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Student Assistance Amendment Bill (No. 2) 1989

Date Introduced: 26 October 1989

House: House of Representatives

Portfolio: Employment, Education and Training

Digest of Bill

Purpose

To tighten the anti-abuse provisions relating to legislative schemes for student assistance and to extend these controls to non-legislative schemes. The Bill will also allow interest to be charged on amounts to be refunded to the Commonwealth.

Background

Student assistance is provided under a number of schemes, some of which are based on legislation and others which are administrative. The largest is the AUSTUDY program which is based on the *Student Assistance Act 1973* (the Principal Act). AUSTUDY provides assistance to certain secondary and tertiary students over 16 and is subject to income and assets tests. A total of 298 400 people received assistance under the scheme in 1989 and in 1988-89 the scheme cost \$732.8 million. Assistance for Aboriginal education is provided under three schemes, the most important being the ABSTUDY program which provides a living allowance and an incidentals allowance. Unlike AUSTUDY, ABSTUDY is an administrative scheme and was not implemented by legislation. The scheme assisted 40 920 students in 1989, and cost \$86.2 million in the 1988-89 financial year.

The question of abuse of education assistance schemes has been raised in recent years. The major problem is the failure of recipients to notify changes of circumstances, such as increased income that should result in a decrease in payments. While there have been some studies, the level of abuse is not known. For example, a 1988 survey of 6000 students in the high risk of fraud category were surveyed and it was found that approximately 1000 had failed to report a change in circumstances. However, it is not made clear if this was deliberate fraud or simply a mistake, and the likely result in the number removed from the scheme is also not known. A spokeswoman for the Minister is reported as recently stating that all recipients of AUSTUDY will be sent a form to determine if there has been any change in their circumstances.

The ABSTUDY scheme has also been shown to be open to abuse. A report by the

Auditor – General into Aboriginal student assistance in the Victorian division of the Department of Employment, Education and Training, (Report number 4 1989 – 90, tabled in August) found the potential for abuse. The largest problems were the failure to check a persons Aboriginal status and to monitor their attendance at education institutions. The report found that the latter problem is now being addressed.

Main Provisions

Clause 8 will insert a new Division, which deals with overpayments under the Principal Act and administrative schemes, into the Principal Act. Proposed section 30B will allow overpayments under education assistance schemes, or social security or veterans affairs legislation, to be recovered from any student assistance the person may be receiving.

Proposed section 30C will insert a penalty for the late repayment of certain benefits. Where the person has received assistance under the Principal Act or another education assistance scheme and this was due to the person making a false statement or representation, or due to a breach of the Principal Act or its regulations, the person will be liable to a penalty if the amount to be recovered exceeds \$50. If the amount remains unpaid for three months after notice of the debt is given, the penalty will be \$15 plus 10% of the amount still due to a maximum of \$515. The penalty will not apply if the person is already liable under section 31A of the Principal Act. The Bill will repeal current section 31A.

Interest on outstanding debts is dealt with in proposed section 30D. Where a person has received assistance which they are not entitled to and three months have passed since the person was notified of the debt, the person will be liable to pay interest at the prescribed rate on the amount outstanding. Proposed section 30E will allow the Minister or a prescribed officer to determine that interest that would otherwise be payable is not payable. Such a decision may be made subject to conditions, and may, after giving notice, be cancelled or varied at any time.

Where a person has a debt due to the Commonwealth in respect of an education assistance scheme, proposed section 30F will allow funds to be recovered from a third party who owes money to the debtor, holds money on their behalf or has authority from another to pay money to the debtor. Where such a third party has been given notice that the money should be paid to the Commonwealth, it will be an offence, with a maximum penalty of one years imprisonment, to breach the notice.

Proposed section 30G will allow the Minister or a prescribed officer to waive all or part of any education assistance overpayment. Actions to recover overpayments must be commenced within six years of the amount becoming due to the Commonwealth unless the overpayment is due to a false or misleading statement or a breach of the Principal Act or regulations, where recovery action must commence within six years of the Department becoming aware of the event.

The Minister may issue guidelines for actions under this proposed Part (proposed section 30H).

Clause 9 will repeal sections 31, 31A, 31B and 31C of the Principal Act. These will be replaced by the above provisions.

Section 31G of the Principal Act, which deals with offences, will be amended by clause 12 to include offences of knowingly obtaining false payments under the administrative based schemes.

For further information, if required, contact the Education and Welfare Group.

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Bills Digest Service
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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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