (under section 28, section 29 or section 59 of the Family Assistance Act) or received a portion of DVA education allowance for the eligible

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	student, only a portion of that day corresponding to the percentage/portion of DVA education allowance may be counted.
Step 5.	Divide the result of Step 4 by 182 (the number of days referred to in Step 4). Round the result to 2 decimal places (rounding up if the third decimal place is 5 or more).
Step 6.	Multiply the result from Step 5 by \$204.50 (eligible student in primary education) or \$409 (eligible student in secondary study).
Step 7.	Add the result from Step 3 to the result from Step 6 to calculate the individual's ETR payment amount.
Step 8.	Where the person was not paid to an ETR payment under the statutory scheme in respect of the student, the result from Step 7 is the person's final ETR payment. However, where the individual was paid an ETR payment under the statutory scheme in respect of the student, compare the result from Step 7 with the individual's ETR payment under the statutory scheme for the student and if the result from Step 7 is higher, the individual would be entitled to the difference between the two amounts.
	<b>Note 1:</b> A person may have already been paid an amount under the statutory scheme, and in this circumstance would only be eligible for a "top-up" payment under this category.

- (2) For the purposes of the method in subsection (1), the portion of DVA education allowance to be applied is calculated by dividing the amount of the applicable part by the amount of the allowance concerned.

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## Chapter 4—Claiming and paying an ETR payment

### 4.01 Approved form and required information

- (1) The Secretary may approve a form (*the approved form*) for the purposes of making a claim for an ETR payment.
- (2) The approved form may contain a list of information or types of information (*required information*) which are required to accompany a claim for an ETR payment.

### 4.02 A person may make claim for an ETR payment

- (1) A person may make a claim for an ETR payment to the Secretary.
- (2) A claim must be in the approved form and contain the required information.
- (3) If a person makes a claim to the Secretary in accordance with this section, the Secretary must consider the claim.

### 4.03 Payment of ETR payment

- (1) If a person is entitled to an ETR payment, the Secretary must make the payment calculated in accordance with Chapter 3 to the person or the person's payment nominee:
  - (a) in a lump sum; and
  - (b) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the payment to be made; and
  - (c) in such manner as the Secretary considers appropriate.
- (2) In subsection (1), *payment nominee* means:
  - (a) a person appointed by the Secretary under section 219TB of the Family Assistance Administration Act; or
  - (b) a person appointed by the Secretary under section 123B of the Social Security Administration Act.

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## Chapter 5—Debt recovery

### 5.01 ETR payment made because of false or misleading statement

- (1) An amount of an ETR payment paid to a person is a debt the person owes the Commonwealth if the amount was paid for the reason, or for reasons including the reason, that the person:
- (a) knowingly made a false or misleading statement to the Commonwealth in relation to the person's claim under this Determination; or
  - (b) knowingly gave false information to the Commonwealth in relation to the person's claim under this Determination.

**Note:** Sometimes only part of an ETR payment will be a debt the person owes the Commonwealth.

### 5.02 Person other than payee obtaining payment of cheque

- (1) The amount of a cheque is a debt the person owes the Commonwealth if:
- (a) an ETR payment is made by the cheque; and
  - (b) the person is not the payee and obtains possession of the cheque from the payee; and
  - (c) the cheque is not endorsed by the payee to the person; and
  - (d) the person obtains value for the cheque.

### 5.03 Provisions for debt recovery

A debt under this Chapter may be recovered in accordance with Divisions 3 and 4 of Part 4 of the Family Assistance Administration Act as if those Divisions applied to a debt under this Chapter.

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## Chapter 6—Miscellaneous

### 6.01 Review of decisions

Part 5 of the Family Assistance Administration Act applies, as far as it is capable of doing so, to a decision under this Determination in relation to an ETR payment for a person as if the decision were a decision relating to an ETR payment for an individual under the family assistance law.

### 6.02 Delegation

- (1) The Secretary may delegate his or her powers under this Determination to an officer.
- (2) However, the Secretary may only delegate a power to an officer of an agency other than the Department, if the head of the agency has agreed to the delegation.

### 6.03 Secretary may arrange for use of computer programs for decision making

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Secretary may make decisions under this Determination.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

### 6.04 Decisions to be in writing

- (1) A decision of the Secretary under this Determination must be in writing.
- (2) A decision is taken to be in writing if it is made, or recorded, by operation of a computer program.