

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

**STUDENT AND YOUTH ASSISTANCE AMENDMENT
(BUDGET MEASURES) BILL 1995**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

AMENDMENTS TO BE MOVED ON BEHALF OF THE GOVERNMENT

(Circulated by authority of the Minister for Schools, Vocational Training and Training, the
Honourable Ross Free, MP)



OUTLINE

This Bill amends the *Student and Youth Assistance Act 1973* (the Act) by (amongst other things) modifying the eligibility provisions of the AUSTUDY scheme for certain permanent resident students. These amendments clarify when the eligibility provisions apply.

For permanent residents aged 17 or over, AUSTUDY will no longer be available after a particular day if on that day the permanent resident satisfies the residency requirements for citizenship, has *continuously* satisfied those requirements for at least twelve months and has not been approved for citizenship.

The amendments also introduce slightly different rules for permanent residents aged 19 and over who are eligible for the independent rate of AUSTUDY because they are orphans, their parents cannot exercise normal parenting responsibilities, are homeless, refugees or are in State approved care arrangements. Permanent residents in one of these groups will no longer be able to get AUSTUDY after a particular day if on that day they satisfy the residency requirements for citizenship, have continuously satisfied those requirements for at least twelve months and have not been approved for citizenship.

FINANCIAL IMPACT

The modification of the eligibility requirements for AUSTUDY in the way described above is expected to cost \$0.2 million in a full year.

NOTES ON AMENDMENTS

Amendment 1

Is a technical amendment note proposed to be added after paragraph 7(1)(a) of the Act.

Amendment 2

Adds new sections 7A, 7B, 7C and 7D to the Act.

No Benefit (permanent resident who satisfies the residency requirements for at least 12 months).

New Section 7A

provides that a permanent resident over the age of 17 who has satisfied the residency requirements contained in **Section 7C** on each day of the 12 months prior to a particular day will be ineligible to receive AUSTUDY after that day.

Subsection 7A(4) allows people who have been granted a certificate of Australian citizenship pursuant to section 13 of the *Australian Citizenship Act 1948* but have yet to make the pledge of commitment pursuant to section 15 of the Act to retain their eligibility to receive AUSTUDY.

Subsection 7A(1) excludes the effect of this rule from people falling within the circumstances described in Section 7B.

No Benefit (certain permanent residents who reach 19)

New Section 7B

permits the payment of AUSTUDY to people up to the age of 19 who are orphans, whose parents cannot exercise normal parenting responsibilities (eg; because they are in gaol), are homeless, refugees or are in State approved care arrangements.

Once such a person reaches the age of 19, he or she is subject to the conditions set out in **subsection 7A(1), 7B(3) and (4).**

Residency requirements for permanent residents of Australia

New section 7C

establishes the residency requirements referred to in **Section 7A** and **Section 7B**. These requirements are that, in relation to a particular day, a person must:

- have been present in Australia as a permanent resident of Australia for a period of, or for periods amounting in aggregate to, not less than one year during the period of two years immediately preceding that day; and

- have been present in Australia as a permanent resident of Australia for a period of, or for periods amounting in the aggregate to, not less than two years during the period of five years immediately preceding that day.

These requirements are consistent with the periods for which a person must permanently reside in Australia before being eligible to become a citizen: see section 13 of the *Australian Citizenship Act 1948*.

Subsections 7A(4) and 7B(4) provide that people who have been granted a certificate of Australian citizenship pursuant to section 13 of the *Australian Citizenship Act 1948*, but have yet to make the pledge of commitment pursuant to section 15 of the Act, will continue to be eligible to receive AUSTUDY.

This is because in the usual case the pledge is taken at citizenship ceremonies. This is the last step that must be taken before a person becomes an Australian citizen. These ceremonies occur from time to time. The effect of **subsections 7A(4) and 7B(4)** is that a student who has had a citizenship application approved by the Minister for Immigration and Ethnic Affairs, but who may have to wait some months to attend a citizenship ceremony, can continue to receive AUSTUDY.

Sections 7A and 7B do not apply in respect of a year before 1996.

New section 7D makes clear that these rules will apply as from the 1996 AUSTUDY year.