



Student Assistance Amendment (2022 Measures No. 1) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 31 March 2022

David Hurley
Governor-General

By His Excellency's Command

Anne Ruston
Minister for Families and Social Services

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1 Name

This instrument is the *Student Assistance Amendment (2022 Measures No. 1) Regulations 2022*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	6 April 2022

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Student Assistance Act 1973*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Student Assistance Regulations 2021

1 Section 5

Insert:

25% concessional study-load student: see subsection 13(2).

66% concessional study-load student: see subsection 13(3).

2 Section 5 (definition of *ABSTUDY Policy Manual*)

Repeal the definition.

3 Section 5 (definition of *actual boarding charges*)

Repeal the definition, substitute:

actual boarding charges means the boarding fees (including accommodation-related costs such as laundry) charged by the boarding provider for the student during the relevant school year, including Goods and Services Tax but after any reduction, subsidy, scholarship or refund is taken into account.

4 Section 5 (definition of *approved course*)

Repeal the definition, substitute:

approved course, in relation to a student, means the course for which an amount under the Assistance for Isolated Children Scheme is receivable in respect of the student.

5 Section 5 (definition of *approved institution*)

Repeal the definition.

6 Section 5 (definition of *Assistance for Isolated Children Scheme Guidelines*)

Repeal the definition.

7 Section 5

Insert:

base tax year, in relation to an amount, means the financial year ending on 30 June in the calendar year before the year for which the amount is received or claimed.

current tax year, in relation to an amount, means the financial year ending on 30 June in the calendar year for which the amount is received or claimed.

8 Section 5 (definition of *dependent child*)

Repeal the definition, substitute:

dependent child:

- (a) in relation to the ABSTUDY Scheme—has the meaning given by section 15; and

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- (b) in relation to the Assistance for Isolated Children Scheme—has the meaning given by section 24A.

9 Section 5 (definition of *dependent status*)

Repeal the definition, substitute:

dependent status: a person has *dependent status* if the person:

- (a) does not have independent status; and
- (b) does not receive a pension under the *Social Security Act 1991* or the *Veterans' Entitlements Act 1986*; and
- (c) is not in State care; and
- (d) is not in lawful custody.

10 Section 5 (definition of *entitlement period*)

Repeal the definition.

11 Section 5

Insert:

full-time student load: see subsection 13(5).

12 Section 5 (definition of *independent status*)

Repeal the definition, substitute:

independent status, in relation to a person, means having independent status under the ABSTUDY Scheme.

Note: For whether a person has independent status under the ABSTUDY Scheme, see the ABSTUDY Policy Manual. The manual could in 2022 be viewed on the Department's website (<https://www.dss.gov.au>).

13 Section 5 (definition of *nearest appropriate state school*)

Repeal the definition.

14 Section 5

Insert:

normal amount of full-time study: see subsection 13(4).

15 Section 5 (definition of *personal assets test limit*)

Repeal the definition, substitute:

personal assets test limit means a limit for the value of assets in relation to receipt of living allowance under the ABSTUDY Scheme, as specified in *A guide to Australian Government payments* as in force from time to time.

Note: The guide could in 2022 be viewed on the Services Australia website (<https://www.servicesaustralia.gov.au>).

16 Section 5 (definition of *principal family home*)

Repeal the definition.

17 Section 5

Insert:

secondary non-school course means a course of study that:

- (a) is a secondary course (as determined by the Minister under subsection 5D(1) of the Act); and
- (b) is offered by an educational institution other than a secondary school.

18 Section 5 (definition of *second family home*)

Repeal the definition, substitute:

second family home, of a student, means a home in Australia maintained by the AIC payee or the partner of the AIC payee for the purpose of providing daily access to appropriate education for the student, when the student would not normally have such access from the home where the AIC payee normally resides.

19 Section 5

Insert:

State care: see subsection 16(3).

tertiary course means a course of study determined by the Minister under subsection 5D(1) of the Act to be a tertiary course.

20 Paragraph 6(3)(d)

Repeal the paragraph, substitute:

- (d) if 2 or more of those persons have primary care responsibility for the student and are not partners of each other—whichever of those persons to whom an amount is receivable in respect of the student under the relevant scheme.

21 Part 2

Repeal the Part.

22 Section 13

Before “The following events”, insert “(1)”.

23 Paragraphs 13(e) and (f)

Repeal the paragraphs, substitute:

- (e) if the student is undertaking a course offered by a school—the ABSTUDY payee becomes aware that the student has ceased to be studying full-time in accordance with the requirements for the course as determined by the school;
- (f) if the student is enrolled in a tertiary course or a secondary non-school course and the student is a 25% concessional study-load student in respect of the course for a particular study period—the circumstances that were the basis for the student being a 25% concessional study-load student in respect of the course for the particular study period change;
- (g) if the student is enrolled in a tertiary course or a secondary non-school course and the student is a 66% concessional study-load student in respect of the course for a particular study period—the circumstances that were the basis for the student being a 66% concessional study-load student in respect of the course for the particular study period change;
- (h) if the student is enrolled in a tertiary course or a secondary non-school course and paragraphs (f) and (g) do not apply in relation to the student—

the student's study-load in respect of the course falls below three-quarters of the normal amount of full-time study in respect of the course for the particular study period.

24 At the end of section 13

Add:

Meaning of 25% concessional study-load student

- (2) A person is a **25% concessional study-load student** in respect of a course if:
- (a) the person is enrolled in the course for a particular study period (such as, for example, a semester or a year); and
 - (b) the person is undertaking at least one-quarter, but less than three-quarters, of the normal amount of full-time study in respect of the course for the particular study period; and
 - (c) the person cannot undertake the normal amount of full-time study in respect of the course for the particular study period:
 - (i) because an appropriate medical practitioner who has a detailed knowledge of the person's physical condition has stated in writing that the person has a substantial physical disability and cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or
 - (ii) because a medical practitioner specialising in psychiatry has stated in writing that the person has a substantial psychiatric disability and cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or
 - (iii) because a psychologist who is registered with the Board established under the law of a State or Territory that registers psychologists has stated in writing that the person is intellectually disabled and cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability.

Meaning of 66% concessional study-load student

- (3) A person is a **66% concessional study-load student** in respect of a course if:
- (a) the person is enrolled in the course for a particular study period (such as, for example, a semester or a year); and
 - (b) the person is undertaking at least two-thirds, but less than three-quarters, of the normal amount of full-time study in respect of the course for the particular study period; and
 - (c) the person cannot undertake the normal amount of full-time study in respect of the course for the particular study period:
 - (i) because of the relevant educational institution's usual requirement of the course; or
 - (ii) because of a specific direction in writing to the person from the academic registrar (or an equivalent officer) of the relevant educational institution; or
 - (iii) because the academic registrar (or an equivalent officer) of the relevant educational institution recommends in writing that the person undertake less than the normal amount of full-time study in respect of the course for academic or vocational reasons for a period not exceeding half an academic year.

Meaning of normal amount of full-time study

- (4) The **normal amount of full-time study** in respect of a course is:
- (a) if:
 - (i) the course is a course of study within the meaning of the *Higher Education Support Act 2003*; and
 - (ii) there are Commonwealth supported students (within the meaning of that Act) enrolled in the course; the full-time student load for the course; or
 - (b) if the course is not such a course and the relevant education institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or
 - (c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

Meaning of full-time student load

- (5) The **full-time student load** for a course is the study load represented by units of study, forming part of the course, that have a total EFTSL value of one EFTSL.
- (6) Expressions used in subsection (5) that are defined in the *Higher Education Support Act 2003* have the same meaning as in that Act.

25 Paragraph 14(1)(c)

Omit “is likely to”, substitute “will”.

26 Section 15 (heading)

Omit “**dependent child**”, substitute “**dependent child in relation to ABSTUDY Scheme**”.

27 Subsection 15(1)

After “of another person”, insert “in relation to the ABSTUDY Scheme”.

28 Paragraphs 16(1)(d) and (e)

Omit “is likely to”, substitute “will”.

29 Subsection 16(2) (table item 2, column 1, paragraph (a))

Repeal the paragraph, substitute:

- (a) is considered to be in State care; and

30 At the end of section 16

Add:

- (3) A student is considered to be in **State care** if the student is not living with a parent and one of the following applies:
- (a) the student is in the guardianship, care or custody of a court, a Minister, or a Department, of the Commonwealth, a State or a Territory;
 - (b) there is a current direction from such a court, Minister or Department placing the student in the guardianship, care or custody of someone who is not the student’s parent;

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- (c) the student stopped being in a situation described in paragraph (a) or (b) only because of the student's age.

31 Section 18

Repeal the section, substitute:

18 Events relating to income for reporting periods

Scope

- (1) This section applies if:
- (a) Services Australia requires a student to provide, for purposes relating to an amount mentioned in section 12, an estimate or statement of the amount of income of either or both of the following persons for a period not exceeding 14 days (the *reporting period*):
 - (i) the student;
 - (ii) the student's partner; and
 - (b) an estimate or statement of the amount of income for the reporting period has been given by the student to Services Australia.
- (2) However, if more than one estimate or statement of the amount of income of the student or the student's partner for the reporting period has been given to Services Australia for those purposes, this section applies only in relation to the latest statement given in relation to the income.

Event

- (3) The event of the reporting period ending is prescribed if the amount of income of the student or the student's partner for the period is greater than the estimated or stated amount.

32 Subparagraphs 19(1)(b)(i) and (ii)

Omit "(within the meaning of the ABSTUDY Policy Manual)".

33 Subsections 19(3) and (4)

Omit "it is reasonably likely that".

34 Subsection 19(5)

Repeal the subsection.

35 Subsection 20(3)

Repeal the subsection, substitute:

- (3) A person's *assets* are things that, under the ABSTUDY Scheme, are assets for the purposes of applying the personal assets test.

Note: For things that are assets under the ABSTUDY Scheme, see the ABSTUDY Policy Manual. The manual could in 2022 be viewed on the Department's website (<https://www.dss.gov.au>).

36 Paragraph 22(b)

Omit "offered by an approved institution".

37 Paragraph 24(c)

Repeal the paragraph, substitute:

- (c) if the amount mentioned in section 22 includes an additional boarding allowance—a person (other than the student) ceases to be a dependent child of the AIC payee;

38 After section 24

Insert:

24A Meaning of *dependent child* in relation to Assistance for Isolated Children Scheme

A person (the *first person*) is a *dependent child* of another person (the *second person*) in relation to the Assistance for Isolated Children Scheme if:

- (a) the first person is wholly or substantially in the care of the second person; and
- (b) the first person is under 22; and
- (c) the first person is not independent for the purposes of youth allowance; and
- (d) the first person does not have independent status for the purposes of the ABSTUDY Scheme; and
- (e) one or more of the following apply in relation to the first person:
 - (i) additional boarding allowance under the Assistance for Isolated Children Scheme is receivable in respect of the first person;
 - (ii) living allowance under the ABSTUDY scheme is receivable in respect of the first person;
 - (iii) the means-tested component of the Group 2 School Fees Allowance under the ABSTUDY scheme is receivable in respect of the first person;
 - (iv) youth allowance is receivable in respect of the first person;
 - (v) the first person is an FTB child (within the meaning given in Subdivision A of Division 1 of Part 3 of the *A New Tax System (Family Assistance) Act 1999*) of the second person;
 - (vi) the first person is a regular care child (within the meaning of that Act) of the second person.

39 Paragraph 25(b)

Repeal the paragraph.

40 Paragraph 25(g)

Omit “home;”, substitute “home”.

41 Paragraph 25(h)

Repeal the paragraph.

42 Paragraph 26(a)

Before “any of”, insert “the AIC payee becomes aware that”.

43 Paragraph 26(b)

Before “rent assistance”, insert “the AIC payee becomes aware that”.

44 Subparagraphs 27(1)(b)(i) and (ii)

Omit “(within the meaning of the Assistance for Isolated Children Scheme Guidelines)”.

45 Subsection 27(3)

Omit “it is reasonably likely that”.

46 Paragraph 28(1)(b)

Repeal the paragraph.