

# **AIC**

## **Assistance for Isolated Children**

### **2003 Policy Manual**

**AIC Section  
Performance and Targeted Programmes Branch  
Department of Education, Science and Training**

# Changes from 2002 Policy Manual

1.2.2 Legal standing of AIC	<b>Amended:</b> Changed wording of second paragraph to clarify the authority of the Minister regarding appeals.
1.5.5 Internal review of assessment decisions	<b>Amended:</b> A simpler explanation of the internal review process.
1.5.6 Appeal to the Minister regarding assessment decisions	<b>Amended:</b> Insertion of NOTE to clarify Ministers jurisdiction over appeals.
1.5.10 Review of debt recovery decisions	<b>Addition:</b> New section relating to the jurisdiction of SSAT and AAT.
2.1.10 Applicant who is not a parent or parent's partner	<b>Updated:</b> An updated list of signatories for claim form.
3.5.1 Commonwealth education or training assistance	<b>Updated:</b> Updated list of allowances
3.5.2 Commonwealth income support payment	<b>Deleted:</b> No longer required.
4.2.11 Rule 3 – Circumstances beyond the family's control	<b>Updated:</b> Explanatory note added to clarify the rule.
4.2.20 Rule 3 – Conditions in year of assistance concession	<b>Amended:</b> Last paragraph re-worded to clarify.
4.4.4. Occupation of sole parent requires frequent overnight absences	<b>Amended:</b> First paragraph re-worded to clarify.
5.1.5 One day minimum payment	<b>Amended:</b> Paragraph amended to align with payment capabilities
5.2.10 Additional Boarding Allowance	<b>Amended:</b> Paragraph amended to ensure consistency
5.6 Current AIC Allowance rates	<b>Updated:</b> Allowance rates updated
6.4.5 Where applicant or partner receives Youth Allowance	<b>Deleted:</b> No longer required
6.8 Current AIC income limits and interest rates	<b>Amended:</b> Income Limits updated
Attachment A	<b>New:</b> –Table indicating progression of students through different State and Territory systems.

Attachment B	Persons before whom a Statutory Declaration may be made
Attachment C	Office of the Federal Privacy Commissioner 24 October 2002, Copies of the Tax file number guidelines

# Assistance for Isolated Children Scheme 2003 Policy Manual

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# 1 Definitions

## **Definitions for this manual**

For the purposes of this manual the following definitions apply.

### **Act, the**

Unless otherwise specified, for the purposes of this manual any reference to '*the Act*' means the *Student Assistance Act 1973*.

### **Appropriate government school**

See 4.1.4.

### **Approved applicant**

means a person who meets the conditions set down in 2.1.

### **Australia**

means Australia and its external territories (including Christmas Island, Norfolk Island and Cocos (Keeling) Islands).

### **Centrelink**

means the organisation set up to provide a wide range of Commonwealth Government services to the Australian community. Centrelink will deliver all payments and services provided under AIC.

### **Centrelink Area Manager**

means an officer of Centrelink who has responsibility for its offices in a defined geographical area.

### **Centrelink AIC Processing Centre**

means the organisational unit that is responsible for the assessment and processing of AIC claim forms and benefits and was previously known as a Student Assistance Centre (SAC).

### **Centrelink AIC Processing Centre Manager**

means the officer in charge of a Centrelink AIC Processing Centre and previously known as the SAC Manager

### **Custody**

Unless otherwise specified, for the purposes of this manual any reference to 'custody' should be taken as those contained in parenting orders (a formal document lodged with the court which sets out parenting arrangements, including matters such as contact and residence agreements, resolved between parties with a counsellor).

### **Department**

means the Commonwealth Department of Education, Science and Training.

### **Eligible applicant**

means a person who, for the purpose of AIC, meets:

- the definition of an approved applicant set out in 2.1,
- the residency requirements set out in 2.2, and
- the provisions regarding receipt of other Commonwealth assistance set out in 2.3.

### **Eligible student**

means a person who, for the purposes of AIC:

- meets the general eligibility conditions set out in Part 3, and

- meets (or is deemed to meet) one of the conditions for geographic isolation set out in Part 4, and
- qualifies for an allowance because he or she either boards away from home, lives in a second family home or studies by distance education methods (see Part 5).

### **Tax Year**

means the tax year that finishes in the year of study. The previous tax year is the tax year that finishes in the year immediately prior to the year of study. For example for 2003 the *tax year* is 2002/2003 and the *previous tax year* is 2001/2002.

### **Family**

means a family unit comprising the parent(s) and their natural or adopted children. A person within the family is taken to mean a person who:

- is related by blood; or
- stands in a bona fide domestic or household relationship.

### **Minister**

means the Federal Government Minister responsible for the AIC Scheme policy. As at January 2003 this is the Minister for Education, Science and Training.

### **Other circumstances beyond the family's control**

means matters such as the death or illness of a member of the student's family, or participation in a sporting or cultural event for which the student was selected as a school, State or Territory or national representative.

It does not include:

- a vacation taken by the student during term with or without the family, or
- a change (unforeseen or otherwise) that enables a formerly ineligible student to qualify.

### **Parent**

means a natural or adoptive (legal or traditional) parent, step parent, de facto partner of natural or adoptive parents with whom the student normally lives, and any other person who is substantially responsible for the student (not including the de facto partner of the student). However, for the purposes of 2.1 the term 'parent' should be taken to include a person having legal guardianship of the student.

### **Partner**

means a married or defacto partner (irrespective of the duration of the relationship).

### **Period of eligibility**

means the period of eligibility for which an applicant is entitled to receive assistance for the student.

Note: Provided the eligibility requirements are met (see 1.1.3) for the whole school year, AIC allowances are available for the full calendar year, 1 January to 31 December. For this to occur a student must be deemed eligible for the periods outside the school term dates. See 3.7 for guidelines regarding period of eligibility.

### **Primary student**

means a student undertaking a course at the primary level of study (see 3.4.5).

### **Principal family home**

See 4.1.3.

### **School year**

means the period that starts on the first day of the year in which a student is required by the school to attend the course and ends on the last day in that year of compulsory attendance at the institution or the day in that year of the student's last exam, whichever is the later.

For students studying by distance education methods, the school year starts on the first day of term one and ends on the last day of the final term for the course. This may be varied with the agreement of the distance education institution, provided that the student can still complete the course satisfactorily.

**Secondary student**

means a student undertaking a course at the secondary level of study (see 3.4.5).

**Short-term boarders**

means a student who boards for a short period on one or more occasion during the year. See 5.2.13 for entitlement for short-term boarders.

**Tertiary student**

means a student undertaking a course at the tertiary level of study (see 3.4.5).

**Ungraded student**

means a student undertaking a course at the ungraded level of study (see 3.4.5).

# 1.1 General

## 1.2 Outline of the AIC Scheme

- 1.2.1 Aim of AIC
- 1.2.2 Legal standing of AIC
- 1.2.3 Who can get AIC
- 1.2.4 Types of allowances
- 1.2.5 Who has the power to grant AIC
- 1.2.6 Advising members of the public - Duty of care

### Introduction

This chapter introduces the Assistance for Isolated Children (AIC) Scheme.

#### 1.2.1 Aim of AIC

The Assistance for Isolated Children (AIC) Scheme helps the families of primary, secondary and under 16 year old tertiary students who are unable to attend an appropriate government school on a daily basis because of geographic isolation. An appropriate government school is one that offers the student's level of study or, if the student has special health-related or educational needs, one that provides access to the facilities, programmes, and/or environment required for those needs.

The underlying principle of the AIC Scheme is that all Australian children should have reasonable daily access to an appropriate government school without regard to parents' income. Families living in areas without access to such a school incur additional costs in educating their children. The purpose of the AIC Scheme is to provide financial assistance in recognition of the additional expenditure incurred by mainly geographically isolated families for the education of their children.

It is not an aim of the scheme to assist families to send children to a school of their choice where an appropriate government school is available. However, if a student does not have reasonable daily access to an appropriate government school, families are free to send him or her to the school of their choice.

AIC is one of a number of Commonwealth programmes that aim to improve the educational opportunities of students from rural and remote areas of Australia.

#### 1.2.2 Legal standing of AIC

AIC is an administrative scheme, the policy and procedures of which are set out in this manual. In addition, some aspects of the scheme are covered under "the *Act*", that is, matters relating to recovery of overpayments, provision of tax file numbers, the client's obligation to notify certain events, offences, provision of evidentiary certificates, appropriation and regulations.

Policy responsibility for the AIC Scheme lies with the Department of Education, Science and Training (DEST). Policy changes are approved by the responsible Minister (see 1.2) and are conveyed by the Department to Centrelink, that administers the scheme. (See 1.2.5 regarding who has the power to grant AIC.)

The AIC Policy Manual (PM) is updated once a year with subsequent changes provided to Centrelink in writing.

This manual has been approved by the Minister and has been carefully prepared to take into account the usual range of circumstances that may be encountered by persons making decisions under the AIC Scheme.

Only in **exceptional circumstances** should the decision-maker depart from the guidelines set out in this manual. In deciding what is an exceptional circumstance the decision-maker (preferably through a single contact in the AIC Processing Centre) should consult, in the first instance, with the AIC Helpdesk in the Service Integration Shop, Centrelink. Where necessary, the matter can be referred to the Youth and Students Community Segment Team, Centrelink. If further advice is appropriate, that team will consult with DEST.

Where the Minister approves a change to this manual (for example, as a result of upholding an appeal) then that change should be taken into account in all current and subsequent cases, including internal reviews of assessment decisions (see 1.5.5) and in appeals to the Minister regarding assessment decisions (see 1.5.6 and 1.5.7).

### **1.2.3 Who can get AIC**

AIC is payable if:

- the applicant meets the general eligibility conditions (see Part 2), and
- the student meets the general eligibility conditions (see Part 3), and
- the student is (or is deemed to be) geographically isolated from appropriate schooling (see Part 4), and
- the student qualifies for an allowance because he or she either boards away from home, lives in a second family home or studies by distance education methods (see Part 5).

### **1.2.4 Types of allowances**

Depending on the student's circumstances AIC provides:

- Boarding Allowances (see 5.2),
- Second Home Allowance (see 5.3),
- Distance Education Allowance (see 5.4), or
- Pensioner Education Supplement (see 5.5).

With the exception of the additional component of Boarding Allowance, all allowances are free of means testing in recognition of the extra costs faced by isolated families in accessing education.

### **1.2.5 Who has the power to grant AIC**

The Secretary of DEST authorises the occupants of certain Centrelink positions (see 1.7.1) to:

- approve proposals for expenditure of funds, and
- cancel, vary or suspend the approval of proposals for expenditure of funds,
- in accordance with the guidelines set out in this manual and any subsequent amendments.

In addition, she/he formally delegates powers vested in him/her under *the Act* to the Chief Executive Officer of the Commonwealth Services Delivery Agency (Centrelink). The Chief Executive Officer subsequently confers these powers on certain Centrelink staff (see 1.7.2).

### **1.2.6 Advising members of the public - Duty of care**

Staff must exercise the utmost care when providing members of the public with information or advice regarding AIC eligibility and entitlement.

A formal decision about AIC can only be made after assessment of a full claim form. This should be made clear to applicants seeking information over the counter or by telephone.

Applicants should be encouraged to apply for AIC if any doubt exists about whether they qualify for assistance. This will allow the claim form to be assessed fully, based on all available information.

## 1.3 Assessment Process

- 1.3.1 Claim forms
- 1.3.2 Who can complete a Claim form
- 1.3.3 Tax File Numbers
- 1.3.4 TFN Application / Enquiry forms
- 1.3.5 TFN exemptions
- 1.3.6 Supporting evidence required
- 1.3.7 Claim form closing date
- 1.3.8 Notice of assessment

### 1.3.1 Claim forms

An initial claim for AIC must be made on an AIC Claim form. Claim forms must be fully completed, supported by evidence as required and signed by the applicant.

If the applicant has a partner and is applying for the income-tested Additional Boarding Allowance, to be eligible for consideration the applicant's partner must also sign the Claim form.

If an AIC allowance (other than AIC Pensioner Education Supplement or for short term boarders) has been paid in respect of a student in a previous year and circumstances of the applicant and student indicate that they may be eligible for the new year, the applicant may send an "End of Year (EOY) Review" form that verifies the applicant's current circumstances and those of the student/s.

### 1.3.2 Who can complete a Claim form

While any person can lodge a claim for AIC, to be eligible for assistance the person must be an 'approved applicant' (see 2.1).

### 1.3.3 Tax File Numbers

"TheAct" (Section 44A) provides that no benefit will be payable unless:

- the applicant's Tax File Number (TFN) is provided, and
- if the applicant has a partner whose income is taken into account in calculating the Additional Boarding Allowance payable, the TFN of the applicant's partner is also provided.

Where the applicant and/or applicant's partner does not have or cannot provide their TFN a 'TFN Application/Enquiry Form' can be lodged with Centrelink (see 1.3.4).

**Note: The student's TFN is not required for the purposes of AIC. In previous years, where the student was 16 years of age or over, his or her TFN was required in order to facilitate the production of a Group Certificate. However, the Australian Taxation Office has confirmed that AIC allowances are not taxable (see 5.1.12).**

### 1.3.4 TFN Application / Enquiry forms

An application for a TFN may be lodged with Centrelink using a 'Tax File Number Application/Enquiry' form and accompanied by Proof of Identity (POI) documents acceptable to the Australian Taxation Office (ATO).

For circumstances where an Indigenous Australian may have difficulty applying for a TFN through normal channels, eg because of access or problems with obtaining documentation, Centrelink and ATO have special arrangements.

These arrangements entail the use of a special form, called the 'Tax File Number Application/Enquiry for an Aboriginal or Torres Strait Islander' form, and includes a section 'Proof of Identity Reference' enabling an authorised referee to verify the applicant's identity instead of the need to provide documentary evidence of identity.

Where a completed form is lodged with Centrelink, this may be regarded as the person having supplied details of his or her TFN. Alternatively, applications for TFNs may be lodged at regional Australian Taxation Offices.

### 1.3.5 TFN exemptions

An applicant or applicant's partner is exempt from providing a TFN where:

- he/she receives a social security or DVA pension or benefit (ie a social security age pension, disability support pension, wife pension, carer pension, pension parenting payment (single), widow B pension, special needs pension or special benefit; or a pension under Part III of the Veterans' Entitlements Act);
- a charitable organisation is applying on behalf of a student (a tax exempt TFN should be supplied if possible);
- the death of the applicant or their partner makes that person's TFN no longer relevant to the student's eligibility;
- the physical safety of the applicant or their partner, is at risk from another person and disclosure of the TFN could increase the risk; or
- he/she is resident outside Australia and had no assessable income under the Income Tax Assessment Act 1936 for the period of the income test.

A temporary exemption also applies where:

- the applicant or their partner, has lost all records of their TFN because of fire or flood damage to their home within the 6 months preceding the application for AIC -this exemption ceases 6 months after the damage occurred;
- the applicant or their partner is an Aboriginal or Torres Strait Islander who is attending a traditional ceremony at the time of the Claim form lodgement - a TFN must be provided on their return from participation in the ceremony; or
- the applicant or their partner is temporarily overseas - a TFN must be provided on their return to Australia.

**Note: Under *the Act* the applicant's partner is not required to provide a TFN unless their income is to be taken into account in calculating the rate of Additional Boarding Allowance payable. As a result, the applicant's partner is not required to provide a TFN where Special Assessment applies (see 6.4.2).**

### 1.3.6 Supporting evidence required

Where:

- this is the first AIC Claim form lodged for the student, proof of age of the student is required,
- the applicant or the student are not an Australian citizen, evidence of permanent residency is required,
- the student is isolated from schooling for reasons other than distance or travel time, the applicant may need to provide evidence to support the claim,



- the Claim form is for the income-tested Additional Boarding Allowance, proof of income may be required.

### **1.3.7 Claim form closing date**

Claim forms (including any 'End of Year (EOY) Review' forms) must be lodged by 31 December of the year for which assistance is sought in order to be considered, unless there has been an intent to claim registered by Centrelink by that date. (See below, 2.4.1 and 2.4.2 regarding intent to claim; see 2.4.1 regarding the cut-off for back payment to 1 January).

An intent to claim (or reclaim) AIC can be registered by the applicant contacting Centrelink by phone, in person, by post or fax. For the date of that contact to be accepted as the date of claim, the AIC Claim form or End of Year (EOY) Review form must be lodged at a Centrelink office within 13 weeks.

Therefore, if there has been no intent to claim registered by 31 December and a Claim form (including an EOY Review form or those for short-term boarders) is received after 31 December of the year for which assistance is sought, regardless of the circumstances, **no allowance is payable**.

Where an intent to claim AIC has been registered by 31 December, an AIC Claim form lodged within the next 13 weeks may be accepted.

An incomplete Claim form (including an EOY Review form or those for short-term boarders) may be accepted from an applicant if lodged by the closing date of 31 December. The applicant will, however, need to provide the missing details before the assessment can be finalised.

### **1.3.8 Notice of assessment**

In response to every accepted AIC Claim form, Centrelink will forward a written notice of the decision, outlining the outcome of the assessment and, if applicable, providing details of entitlement. Where the applicant or student is ineligible for assistance under AIC, the reason for ineligibility is to be notified and information about appeal rights is to be provided. (See 1.5 regarding reviews and appeals.)

## 1.4 Applicant Rights and Obligations

- 1.4.1 Applicant obligations
- 1.4.2 Correct information
- 1.4.3 Privacy
- 1.4.4 Confidentiality
- 1.4.5 Compliance activities
- 1.4.6 Data-Matching Program
- 1.4.7 Freedom of Information

### 1.4.1 Applicant obligations

By signing the Claim form, the applicant agrees to:

- take responsibility for the accuracy of the information provided on or in support of the Claim form, and
- notify Centrelink in writing of any change of circumstance that could affect entitlement to AIC within fourteen (14) days of the change occurring, and
- repay to the Commonwealth any overpayment that may arise in respect of the Claim form, irrespective of who actually receives the payment (see 1.5.9).

### 1.4.2 Correct information

It is an offence to provide false or misleading information in connection with AIC under Section 49 of *the Act*. Under section 137 of the Criminal Code, applicants or anyone else who provide false or misleading information are committing a serious offence and may be prosecuted in a court of law.

Where an applicant's AIC claim is calculated on the basis of details about a partner (for example, income particulars), that person can also be prosecuted if he or she provides false or misleading information.

### 1.4.3 Privacy

DEST and Centrelink are bound by the provisions of the *Privacy Act 1988*. Section 14 of the *Privacy Act 1988* contain the Information Privacy Principles (IPPs) that prescribe the rules for handling personal information.

DEST and Centrelink will ensure that:

- personal information is collected in accordance with IPPs 1-3;
- suitable storage arrangements, including appropriate filing procedures are in place;
- suitable security arrangements exist for all records containing personal information;
- access to a person's own personal information held by the organisation is made available to the person at no charge;
- records are accurate, up-to-date, complete and not misleading;
- where a record is found to be inaccurate, the correction is made;
- where the person contends that a record is inaccurate, and it is found to be accurate the details of the request for amendment are noted on the record;
- the personal information is only to be used for the purposes for which it was collected, or for other purposes where expressly allowed by IPP 10;
- personal information is only disclosed in accordance with IPP 11;
- that any collection, storage, security, use or disclosure of Tax File Numbers complies with the Privacy Commissioner's *Tax file Number Guidelines 1992* (copy at **Attachment C**. See also the Privacy Commissioner's website at [www.privacy.gov.au](http://www.privacy.gov.au) for any relevant updates) and the *Privacy Act 1988*.

Personal information collected from applicants who register an intent to claim is subject to the provisions of the *Privacy Act 1988*.

#### **1.4.4 Confidentiality**

There are confidentiality provisions within *the Act* that govern the confidentiality of information obtained by Centrelink in administering *the Act*. These provisions prohibit unauthorised access to, and the release of, protected information (ie all information about students, applicants, their partners or dependants collected for the purposes of *the Act*) except where:

- the applicant (or partner or dependent) has consented to the release, or
- the release is authorised by *the Act* (in order to perform duties or functions under *the Act*) or for the purposes of other specified Acts relating to child support, or
- the release is in accordance with the Ministerial Guidelines certifying release in the public interest. Centrelink can only disclose information with the approval of special delegates of the Chief Executive Officer, or
- the release is in accordance with the Chief Executive Officer's Instrument that provides for release to other Commonwealth Departments or authorities.

The confidentiality provisions in the *Social Security Act 1991 (SSA)* mirror those in “the Act”. Staff who are dealing with entitlements under either Act should be aware that the information is protected information.

Release of information outside the above provisions carries heavy penalties to the person who releases the information. Staff who are dealing with entitlements under either Act must be made aware that these penalties can be in the form of fines (up to \$13,200) or two years gaol, or both. Staff may be subject to internal disciplinary procedures (including dismissal) and criminal prosecution. For these reasons staff should exercise extreme caution with respect to release of information. In addition, any requests for access to documents under the *Freedom of Information Act 1982* must immediately be referred to DEST's Freedom of Information Coordinator, Litigation and External Review Section, Legal and Business Assurance Branch.

#### **1.4.5 Compliance activities**

In fairness to all, it is important that AIC eligibility is checked carefully.

In addition to information and documentation required at the time of application, Centrelink conducts extensive checks on information provided by applicants. “The Act” and *Data Matching Program (Taxation and Assistance) Act 1990* gives Centrelink the power to check information relevant to AIC eligibility with:

- education institutions for course and enrolment details,
- financial institutions for account details,
- employers for work history and current earnings,
- other Commonwealth Departments (see 1.4.6), and
- other areas of Centrelink.

Any information given by the applicant may be checked with any person or authority where such advice is relevant to determination of eligibility. This includes, for example, checking school enrolment and study details with State or Territory education authorities and travel details with school transport authorities, Shire councils and bus contractors.

Centrelink's Compliance Units may contact AIC applicants during the year to check on any change of circumstances that could affect AIC. Additional special purpose checks are conducted from time to time to investigate specific eligibility and entitlement aspects in more detail.

Centrelink actively encourages the reporting of any instances where abuse of AIC is suspected. Reports can be made to Compliance Support. The accuracy of such reports is carefully investigated before action is taken.

Where unsolicited information is provided in writing staff should refer the letter to:

- Compliance Support, National Support Office, Centrelink, GPO Box 7788, Canberra Mail Centre, ACT 2610; or
- the relevant Centrelink AIC Processing Centre for forwarding to their local Compliance Unit.

#### **1.4.6 Data-Matching Program**

Under the *Data-Matching Program (Taxation and Assistance) Act 1990*, some information may be checked against information provided by other departments to prevent fraud and duplication of payments. These departments include:

- Australian Taxation Office (ATO);
- Department of Family and Community Services (FaCS);
- Department of Veterans' Affairs (DVA);
- Department of Education, Science and Training (DEST); and
- Department of Health and Ageing (DHA).

#### **1.4.7 Freedom of Information**

The public may request access under the *Freedom of Information Act 1982* to all documents created or held by Centrelink or DEST for the purposes of managing the Assistance for Isolated Children Scheme 2003. The Act contains several provisions that exempt certain categories of documents from release.

## **1.5 Reviews and Appeals**

- 1.5.1 Reassessment
- 1.5.2 Referrals to National Support Office
- 1.5.3 Rights of review and appeal
- 1.5.4 Applicant's right of review of assessment decisions
- 1.5.5 Internal review of assessment decisions
- 1.5.6 Appeals to the Minister regarding assessment decisions
- 1.5.7 Circumstances to be considered by the Minister in deciding an appeal
- 1.5.8 Debt recovery following unsuccessful appeal
- 1.5.9 Recovery of debt
- 1.5.10 Review of debt recovery decisions
- 1.5.11 Types of debt recovery decisions
- 1.5.12 Waiver of debt
- 1.5.13 Legislation
- 1.5.14 The Social Security Appeals Tribunal
- 1.5.15 Administrative Appeals Tribunal

### **1.5.1 Reassessment**

At any time a Claim form may be reassessed and entitlement recalculated on the basis of additional information or evidence provided to Centrelink.

### **1.5.2 Referrals to National Support Office**

Where a difficult or unusual case arises, in particular one that is not dealt with by this manual, it may be referred to the Student Assistance Team help desk in the Youth and Students Community Segment Team in Centrelink's National Support Office for advice. Should further advice be necessary, the Student Assistance Team will refer the matter to the National Office of Department of Education, Science and Training (Performance and Targeted Programmes Branch).

### **1.5.3 Rights of review and appeal**

An applicant's right of review regarding an AIC assessment decision differ from those relating to matters of debt recovery.

Rights of review and appeal regarding AIC assessment decisions are set out in 1.5.4 to 1.5.7 of this manual while AIC debt recovery decisions are made under the provisions of "the *Act*" (see 1.5.9).

### **1.5.4 Applicant's right of review of assessment decisions**

If an applicant disagrees with a decision about their assessment and believes that the guidelines for the AIC Scheme may not have been applied correctly, he/she may request an internal review of the decision (see 1.5.5).

The request should be made by the applicant in writing to the Manager of the Centrelink AIC Processing Centre where the case was assessed. In addition, such a request may be accepted from an agent where it is clear that he or she is acting on behalf of the applicant.

### 1.5.5 Internal review of assessment decisions

The decision maker must not be biased and the applicant must be given a fair chance to put their case to the decision maker before a decision is made.

- These requirements apply both in the initial decision and on appeal or internal review. In practice, the requirements are satisfied in the initial decision by allowing the applicant to provide all relevant information on the Claim form;
- providing the applicant with an opportunity to comment, if evidence other than that provided by the applicant is taken into account;
- ensuring that the initial decision-maker forwards to the applicant with the notice of decision information about appeals and/or internal reviews.

For review or appeal decisions, a delegated person, other than the original decision maker, will consider the matter and the applicant should be invited to put his/her case in writing. When doing this, the decision maker should be careful to remain unbiased. In particular, communicating a preliminary view to the applicant to assist them focus their case can also show bias. Therefore preliminary views or draft decisions should not be put out to the applicant for comment.

If a request for an internal review of an assessment decision is made, the delegated officer must:

- affirm the decision;
- vary the decision; or
- set the decision aside and substitute a new decision.

The delegated officer must give the applicant written notice of the decision that includes an explanation of the authorised officer's decision and:

- sets out the reasons for the decision; and
- sets out the findings by the delegated officer on material questions of fact; and
- refers to the evidence or other material on which those findings were based.

Any notice of a review decision, whether the original decision is affirmed, varied or set aside, must also advise the applicant that he/she may appeal to the Minister responsible for the AIC Scheme in relation to the authorised officer's decision.

If the original decision is varied, any benefit withheld and now payable is to be paid retrospectively from the effective date.

**Note: When referring to the Centrelink officer carrying out such a review the appropriate terminology is 'Delegated Officer'. Where the notice of decision also refers to recovery (or waiver) of a resulting overpayment, reference should be made to the decision of the 'Delegate' of the Chief Executive Officer (see 1.5.10).**

### 1.5.6 Appeals to the Minister regarding assessment decisions

If the applicant continues to disagree with a decision after it has been reviewed by an authorised officer, they (or an agent acting on their behalf) may appeal in writing to the Minister responsible for AIC (currently the Minister for Education, Science and Training), care of Parliament House, Canberra ACT 2600. The factors the Minister must take into account when making a decision on an appeal are outlined in section 1.5.7.

**NOTE: AIC assessment decisions are not subject to the further appeals tribunals applying to Youth Allowance or Austudy payments. That is, the Social Security Appeals Tribunal (SSAT) and the Administrative Appeals Tribunal (AAT) have no jurisdiction to hear matters relating to AIC assessment decisions where a debt has not been incurred. This means that the Minister's decision is final in regard to AIC eligibility decisions.**

### 1.5.7 Circumstances to be considered by the Minister in deciding an appeal

The applicant (or an agent acting on their behalf) may appeal in writing to the Minister responsible for AIC to request that he/she reviews any decision made under the AIC Scheme relating to assessment or eligibility (see 1.5.10). The Minister must consider all relevant circumstances of the appeal, including any new matters raised by the applicant.

Relevant factors in this regard would include:

- the financial implications to the Commonwealth of allowing the appeal; and
- whether allowing the appeal would contravene any other government decision or requirement.

### 1.5.8 Debt recovery following unsuccessful appeal

Where an applicant appeals to the Minister regarding an assessment decision that resulted in a debt and the appeal is **not** upheld, a review of the debt recovery decision will be undertaken by a delegate of the CEO of Centrelink normally at AIC Processing Centre level. In some cases it may be necessary for the review to be undertaken at Area or National Support Office level.

This means, the applicant (or their agent) will not be required to lodge a formal request for an internal review of the debt recovery decision. The outcome of this review will be notified in writing to the applicant and the relevant Centrelink AIC Processing Centre (for forwarding to their local Compliance Unit). (See 1.5.10 regarding review of debt recovery decisions).

### 1.5.9 Recovery of debt

An overpayment arises where the payments made in respect of a student during the year exceed entitlement.

AIC debt recovery decisions are made under the provisions of *the Act*. The power to make decisions pertaining to the recovery of overpayments is delegated by the Chief Executive Officer (CEO) to certain Centrelink officers (see 1.7.2).

Any person affected by a decision made by the CEO or a delegate of the CEO under “the *Act*” can ask for an internal review of that decision .

### 1.5.10 Review of debt recovery decisions

An applicant (or their agent) who is dissatisfied with a debt recovery decision may apply for an internal review of the decision by a delegate of the CEO (see 1.7.2).

If the person receives an unfavourable decision from the delegate in relation to **debt recovery**, they have the right to seek an independent review by the Social Security Appeals Tribunal (SSAT). If the person is dissatisfied with the decision of the SSAT, they may appeal that decision to the Administrative Appeals Tribunal (AAT).

Appeals to the SSAT or the AAT may be lodged directly with the Tribunals or through Centrelink. (Brochures for appeal to the SSAT are provided with the review of decision by Centrelink where that review has been unfavourable to the applicant.) It should be noted that neither the SSAT nor the AAT has the jurisdiction to consider any other aspect of an AIC debt apart from the method and amount of recovery and the waiver of debts (see 1.5.12). Neither the SSAT or the AAT have the jurisdiction to reconsider and/or overturn any decisions made by the Minister responsible for AIC regarding appeals for AIC eligibility. If an applicant is questioning a decision about their **eligibility** for AIC, the procedures outlined in 1.5.4 to 1.5.7 are to be followed.

**Note: When referring to the Centrelink officer carrying out a review relating to debt recovery the appropriate terminology is ‘Delegate of the Chief Executive Officer’.**

### 1.5.11 Types of debt recovery decisions

Decisions about recovering a debt include:

- the setting of rates for withholding from current entitlement;
- garnisheeing bank accounts and wages;
- writing off a debt;
- waiving a debt (see 1.5.12); and
- imposing late payment charges and/or interest.

**Note: The SSAT and AAT should not alter or make a decision about garnishee.**

### 1.5.12 Waiver of debt

A debt can be waived under conditions set out in *the Act*. These include:

- administrative error by Centrelink, where this is the sole cause of the overpayment, and the person has received the money in good faith and the debt was not raised within six weeks of the person notifying a change in circumstance that affects her/his entitlement;
- waiver of the balance of a debt under certain conditions where 80% has been repaid;
- where special circumstances of an unusual nature affect the person’s capacity to repay; and
- waiver of part of a debt in satisfaction of the whole debt.

### 1.5.13 Legislation

The relevant sections of “the *Act*” are as follows:

- **for debt recovery** – all of Part 6 (sections 38 to 43F inclusive) and Division 2 of Part 10 (sections 342 to 348 inclusive); and
- **for review of decisions** – all of Part 9 (sections 302 to 334 inclusive).

See also the Centrelink’s Debt Recovery Manual for detailed information on review of debt recovery decisions.

### 1.5.14 The Social Security Appeals Tribunal

The SSAT is an independent body that is not connected to Centrelink. It has offices in each capital city. Applicants can apply to the SSAT by completing an SSAT appeal form.

Under *the Act*, the student has 3 months after the day on which the internal review decision was made, or within such further period as Centrelink allows, to lodge an appeal with the SSAT.

Centrelink is not represented in the SSAT but is given the opportunity to provide a written statement of reasons, prepared by the Student Assistance Liaison Officer, (SALO), within 28 days of the SSAT notifying Centrelink of receipt of an appeal.

All decisions of the SSAT that set aside or vary Centrelink’s decision must be forwarded to DEST’s Legal and Business Assurance Branch within 7 days of the decision being received. Decisions must not be implemented until advice is received from DEST’s Legal and Business Assurance Branch that the Department does not wish to appeal the decision of the SSAT.

### 1.5.15 Administrative Appeals Tribunal

All AAT appeals are managed by the Legal and Business Assurance Branch in DEST.



## **1.6 Claims from Staff**

- 1.6.1 Background
- 1.6.2 Application by a member of Centrelink AIC Processing Centre staff, family member or friend
- 1.6.3 Application from a Centrelink AIC Processing Centre Manager or family member
- 1.6.4 Application from Centrelink Area, NSO or Department of Education, Science and Training staff or family member

### **1.6.1 Background**

Where claims for AIC are received from Centrelink or Department of Education, Science and Training officers, their family members, friends, or persons residing at the same address, the following procedures must be followed. These procedures are intended to avoid apparent or actual bias or fraud on the part of the officers receiving the claims.

### **1.6.2 Application by a member of Centrelink AIC Processing Centre staff, family member or friend**

Where a Centrelink staff member submits a Claim form to a Centrelink AIC Processing Centre, or is aware that an immediate family member, friend or person residing at the same address has done so, then:

- where the staff member works in the Centrelink AIC Processing Centre processing the Claim form, he or she must notify the Centrelink AIC Processing Centre Manager of the existence of the Claim form as soon as it is lodged (see 1.6.3 where the Claim form is lodged by the Centrelink AIC Processing Centre Manager, a family member or friend); or
- where the staff member does not work in the Centrelink AIC Processing Centre processing the Claim form, he or she may notify the Centrelink AIC Processing Centre Manager of the existence of the Claim form if he or she wishes to have the details provided treated confidentially.

In addition:

- the staff member must not, in any way, take part in the processing or any subsequent reassessment of the Claim form;
- the assessment of the Claim form is to be endorsed by the Centrelink AIC Processing Centre Manager; and
- for the balance of the year, the Centrelink AIC Processing Centre Manager is to hold the Claim form in a secure place, separate from other Claim forms held in the office.

### **1.6.3 Application from a Centrelink AIC Processing Centre Manager or family member**

Where a Centrelink AIC Processing Centre Manager submits a Claim form to the Centrelink AIC Processing Centre office that he or she manages, or is aware that an immediate family member, friend or person residing at the same address has done so, then:

- the Centrelink AIC Processing Centre Manager must notify a more senior officer in the Area (ie the Area Manager) of the existence of the Claim form as soon as it is lodged;
- the Centrelink AIC Processing Centre Manager must not, in any way, take part in the processing or any subsequent reassessment of the Claim form;
- the assessment of the Claim form is to be endorsed by a more senior officer in the Area (ie the Area Manager); and
- for the balance of the year, the Claim form should be held in a secure place by another senior officer of the Centrelink AIC Processing Centre, separate from other Claim forms held in the office.

#### **1.6.4 Application from Centrelink Area, NSO or Department of Education, Science and Training staff or family member**

Where a Centrelink Area Manager or staff member from Youth and Student Community Segment, National Support Office, Centrelink submits a Claim form to a Centrelink AIC Processing Centre, or is aware that an immediate family member, friend or person residing at the same address has done so, then they should advise the Team Leader of the Youth and Student Community Segment of the existence of the Claim form as soon as it is lodged.

Likewise, where a member of staff from Department of Education, Science and Training who has a role in AIC policy matters submits a Claim form to a Centrelink AIC Processing Centre, or is aware that an immediate family member, friend or person residing at the same address has done so, then they should advise the Team Leader of the Youth and Student Community Segment of the existence of the Claim form as soon as it is lodged.

## **1.7 Delegations**

- 1.7.1 Student Assistance Act 1973 Delegations
- 1.7.2 Instrument of Delegation

### **1.7.1 Student Assistance Act 1973 Delegations**

For delegations under “the *Act*” , see ‘Delegation by the Chief Executive Office of powers under “the *Act*”’.

### **1.7.2 Instrument of Delegation**

The following is a copy of the AIC Instrument of Delegation.

**COMMONWEALTH OF AUSTRALIA**  
**ASSISTANCE FOR ISOLATED CHILDREN (AIC) SCHEME**  
**INSTRUMENT OF DELEGATION UNDER SUB-SECTION 53(1) OF THE *FINANCIAL***  
***MANAGEMENT AND ACCOUNTABILITY ACT 1977***

**DELEGATION TO APPROVE PROPOSALS TO SPEND APPROPRIATED FUNDS**

I, Dr Peter Shergold, Chief Executive, Department of Education, Science and Training, pursuant to sub-section 53(1) of the *Financial Management and Accountability Act 1997* ("the Act"):

- a. REVOKE all previous authorisations (however named) to approve proposals to spend public money in so far as they relate to the Assistance for Isolated Children (AIC) Scheme; and
  - b. DELEGATE my power under sub-section 44(1) of *the Act* to:
    - i. approve proposals for expenditure of funds; or
    - ii. cancel, vary or suspend the approval of proposals for expenditure of public funds, appropriated for the purpose of the AIC Scheme to persons occupying, from time to time, the positions specified in the Column 1 of Table 1 in the Schedule, subject to:
      - i. the exercise of the power in accordance with the limits applying to the respective Reference Categories, described in Table 2 in the Schedule;
      - ii. the exercise of power in any one instance not involving an amount above the appropriate financial limit appearing in column 2 Table 1 in the Schedule;
      - iii. the exercise of power in any one instance not involving an amount greater than the funds available for the particular programme;
      - iv. the exercise of power in accordance with the annual Assistance for Isolated Children Policy Manual issues by the Minister;
- and
- v. any relevant guidelines and directions that I may issue from time to time.

---

DR PETER SHERGOLD  
Chief Executive

**SCHEDULE**  
**TABLE 1**

COLUMN 1	COLUMN 2	
Functional Area and Level	Reference Category	
	AIC1	AIC2
<b>National Support Office</b>		
Chief Executive Officer	LAF	LAF
<b>Youth and Students Community Segment</b>		
National Manager	LAF	LAF
Centrelink 4, paypoint 3 and above	LAF	LAF
Centrelink 4, paypoints 1 & 2	LAF	LAF
Centrelink 3, paypoints 4 and above	SL	SL
Centrelink 3, paypoints 3 and below	NA	SL
Centrelink 2, paypoints 5 and above	NA	SL
<b>Youth and Students' Team, Service Integration Shop</b>		
National Manager	LAF	LAF
Centrelink 4, paypoint 3 and above	LAF	LAF
Centrelink 4, paypoints 1 & 2	LAF	LAF
Centrelink 3, paypoints 4 and above	SL	SL
Centrelink 3, paypoints 3 and below	NA	SL
Centrelink 2, paypoints 5 and above	NA	SL
<b>AIC Processing Centres</b>		
Centrelink 3, paypoint 4 to Centrelink 4, paypoint 2	LAF	LAF
Centrelink 3, paypoints 3 and below	SL	SL
Centrelink 2, paypoints 5 and above	SL	SL
Centrelink 2, paypoints 4 and below	SL	NA

**Notes:**

**LAF means Limit of Available Funds**

**SL means Scheme Limits**

**NA means not authorised for any level of expenditure**

**TABLE 2 - Limitations applying to reference categories**

Reference Category	Limitation on Powers
AIC1	Power to grant AIC, <b>excluding</b> the following: <ul style="list-style-type: none"><li>• Determine who is the approved applicant in complex cases</li><li>• Approve organisations as applicants</li><li>• Determine isolation on grounds the student does not have reasonable access to an appropriate government school for at least 20 days of the school year because of adverse travel conditions or other circumstances beyond the family's control</li><li>• Determine isolation on grounds conditions in year of assistance</li><li>• Determine isolation on grounds that student needs to be removed from local school environment</li><li>• Determine isolation on grounds of serious educational disadvantage</li><li>• Approve complex Second Home Allowance cases</li><li>• Determine whose income is taken into account in complex Boarding Allowance cases</li></ul>
AIC2	Power to grant AIC (no exclusions)

## 2 Applicant Eligibility

### 2.1 Who can be the Applicant?

- 2.1.1 Who can apply for AIC?
- 2.1.2 Who can be an 'approved applicant'?
- 2.1.3 Who cannot be an 'approved applicant'?
- 2.1.4 Student lives with parent(s)
- 2.1.5 Student lives with one parent
- 2.1.6 Student lives with each parent separately
- 2.1.7 Matters to consider where there is a dispute over who should be the approved applicant
- 2.1.8 Only one Claim form per student may be accepted
- 2.1.9 New Claim form required when approved applicant changes
- 2.1.10 Applicant who is not a parent or parent's partner
- 2.1.11 Approved applicant for child who lives continuously in a special institution
- 2.1.12 Foster parent(s) as approved applicant
- 2.1.13 Organisations or institutions as approved applicants
- 2.1.14 Determining whether an organisation / institution has full responsibility for a student
- 2.1.15 Claim forms received from parent and from organisation / institution

#### Introduction

This chapter describes who can apply for assistance and the eligibility criteria he or she must meet in order for AIC to be payable in respect of a student.

#### 2.1.1 Who can apply for AIC?

A Claim form for AIC can be accepted from a person or organisation applying on behalf of a student, however, to be eligible for assistance the applicant must:

- be an approved applicant (see 2.1.2); and
- meet the eligibility criteria set out in 2.2; and
- not be in receipt of certain other Commonwealth assistance (see 2.3).

**Note: the eligibility conditions outlined in Chapters 3, 4 and 5 must also be met.**

#### 2.1.2 Who can be an 'approved applicant'?

The 'approved applicant' must be the person having prime (or joint) responsibility for the student's care and support, and:

- is a person having legal guardianship; or
- is a natural, adoptive, de facto or step parent of the student; or
- a person with whom the student normally lives (when not living away to attend school).

See 2.1.4 - 2.1.6 regarding which parent and (where applicable) their partner may be accepted as an approved applicant for students in different family situations.

Also see 2.1.10 where the applicant is not a parent or a parent's partner; 2.1.12 where the applicant is a foster parent; and 2.1.13 for the limited circumstances in which a Claim form can be accepted from an organisation or institution.

### **2.1.3 Who cannot be an ‘approved applicant’?**

The ‘approved applicant’ cannot be:

- the student; or
- the student’s partner (married or defacto), or
- a person who is in a prison, correctional centre (including detention, remand and training centres) or psychiatric institution.

**Note: Where the student is not in the care of a parent or the State and is over the minimum school leaving age, they should be assessed under the Youth Allowance.**

### **2.1.4 Student lives with parent(s)**

If a student normally lives with both parents who are not separated or divorced, either parent may be an approved applicant and either may apply for assistance.

However, where Claim forms are being lodged for more than one student in the family, the same parent must apply in respect of each student.

### **2.1.5 Student lives with one parent**

Where the student’s parents are separated or divorced and the student normally lives with one of them, the approved applicant is the parent with whom the student normally lives.

That is, where the student does not live with each parent separately (at different times) the student is automatically taken to be in the care of the parent with whom they normally live. In addition, the student is taken to be in the care of that parent’s partner where the student normally lives with the parent and the partner (regardless of the duration of the relationship). In such circumstances either the parent or partner can be the approved applicant.

However, where Claim forms are being lodged for more than one student in the care of the parent and partner, the same person must apply in respect of each student.

### **2.1.6 Student lives with each parent separately**

Where the student’s parents are separated or divorced and the student lives at different times with each parent, the following factors should be taken into account in determining who is the approved applicant:

- where one parent is officially recognised as having care of the student, for example through the grant of custody (see 1.2 Definitions) to that parent or through removal of custody from, or grant of a maintenance order against, the other parent, that parent is the ‘approved applicant’; or
- where there is no such legal recognition of who has care of the student, other evidence outlined in 2.1.7 should be considered in determining who is the ‘approved applicant’; or
- if neither parent has sole responsibility for care, the parent who has principal financial responsibility for the child is the ‘approved applicant’.

See 6.2.6 regarding the treatment of payments made in respect of the student by the parent who is not the approved applicant (ie maintenance).

### **2.1.7 Matters to consider where there is a dispute over who should be the approved applicant**

Where there is no legal recognition of who has care of the student, the following factors should be considered in determining who is the ‘approved applicant’:



- whether the student normally lives with the parent and has lived with the parent for the last twelve months;
- whether the student lives with the parent during vacations;
- who is responsible for the care of the student, eg providing food and shelter;
- who contributes regularly and significantly to the student's living and education costs (this should not be limited to boarding costs); and/or
- who receives a Family Tax Benefit, holds a Medicare card or receives other allowances in respect of the student.

In the very rare cases of parents sharing care of the student where the student spends an equal amount of time living with each parent and the turnaround of care of the student is frequent, ie on a weekly, fortnightly or monthly basis, the approved applicant can be either parent or a parent's partner where the student lives with the parent and the partner.

Where, however, the turnaround is on a longer term basis, (ie 3 - 6 monthly), it is more appropriate for the applicant to change (see 2.1.9) from the date the student moves from one parent's home to the other.

### **2.1.8 Only one Claim form per student may be accepted**

While there may be more than one approved applicant for a student, only one Claim form may be accepted in respect of a student for a particular period.

### **2.1.9 New Claim form required when approved applicant changes**

If the approved applicant changes for example because:

- the student's parents are separated or divorced, and the student moves from living with one parent to the other; or
- the original approved applicant dies (see 2.5), a new Claim form will need to be lodged.

This new Claim form is required for accountability purposes, that is, the applicant is required to sign the form to take responsibility for the accuracy of the information provided and any overpayment that may arise (see 1.4.1).

**Note: if the student's principal family home changes eligibility will need to be reassessed with regard to the new address (see Part 4).**

### **2.1.10 Applicant who is not a parent or parent's partner**

If a Claim form is lodged by a person other than a parent or parent's partner, the case will be considered on its merits. Included with the Claim form should be a letter by the applicant, that has been sighted and certified by an appropriate person. A list of persons and professions is at **Attachment B**.

The letter should attempt to substantiate the following:

- the person has prime (or joint) responsibility for the student's care; and
- the person supports the student wholly or substantially; and
- the arrangement is bona fide, ie it is not a bogus arrangement to avoid assessment on the basis of the income of the student's natural or adoptive parent or their partner.

A student is not "wholly or substantially dependent" on another person if the parent (or parent's partner) is:

- supporting the student in the other person's home; or
- providing financial assistance, directly or indirectly, to that person in respect of the student.

Also see 2.1.12 where a foster parent can be an approved applicant and 2.1.13 for the limited circumstances in which an organisation or institution can be an approved applicant.

### **2.1.11 Approved applicant for child who lives continuously in a special institution**

Where a student has a disability or other health-related condition for which he or she needs to board continuously in a special institution (see 4.4.2), the principles outlined above still apply with regard to the person with whom the student would normally live, but for the need to board.

### **2.1.12 Foster parent(s) as approved applicant**

If a student has been placed in the care of a foster parent by welfare authorities that person is an approved applicant for the purposes of AIC. In such cases the student's 'principal family home' is that of the foster parent. To be eligible for assistance the foster parent's principal home must therefore meet one of the isolation conditions set out in Part 4.

Where a claim for the Boarding Allowance includes the Additional Boarding Allowance component, the entitlement for the student is dependent on whether the foster parent receives a foster care allowance (see 5.2.6 for details).

### **2.1.13 Organisations or institutions as approved applicants**

In order to be an approved applicant the organisation/institution must be a **non-government** organisation/institution, not in receipt of a foster care allowance (or other similar allowance intended for the upkeep or personal use of the student) with full responsibility for the upkeep of the student (see 2.1.14). The organisation/institution can be eligible for assistance only where:

- the student boards with the organisation/institution during school term and the student meets a geographic isolation rule with regard to access to an appropriate school from the home address of their parent;
- the student normally lives (but for the need to board away to access schooling) with the organisation/institution, including during school vacations, and the student meets a geographic isolation rule with regard to access to an appropriate school from the street address of the organisation/institution; or
- the organisation/institution is a special institution (or operates a special institution) at which the student is a full-time resident because of the nature and extent of a disability or other health-related condition (see 4.4.2).

In such cases the Claim form must be signed by the chief officer (or other officer with the power to act on behalf of the organisation/institution for example the principal, manager, executive officer or director). By signing the Claim form the officer accepts, on behalf of the organisation/institution, obligations as set out in 1.4.1 (including responsibility for any overpayment that may arise in respect of the claim).

Where an organisation/institution is accepted as an 'approved applicant' the income-test for Additional Boarding Allowance may be waived (see 6.1.1).

**Note: Where a student lives with an organisation or in an institution with their parent(s), the parent is the approved applicant and the organisation/institution's premises are considered the student's home.**

### **2.1.14 Determining whether an organisation / institution has full responsibility for a student**

An organisation or institution can be approved as an applicant only where it is clear that the organisation or institution provides care for the student without any contribution from a parent.

If the student has been formally placed in the care of the organisation or institution by a State/Territory authority or the court, the organisation may be accepted as the approved applicant. However, if the applicant is receiving a foster care allowance (or similar allowance intended for the upkeep of the student) for a student in full-time residential care, even the Basic Boarding Allowance is not payable as it would duplicate the State/Territory allowance (see 5.2.3).

For other cases it must be clearly demonstrated by the organisation/institution that the parent(s) are not involved in making decisions regarding care of the student, do not provide financial support for the student, and either:

- unsuccessful attempts have been made to locate the parent(s); or
- the parent(s) have been asked to complete a Claim form for the student but have been unwilling to do so (that is, have refused to accept responsibility for supporting the student).

See 2.1.15 regarding situations where Claim forms are received from a parent and from an organisation/institution.

**Note: It is recognised that some parents require considerable help to fill in the Claim form. However, where a parent makes decisions regarding the students care (for example, choosing to enrol them in a particular organisation/institution) and/or contributes to the student's upkeep (even if this is only to the extent of AIC entitlement) they should be the person to apply for assistance (ie the applicant).**

### **2.1.15 Claim forms received from parent and from organisation / institution**

In the event that a Claim form is received both from a parent and from an organisation/institution that claims to have full responsibility for the upkeep of the same student:

- if AIC payments are waived to the organisation/institution where the student normally lives, then the parent should be accepted as the approved applicant. That is, if the parent waives the AIC allowance to the organisation/institution, this is an indication that the parent is contributing to the student's financial upkeep (see 2.1.14); or
- if AIC payments are not waived to the organisation/institution, the parent should be asked to comment on the claim that they do not provide support (particularly financial) for the student. If the parent cannot demonstrate that they provide financial support for the student consideration may be given to accepting the organisation/institution as the approved applicant (see 2.1.13 and 2.1.14).

## **2.2 Residence Requirements for Approved Applicants**

- 2.2.1 Citizenship or permanent residency
- 2.2.2 New Zealand citizens
- 2.2.3 What is meant by ‘settled permanently’
- 2.2.4 Indicators that applicant is not ‘permanently settled’
- 2.2.5 Applicant must normally live in Australia

### **2.2.1 Citizenship or permanent residency**

To be eligible for assistance an ‘approved applicant’ for AIC must normally live in Australia (see 2.2.5) and be:

- an Australian citizen; or
- a New Zealand citizen who meets the rule set out in 2.2.2; or
- an Australian permanent resident within the meaning of regulation 1.03 of the Migration Regulations 1994; and
- where the ‘approved applicant’ is not an Australian citizen, evidence must be provided to support the claim of permanent residency or settlement.

### **2.2.2 New Zealand citizens**

An applicant who is a New Zealand citizen can be eligible for AIC if he or she is ‘settled permanently’ (see 2.2.3) in Australia and he or she has lived:

- continuously in Australia for 6 months or more; or
- in Australia for the past 12 months with no more than two months absence in that period; or
- in Australia for the past 12 months with more than two months absence but can demonstrate continuity of residence in Australia in that period.

### **2.2.3 What is meant by ‘settled permanently’**

‘Settled permanently’ means a bona fide intention to remain settled permanently in Australia. In deciding, for the purposes of AIC, whether or not a person is settled permanently in Australia, the following should be considered:

- the nature of the accommodation used by the person in Australia;
- the nature and extent of the family relationships the person has in Australia;
- the nature and extent of the person’s employment, business or financial ties with Australia;
- the nature and extent of the person’s assets located in Australia;
- the frequency and duration of the person’s travel outside Australia; and
- any other matter relevant to determining whether the person intends to remain permanently in Australia.

### **2.2.4 Indicators that applicant is not ‘permanently settled’**

The applicant should not normally be considered ‘settled permanently’ in Australia if they have a partner or dependent children living in New Zealand.

Such an applicant can be considered ‘settled permanently’ in Australia if he or she can show that the family will be moving to Australia shortly or, alternatively, the applicant is permanently estranged from the former partner or children.

### **2.2.5 Applicant must normally live in Australia**

The applicant should be living in Australia during the school year for which benefits are sought. However, an applicant living overseas is not disqualified from receiving benefits for an eligible student who is studying in Australia, provided:

- the applicant is an Australian citizen or permanent resident of Australia as defined in 2.2.1;
- he or she normally lives full-time in Australia; and
- there is evidence their absence is temporary (for example, for work or holiday purposes) and that they will be returning to Australia within two years.

It should be noted however, that the principal family home must be in Australia (see 4.1.3) and must continue to meet an isolation condition (where applicable).

## **2.3 Other Commonwealth Assistance**

- 2.3.1 Effect of other Commonwealth assistance on eligibility
- 2.3.2 Other Commonwealth assistance that does not affect eligibility
- 2.3.3 Other Commonwealth assistance affecting level of entitlement
- 2.3.4 Other Commonwealth assistance resulting in loss of eligibility

### **2.3.1 Effect of other Commonwealth assistance on eligibility**

Where an applicant or an applicant's partner receives other Commonwealth assistance it may impact on:

- eligibility for certain AIC allowances (see 2.3.4); or
- the rate of assistance payable (see 2.3.3).

See 3.5 regarding the effect of other Commonwealth assistance received by (or on behalf of) the student.

### **2.3.2 Other Commonwealth assistance that does not affect eligibility**

AIC eligibility and entitlement is not affected where the applicant or their partner receives social security Family Tax Benefit, Carer Allowance or Double Orphan Pension for the student (or any other dependent).

### **2.3.3 Other Commonwealth assistance affecting level of entitlement**

Where the applicant or partner receives an income tested Commonwealth pension, payment, benefit or allowance the parental income test may be waived for the purposes of calculating the rate of Additional Boarding Allowance payable (see 6.4).

**Note: where an applicant is a foster carer applying on behalf of a student in an official foster care arrangement, they may qualify for Additional Boarding Allowance only where they are not in receipt of a foster care allowance (or other similar allowance) from a State/Territory government authority (see 5.2.6).**

### **2.3.4 Other Commonwealth assistance resulting in loss of eligibility**

No person can receive more than one form of Commonwealth assistance for the same purpose.

As a result, where the applicant or their partner is receiving other Commonwealth education or training assistance on behalf of the student AIC is not payable (see 3.5).

In addition, eligibility for certain AIC allowances may be affected where an applicant or partner receives other Commonwealth assistance. For example, Second Home Allowance is not payable in respect of a home for which social security Rent Assistance is received (see 5.3.3).

## 2.4 When must the claim form be lodged?

- 2.4.1 Lodgement of Claim form
- 2.4.2 Late lodgement concession

### 2.4.1 Lodgement of Claim form

Generally a Claim form or an End of Year (EoY) Review form lodged up to 31 March of the year of study will, subject to eligibility, be paid from 1 January of that year (see 1.3.7 for Claim form closing date). In the absence of a registered intent where a Claim form or EoY Review form is lodged after 31 March the appropriate allowance is normally payable only from the day the Claim form or EoY Review form was received.

In the absence of a registered intent to claim (described below), where the Claim form is for a short-term boarder it must normally be received no later than two calendar months after the last day of the boarding period.

An intent to claim (or reclaim) AIC can be registered by the applicant contacting Centrelink by phone, in person, by post or fax. For the date of that contact to be accepted as the date of the claim (to determine the date payments commence, including whether any backpayment can be made), the AIC Claim form or EoY Review form must be lodged at a Centrelink office within 13 weeks. This means, for example, that if the intent to claim is registered by 31 March, the Claim form is then lodged within 13 weeks of that date of contact or 31 March (whichever is the later), an eligible applicant can be backpaid AIC to 1 January.

See 2.4.2 regarding a concession.

### 2.4.2 Late lodgement concession

A late lodgement concession may be granted with payment made retrospectively to the commencement of eligibility (see 3.7) where an intent to claim has not been registered by Centrelink and a Claim form or an End of Year (EoY) Review form is received after the 31 March closing date (see 2.4.1) because of circumstances beyond the applicant's control. Because AIC is a relatively small scheme catering for disparate groups of students, the late lodgement concession should be applied sympathetically. In some circumstances it would be reasonable to apply the concession without the applicant lodging a formal request.

In particular, the concession should be applied readily if:

- a Youth Allowance or ABSTUDY Claim form was lodged in respect of the student by 31 March and the family subsequently lodges an AIC Claim form; or
- the applicant claims that the family was not aware of the scheme and this claim seems reasonable in the circumstances.

Likewise, a late lodgement concession may be granted with payment made retrospectively to the commencement of eligibility (see 3.7.1) where an intent to claim for a short-term boarder has not been registered and the Claim form is received after the applicable closing date (see 2.4.1) because of circumstances beyond the applicant's control.

**Note: where an intent to claim has not been registered by 31 December, the AIC Claim form must be received by 31 December of the year for which assistance is sought. If an intent to claim AIC has been registered by Centrelink by 31 December, the Claim form must be received within 13 weeks of that date of contact or 31 December, whichever is the later (see 1.3.7).**

## **2.5 Death of Approved Applicant**

- 2.5.1 Where there is more than one ‘approved applicant’
- 2.5.2 Where there is only one ‘approved applicant’
- 2.5.3 Payments due in the event of the applicant’s death

### **2.5.1 Where there is more than one ‘approved applicant’**

Where there is more than one possible ‘approved applicant’ with whom the student lives (eg both parents) and the one who applied for benefits dies, the other automatically becomes the person entitled to receive any remaining entitlements for the year (see 2.1.9 regarding the need for a new form).

### **2.5.2 Where there is only one ‘approved applicant’**

If there is only one approved applicant with whom the student lives (for example, a single parent) and that applicant dies, the question of continuing eligibility for the student and the ongoing payment of benefits for the remainder of the year should be examined in the light of who now has responsibility for the student and what now constitutes the ‘principal family home’. Also see 4.4.6 regarding continuity.

### **2.5.3 Payments due in the event of the applicant’s death**

If, in the circumstances described in 2.5.2, the applicant dies after receiving a term instalment in advance, that instalment stands as the correct payment for the term. No attempt should be made to recover any part of the payment from the applicant’s estate. Also see 4.4.6 regarding continuity.

Any entitlement due to a person who may assume responsibility for the student after the applicant’s death commences at the beginning of the following term.

If, in the circumstances described in 2.5.2, the applicant dies after receiving a fortnightly in arrears payment then the payment made immediately after (that is, up to 14 days following) the applicant's death stands as the correct payment due to that applicant.

Any entitlement due to a person who may assume responsibility for the student after the applicant’s death commences at the beginning of the pay period immediately following the original applicant’s death.



## **3 Student Eligibility**

### **3.1 Summary of Student Eligibility Conditions**

- 3.1.1 Overview of student eligibility conditions

#### **3.1.1 Overview of student eligibility conditions**

For AIC to be payable in respect of a student he or she must comply with the following general eligibility conditions:

- be an Australian citizen or a permanent resident of Australia who lives in Australia during the school year (see 3.2);
- meet the age criteria (see 3.3);
- be undertaking approved studies (see 3.4);
- not be in receipt of certain other Commonwealth assistance (see 3.5); and
- not be in a custodial institution or certain State authorised care situations (see 3.6).

In addition the student must meet one of the isolation conditions set out in Chapter 4 and qualify for an allowance as set out in Part 5.

Rules associated with the period of eligibility for a student are set down in 3.7.

## **3.2 Citizenship or Residency**

- 3.2.1 Citizenship or residency
- 3.2.2 New Zealand citizens
- 3.2.3 What is meant by ‘settled permanently’
- 3.2.4 Student must live in Australia during the period of study

### **3.2.1 Citizenship or residency**

To be eligible for assistance a student must live in Australia (see 2.2.1) during the period of study and be:

- an Australian citizen; or
- a New Zealand citizen who meets the rule set out in 3.2.2; or
- an Australian permanent resident within the meaning of regulation 1.03 of the Migration Regulations 1994.

Where the student is not an Australian citizen, evidence must be provided to support the claim of permanent residency or settlement.

### **3.2.2 New Zealand Citizens**

A student who is a New Zealand citizen can be eligible for AIC if he or she is ‘settled permanently’ (see 3.2.3) in Australia and he or she has lived:

- continuously in Australia for 6 months or more; or
- in Australia for the past 12 months with no more than two months absence in that period; or
- in Australia for the past 12 months with more than two months absence but can demonstrate continuity of residence in Australia in that period.

### **3.2.3 What is meant by ‘settled permanently’**

‘Settled permanently’ means a bona fide intention to remain settled permanently in Australia. In deciding, for the purposes of AIC, whether or not a person is settled permanently in Australia, the following should be considered:

- the nature of the accommodation used by the person in Australia; and
- the nature and extent of the family relationships the person has in Australia; and
- the frequency and duration of the person’s travel outside Australia; and
- any other matter relevant to determining whether the person intends to remain permanently in Australia.

### **3.2.4 Student must live in Australia during the period of study**

To be eligible for assistance the student must be living in Australia (see 2.2.1) during the period of study.

That is, AIC should not be paid in respect of a student who is living and / or studying overseas (see 3.4.3).

### **3.3 Age Limits**

- 3.3.1 Age limits
- 3.3.2 Minimum age
- 3.3.3 Age limit for pensioner students
- 3.3.4 Extension to age limit
- 3.3.5 Students aged 16 years or over

#### **3.3.1 Age limits**

Generally AIC can only be paid in respect of students who:

- have reached the minimum primary school entry age (see 3.3.2); and
- are primary, secondary or ungraded level students (see 3.4.5) under 19 years of age on 1 January of the year of study; or
- are tertiary level students (see 3.4.5) and under 16 years of age.

A concession to the minimum age rule exists for students with a disability or other health-related condition (see 3.3.2).

Concessions to the maximum age rules exist for certain pensioners studying at primary or equivalent ungraded level (see 3.3.3) and where a student's progress through school has been delayed by special circumstances (see 3.3.4).

#### **3.3.2 Minimum age**

Students are normally eligible for AIC only if they have reached the minimum primary school entry age for the State or Territory in which they will be attending school.

The first or early years of primary schooling may go under various names in different States, for example, Reception, Kindergarten, Prep, Juniors. AIC is not payable for preschool children, that is, those attending institutions outside the mainstream primary system and known variously as preschools, creches, child care centres, and in some States, kindergartens.

If the student is not yet 5 years old, the assessor must be satisfied that the student attends a primary rather than a preschool .

However, a child may be eligible for an allowance from the age of 3 years and 6 months if he or she has a disability or other health-related condition that requires him or her to live away from the principal family home (see 4.3).

#### **Example 1**

Mrs Jones applies for Distance Education Allowance for her son who is nearly 5, and his sister aged 6. Although her son is sitting in on his sister's lessons, AIC should not be approved for him until he turns 5, the legal primary school entry age in his State.

#### **Example 2**

Sally is four and attends a preschool in the town where her parents have established a second home. Although AIC Second Home Allowance is payable for her two older brothers, it is not payable in respect of Sally until she commences primary school.

#### **Example 3**

Chad, nearly four, is profoundly deaf. On specialist medical advice he boards during week days at a centre providing intensive therapy. AIC may be approved.

### 3.3.3 Age limit for pensioner students

A student who receives a Disability Support Pension or Parenting Payment (single) and is studying full-time at primary or equivalent ungraded level (see 3.4.5) may receive the Pensioner Education Supplement (PES) under AIC until they turn 21 (see 5.5).

**Note: Students receiving a Disability Support Pension or Parenting Payment (single) who are aged 16 and over and studying at secondary (or equivalent) level (see 3.4.5) may apply for Austudy payment, Youth Allowance or ABSTUDY as appropriate.**

### 3.3.4 Extension to age limit

The maximum age limit for primary, secondary and ungraded level students specified in 3.3.1 may be extended by one year (ie the student must be under 20 years of age at 1 January in the year of study) if the student's progress through school has been delayed by special circumstances.

Examples of special circumstances include:

- illness;
- English language difficulties;
- transfer from a different education system; or
- periods of employment or training.

Any special circumstances that have delayed a student's progress should be considered sympathetically. A table depicting primary and secondary school structure by State and Territory indicates progressions of students through different systems, at **Attachment A**.

### 3.3.5 Students aged 16 years or over

Secondary and tertiary students may be eligible for, Youth Allowance (or ABSTUDY) from age 16 (see 3.5.5).

## 3.4 Approved Studies

- 3.4.1 Approved studies
- 3.4.2 Full-time workload
- 3.4.3 Approved institution
- 3.4.4 Approved course
- 3.4.5 Approved level of study
- 3.4.6 Previous studies

### 3.4.1 Approved studies

To be eligible for assistance a student must be enrolled in and undertaking a full-time workload (see 3.4.2) at an approved level of study (see 3.4.5) in an approved course (see 3.4.4) offered by an approved institution (see 3.4.3).

### 3.4.2 Full-time workload

A full-time workload is the amount of work the school or institution regards as a full-time amount for the student. This includes where a school allows a student with a disability or other health-related condition to carry a workload that is less than that undertaken by other students at the same level (see Example 2 under 4.3.8).

### 3.4.3 Approved institution

For the purposes of 3.4.1 an ‘approved institution’ is an institution in Australia **excluding Norfolk Island**, that is:

- **Institution type (a):** a government school, including a distance education centre; or
- **Institution type (b):** a non-government school that is not conducted for profit. The school must be recognised by the Minister responsible for education in the relevant State/Territory. This recognition may take the form of registration or certification, the payment of government capital or recurrent grants to the school, or the payment of State/Territory government allowances or bursaries to its students; or
- **Institution type (c):** a technical and further education institution or higher education institution (as defined in “the *Act*” ); or
- **Institution type (d):** a government residential institution or non-residential special school that caters for children with disabilities or psychological, emotional or behavioural problems; or
- **Institution type (e):** a non-government residential institution or non-residential special school that caters for children with disabilities or psychological, emotional or behavioural problems, provided that it is accredited for such purposes by Commonwealth or State/Territory health and/or education authorities; or
- **Institution type (f):** a non-government (private) tertiary institution that offers a course accredited by the relevant State/Territory government authority, and meets the requirements of the determination of courses approved by the Minister under Section 5D of “the *Act*”.

Students undertaking a course described in 3.4.4(e) may be deemed to be enrolled in an approved institution.

### 3.4.4 Approved course

For the purposes of 3.4.1, an approved course is:

- a full-time primary or secondary level course (see 3.4.5) involving daily attendance at an approved institution (see 3.4.3);

- b. a full-time primary or secondary level (see 3.4.5) distance education course offered by an approved institution of the type at 3.4.3 (a), or of the type at 3.4.3 (b), provided that the course is accepted by the relevant State/Territory education authorities as a satisfactory alternative to full-time daily attendance at school;
- c. a full-time primary or secondary level course of home tuition that has been approved formally by the relevant State/Territory education authority as being a satisfactory alternative to a State provided education;
- d. any other full-time secondary course at an approved institution (see 3.4.3), that is recognised under the Determination of Educational Institutions and Courses made by the Minister under section 3(1) and 5D(1) of “the *Act*”;
- e. a full-time tertiary course offered by an approved institution (see 3.4.3 (c) or (f)), that is recognised under the Determination of Educational Institutions and Courses made by the Minister under section 3(1) and 5D(1) of “the *Act*”, in the case of a student at an approved institution specified in 3.4.3 (d) or (e), any form of approved full-time study below tertiary level (including ungraded studies).

### **3.4.5 Approved level of study**

For the purposes of 3.4.1, an approved level of study is primary, secondary, tertiary or ungraded as defined below:

- primary level study is study in an approved course at a level that is recognised by the State/Territory education authorities as primary level;
- secondary level study is study in an approved course of the type at 3.4.4 (d) or in an approved course that is recognised by the State or Territory education authorities as secondary level;
- tertiary level study is study in an approved course of the type at 3.4.4 (e) or in an approved course that is recognised by the authority responsible for the accreditation of higher education courses or the authority responsible for the accreditation of vocational education and training courses in the State or Territory in which the course is conducted; and
- ungraded level study is study in an approved course at an institution described in 3.4.3(d) or 3.4.3(e) that is recognised as ungraded (including ‘living skills’) by the State/Territory education or health authorities.

Students undertaking concurrent study at both a senior secondary institution and an accredited TAFE institution are considered to be secondary students for AIC (under Youth Allowance such students may be considered to be ‘tertiary’ students).

Preschool students are generally not eligible for AIC. A concession is available for students with a disability or other health related condition who are required to live away from home because of their condition (see 3.3.2).

### **3.4.6 Previous studies**

Previous study at primary, secondary or tertiary (including TAFE) level does not effect eligibility for AIC in respect of a student.

### **3.5 Other Commonwealth Assistance**

- 3.5.1 Commonwealth education or training assistance
- 3.5.2 Disability Support Pension or Parenting Payment (single)
- 3.5.3 Other Commonwealth payments for families
- 3.5.4 Choice between AIC and Youth Allowance or ABSTUDY
- 3.5.5 Other education or training assistance

#### **3.5.1 Commonwealth education or training assistance**

AIC is not payable in respect of a student if they are receiving (or another person (eg a parent), is receiving on their behalf) other Commonwealth education or training assistance including (but not limited to):

- Youth Allowance;
- ABSTUDY;
- New Apprenticeships;
- Rehabilitation Training Scheme Awards;
- Veterans' Children Education Scheme (VCES).

#### **3.5.2 Disability Support Pension or Parenting Payment (single)**

Where the student is in receipt of a social security Disability Support Pension or Parenting Payment (single) the applicant is eligible for the Pensioner Education Supplement (PES) under AIC if the student:

- is undertaking full-time schooling at primary (or equivalent ungraded) level; and
- has not yet turned 21 years of age.

The benefits available for such students are described in 5.5.

#### **3.5.3 Other Commonwealth payments for families**

A family receiving AIC (except the PES) for a student may also receive certain social security payments such as:

- Family Tax Benefit;
- Carer Allowance; and
- Double Orphan Pension;

in respect of the same student.

**Note: This is not the case for students receiving Youth Allowance.**

#### **3.5.4 Choice between AIC and Youth Allowance or ABSTUDY**

Secondary students 16 years of age or over may be eligible for Youth Allowance. Also, certain Indigenous primary and secondary students may be eligible for ABSTUDY.

Students and their families may choose to receive Youth Allowance, ABSTUDY or AIC, but cannot receive more than one of these payments concurrently for the same student.

Families should choose the scheme that best meets their needs. It should be noted however, that the family of a secondary student 16 - 17 may receive AIC and the Social Security Family Tax Benefit in respect of the same student. In addition, certain State and Territory governments also provide assistance to isolated students that is tied to eligibility for AIC.

Tertiary students are not eligible for AIC from age 16 and may apply for Youth Allowance or ABSTUDY.

### **3.5.5 Other education or training assistance**

Assistance provided by other sources other than Commonwealth education or training assistance does not affect AIC eligibility for example State and Territory education and training assistance.



### **3.6 Students in Lawful Custody or State Authorised Care**

- 3.6.1 Students in lawful custody
- 3.6.2 Students in State authorised care
- 3.6.3 Eligibility for students in State authorised care

#### **3.6.1 Students in lawful custody**

AIC is not payable in respect of a student who is in a custodial institution such as a prison, remand centre or training school for the period of their committal.

#### **3.6.2 Students in State authorised care**

Students are considered to be in State authorised care if they have been placed in substitute care through a State/Territory welfare authority or through legal process.

#### **3.6.3 Eligibility for students in State authorised care**

AIC is **not** payable in respect of a student who is in State authorised care and whose permanent accommodation is financed wholly or substantially by a State or Territory government.

However, AIC may be payable in respect of a student in State authorised care arrangements such as in the care of a foster parent (see 2.1.12).

See 2.1.13 regarding the approved applicant where a student has been placed in foster care by the State/Territory welfare authorities with an organisation/institution, and 5.2.6 regarding the applicable level of Boarding Allowance entitlement in such circumstances.

### **3.7 Period of Eligibility**

- 3.7.1 Short-term boarders
- 3.7.2 Eligibility commences on 1 January
- 3.7.3 Eligibility commences after 1 January
- 3.7.4 Concession for late start
- 3.7.5 Eligibility for any vacation during the year
- 3.7.6 Allowance type changes
- 3.7.7 Cessation of eligibility
- 3.7.8 Term in advance payments
- 3.7.9 End of school year
- 3.7.10 Discontinuation date for students studying by distance education methods

#### **3.7.1 Short-term boarders**

Short-term boarders are students who need access to (including short-term accommodation at or near) a school, special programme, special facilities or a special environment for one or a series of short periods.

Provided all other eligibility criteria are met, these students are eligible from the date on which they commence boarding until the date on which they cease to board.

#### **3.7.2 Eligibility commences on 1 January**

Except in the case of short-term boarders (see 3.7.1) eligibility in respect of a student will normally commence on 1 January, provided that:

- (subject to 3.7.4) the student commences the approved course on time, ie no later than the 14th day from the commencement of the school year; and
- (for students living away from home) the student commences living at the boarding accommodation or second home location on time, ie no later than fourteen days after the commencement of the school year; and
- all other necessary AIC eligibility conditions are met on that date. (see 1.1.3).

#### **3.7.3 Eligibility commences after 1 January**

Except in the case of short-term boarders (see 3.7.1), eligibility for students who are not eligible from 1 January commences on:

- the first day of the relevant term/semester, if the student is otherwise eligible on this date and commences the approved course by no later than the 14th day after the commencement of the relevant term/semester (subject to 3.7.4); or
- where this is not the case and no extenuating circumstances exist the latter of:
  - the first day the student commences living away from home (if the student is boarding away or living in a second home to access schooling); or
  - the first day the student commences studying; or
  - the first day the student otherwise becomes eligible for AIC.

#### **3.7.4 Concession for late start**

Eligibility in respect of a student who starts studying and/or living away late (as defined in 3.7.2 and 3.7.3), may be backdated to 1 January or the beginning of the relevant term (as applicable), if the student:

- was prevented from commencing or resuming study and/or living away from home on time due to illness or other circumstances beyond the family's control (eg impassable roads); and

- started studying and/or living away from home as soon as possible after those circumstances ceased to exist.

### **3.7.5 Eligibility for any vacation during the year**

Except in the case of short-term boarders (see 3.7.1), once eligibility for a student has commenced, the eligibility for any vacation during the year is determined as follows:

- if the student resumes study on time, ie by no later than the 14th day from the commencement of the following term, or was prevented from doing so due to circumstances beyond the family's control, the student is eligible to receive benefits for the vacation period; or
- if the student resumes study late, ie after the 14th day from the commencement of the following term, (due to circumstances within the family's control) the student is not eligible for the vacation period.

### **3.7.6 Allowance type changes**

Where the student resumes study on time but the allowance type for which the student qualifies has changed, the allowance type payable on resumption of studies is payable for the vacation period.

### **3.7.7 Cessation of eligibility**

Except in the case of short-term boarders (see 3.7.1), the date on which eligibility ceases is determined as follows:

- if the student continues to the end of the school year (see 3.7.9) - 31 December; or
- if the student discontinues on a day before the end of the final term - on that day (see 3.7.10 regarding distance education students).

### **3.7.8 Term in advance payments**

If a student for whom payment is made in advance by term instalments (see 5.1.6), discontinues on the last day of a term other than the final term, and that day precedes the end of the corresponding instalment period, the student's entitlement does not terminate until the end of the instalment period (see 5.1.9 and 5.1.10).

#### **Example**

*Harold discontinues at his boarding school in Victoria on the last day of third term on 18 September. He is entitled to benefits until 30 September.*

### **3.7.9 End of school year**

The end of the school year for a student who is not studying at home by distance education methods is taken to be the last day of compulsory attendance at the institution or the day of the student's last exam, whichever is the later (see 5.2.12 for part-time boarders).

For students studying by distance education methods at home, the end of the school year is taken to be the last day of the final term of the course. The student is regarded as continuing to the end of the final term unless the distance education institution indicates that the student has discontinued before that date.

### **3.7.10 Discontinuation date for students studying by distance education methods**

To determine the discontinuation date for students studying by distance education methods, the following guidelines should be followed:

- at each enrolment/attendance check, the institution should be asked to indicate whether the student has returned assignments at a satisfactory (full-time) rate, ie as a guide, whether the student has returned at least 75% of the assignments that they should have returned. Where the institution indicates that a student's return rate fell below this level with effect from a particular date, they are regarded as having discontinued on that date; and
- if the institution indicates that a student has fallen below the full-time (see 3.4.2) level in a term but cannot specify a precise date, the discontinuation date should be determined as the best possible approximation of the student's last day of full-time study. This should be no later than the end of that term. All reasonable attempts should be made to identify a specific date on which the student ceased full-time study.

## **3.8 Death of Student**

- **3.8.1 Payments in the event of the student's death**

### **3.8.1 Payments in the event of the student's death**

If an eligible student dies before a payment has been made, the entitlement should be calculated in accordance with the provisions of 3.7 to the date of the student's death.

If an applicant has received an advance payment for a period (eg a term instalment) in respect of a student who subsequently dies, that instalment stands as the correct payment for the term.

No attempt should be made to recover any part of the payment from the applicant.

If an applicant has received a fortnight in arrears payment in respect of a student who subsequently dies then the fortnightly in arrears payment made fourteen days following the student's death stands as the correct payment due to the applicant.

## **4 Isolation Conditions**

### **4.1 Isolation Conditions - Summary and Definitions**

- 4.1.1 Introduction to isolation conditions
- 4.1.2 Reasonable daily access
- 4.1.3 Principal family home
- 4.1.4 Appropriate government school
- 4.1.5 Nearest appropriate government school
- 4.1.6 Nearest appropriate government school - several schools within 56 kilometres
- 4.1.7 Nearest appropriate government school - tertiary student
- 4.1.8 Nearest appropriate government school - principal family home near border
- 4.1.9 Limited school program
- 4.1.10 Aboriginal or Torres Strait Islander schools
- 4.1.11 Geographically isolated from school attended

#### **4.1.1 Introduction to isolation conditions**

AIC is available to the families of students who do not have reasonable daily access to an appropriate government school. Unless otherwise indicated, all distances in Part 4 are calculated by reference to generally accepted travel routes. Accepted routes are those approved by such bodies as a school transport authority, local/national road authority, shire council and bus contractors.

#### **4.1.2 Reasonable daily access**

Reasonable daily access is normally determined by the distance and travel circumstances between the principal family home and the nearest appropriate government school. The guidelines under which a student's home may be regarded as geographically isolated from a school are described in 4.2. In certain circumstances a student may also be regarded as not having reasonable daily access to school without meeting a geographic isolation rule (see 4.4).

#### **4.1.3 Principal family home**

The principal family home is the usual place of residence of the family. It is the home where the student normally lives or would normally live but for the need to live away to attend school. It is the home where the student would normally live during school holidays.

The residence must be:

- in Australia or one of its external territories (including Christmas Island, Norfolk Island and Cocos (Keeling) Islands);
- the principal residence of the approved applicant. The principal residence may be a home currently occupied by the applicant in the course of that person's employment, although note the additional conditions (for Second Home Allowance) outlined in 5.3.4 - 5.3.7; and
- able to accommodate the student and immediate family members.

#### **4.1.4 Appropriate government school**

An appropriate government school is one which offers tuition at the student's level, that is the year or grade for which the student is qualified to enrol (see 4.1.9). If a student has a disability or other health-related condition or a special education need that requires a special school programme, special facilities and/or a special environment, an appropriate government school may be regarded as a government school that has or can provide access to the special programme, facilities and/or environment required for the student (see 4.3).

#### **4.1.5 Nearest appropriate government school**

The nearest appropriate government school is normally the appropriate government school which is the shortest distance from the principal family home by accepted travel routes. See 4.1.6 - 4.1.8 for exceptional definitions of nearest appropriate government school.

#### **4.1.6 Nearest appropriate government school - several schools within 56 kilometres**

Where there is more than one appropriate government school within 56 kilometres of the principal family home, the nearest appropriate government school is the school with the nearest available transport service (see 4.2.5).

#### **Example**

Bruce's family home is a property on the plains below a mountain range. The nearest school is in a town in the mountains (School A), 30 kilometres from Bruce's home. The nearest transport service to School A is 20 kilometres away. Students in the plains area normally go to the school in a town on the plains (School B), 40 kilometres away. The nearest bus service to School B is 3 kilometres from Bruce's home. Although Bruce lives closer to School A, the nearest appropriate government school for AIC purposes is School B. Therefore Bruce is not geographically isolated from School B under the requirements of Rule 2 (see 4.2.1).

#### **4.1.7 Nearest appropriate government school - tertiary student**

The nearest appropriate government school for a tertiary student is the nearest government school that offers the year or grade of secondary schooling that would be appropriate for the student, if they had continued to study at a secondary school.

#### **4.1.8 Nearest appropriate government school - principal family home near border**

Where the principal family home is near the border of an adjacent State/Territory:

- and the student attends a school in the home State/Territory, the nearest appropriate school is regarded as the school meeting the definition set out in 4.1.5 in the same State/Territory as the principal family home (even if there is a closer school in the adjacent State/Territory); or
- the student attends a school in another State/Territory, the nearest appropriate school is regarded as the school meeting the definition set out in 4.1.5 in either the home State/Territory or the adjacent State/Territory.

#### **4.1.9 Limited school program**

Centrelink relies on the advice of the education authorities in each State/Territory to determine whether a year or grade is offered at a particular school. Each year Centrelink will seek from each State and Territory education authority lists of those secondary schools that:

- do not offer a full range of years or grades; or
- do not provide adequate facilities or programmes to enable a student to gain a Year 12 certificate or tertiary entrance score; or
- are specifically geared to Aboriginal and Torres Strait Islander students (see 4.1.10).

A secondary school which is listed as a limited programme school by the State/Territory education authority is not an appropriate government school for a student who is able to enrol at a level that is not available at that school.

A secondary school that is not listed as a limited programme school by the State/Territory education authority will, subject to the provisions of 4.3, be regarded as an appropriate government school, irrespective of any claims about the adequacy of that school (see 4.3.13).

#### **4.1.10 Aboriginal or Torres Strait Islander schools**

A school in which the syllabus and teaching arrangements are specifically geared to cater for the needs of Aboriginal or Torres Strait Islander students is not regarded as an appropriate government school for the purposes of 4.1.4.

#### **4.1.11 Geographically isolated from school attended**

If a student attends a non-government school, then the principal family home must also be geographically isolated from the school actually attended. The exception to this guideline is a student who lives full-time at a special institution which specifically caters for his or her disability or other health-related condition (see 4.4.2).

#### **Example**

Lisa's family home is geographically isolated from the nearest government high school, but she boards at a non-government school that is not geographically isolated from the family home. AIC is not payable as Lisa's home is not geographically isolated from the school she is attending.



## 4.2 Geographic Isolation Rules

- 4.2.1 Summary of geographic isolation rules
- 4.2.2 Evidence requirements for geographic isolation
- 4.2.3 Former geographic isolation provisions
- 4.2.4 Rule 1 and Rule 2 - Measuring distance to school
- 4.2.5 Rule 1 and 2 - Nearest available transport service
- 4.2.6 Rule 3 - Overview
- 4.2.7 Rule 3 - Student does not have reasonable access to school
- 4.2.8 Rule 3 - Measuring travel time
- 4.2.9 Rule 3 - Alternating transport services
- 4.2.10 Rule 3 - Conditions affecting access to school
- 4.2.11 Rule 3 - Circumstances beyond the family's control
- 4.2.12 Rule 3 - Evidence student does not have reasonable access to school
- 4.2.13 Rule 3 - Applications on special weather conditions causing impassable roads
- 4.2.14 What are special weather conditions?
- 4.2.15 Likelihood of school absence
- 4.2.16 Impassable roads – evidence that attendance is likely to be adversely affected
- 4.2.17 Continuation of an AIC Allowance
- 4.2.18 Change in circumstances during the year
- 4.2.19 Rule 3 - Evidence of non-access to private transport
- 4.2.20 Rule 3 - Conditions in year of assistance concession
- 4.2.21 Rule 3 - How pro-rata entitlement is calculated

### 4.2.1 Summary of geographic isolation rules

A student may be regarded as geographically isolated from appropriate schooling if one of the following guidelines is met:

#### Rule 1

The distance between the principal family home and the nearest appropriate government school is at least 56 kilometres via the shortest practicable route; *or*

#### Rule 2

The distance between the principal family home and the nearest appropriate government school (via the shortest practicable route) is at least 16 kilometres AND the distance between the principal family home and the nearest available transport service to the nearest appropriate government school is at least 4.5 kilometres via the shortest practicable route; *or*

#### Rule 3

The student does not have reasonable access to an appropriate government school for at least 20 days of the school year because of adverse travel conditions (eg impassable roads) or other circumstances beyond the family's control.

### 4.2.2 Evidence requirements for geographic isolation

A claim form on the basis of Rule 1 or Rule 2 does not have to be supported by evidence to confirm geographical isolation, however, the distances provided on the claim form may be verified by Centrelink at a later stage.

A claim form on the basis of Rule 3 must be supported by evidence that substantiates the existence of adverse travel conditions (i.e. impassable roads) or other circumstances beyond the family's control *and* the effect these conditions or circumstances have on the student's ability to access school (see 4.2.7).

### **4.2.3 Former geographic isolation provisions**

The geographic isolation provisions that existed in 1996 and prior years were restructured in 1997 to form the Geographic Isolation rules shown in 4.2.1. Several of the former provisions (eg travel time and the 8:8 rule) were grouped together to form Rule 3. The new guidelines represent a simpler arrangement of the same policy. A student who was (correctly) assessed as geographically isolated under the former provisions will remain eligible under one of the new guidelines.

### **4.2.4 Rule 1 and Rule 2 - Measuring distance to school**

Where a transport service does not exist (and cannot be made available), the distance from the principal family home and the nearest appropriate government school is the distance from the front door of the home to the school via the shortest practicable route, that is at least 16 kilometres (see 4.2.1, Rule 2).

For the purpose of Rule 1, where the shortest practicable route is less than 56 kilometres and where a transport service is or would be made available, the distance from the principal family home to the nearest appropriate government school is:

- the distance from the principal family home to the nearest available transport service measured via the shortest practicable route, **plus** the distance from the nearest available transport service to the school by the route used by the transport service (or connecting services).

For the purpose of Rule 2, the distance from the home to the school is:

- the distance from the principal family home to the nearest available transport service measured via the shortest practicable route, plus the distance from the nearest available transport service to the school by the route used by the transport service (or connecting services).

In cases where the morning and afternoon transport services differ in length, the average of the two should be taken.

### **4.2.5 Rule 1 and 2 - Nearest available transport service**

The nearest available transport service is the nearest pick-up point for any regularly scheduled public transport, private carrier or school service proceeding to or connecting with other transport going to an appropriate government school (see 4.1.4). This includes a pick-up point that would be made available by the State/Territory school transport authority (or its local contractor) if transport to a local school were to be requested by the family.

### **4.2.6 Rule 3 - Overview**

The concept of "not having reasonable access for 20 days of the school year" is described in 4.2.8 - 4.2.10.

The concept of "adverse travel conditions or other circumstances beyond the family's control" is described in 4.2.11 - 4.2.12.

Evidence must be provided (see 4.2.13) to demonstrate:

- the conditions or circumstances giving rise to the claim; and
- the impact that these conditions or circumstances had (or would have had) on the student's ability to access school in the previous year.

Where conditions or circumstances that impact on access to school arise during (or just prior to) the year of assistance, a concession is available (see 4.2.20).

#### **4.2.7 Rule 3 - Student does not have reasonable access to school**

A student does not have reasonable access to an appropriate government school if, for at least 20 days of the school year:

- the student cannot get to school; or
- the travel time for the return journey to school is at least 3 hours (see 4.2.9); or
- the route the student must travel meets the distance requirements set down in Rule 1 and Rule 2 (see 4.2.1).

#### **4.2.8 Rule 3 - Measuring travel time**

For the purposes of 4.2.7, the time taken to travel from the principal family home to the school must be based on:

- public transport routes where travel is by public transport; and/or
- the shortest practicable route in the circumstances where travel is by private transport.

In cases where travel to school by public transport involves one or more vehicles, the travelling time to be taken into account includes the time taken to walk to and wait at the pick up point(s).

#### **4.2.9 Rule 3 - Alternating transport services**

If the school transport service route or pick-up point varies on a daily, weekly or monthly basis, so that the distance or travel time criteria is met on at least 20 school days per year, the student is considered to meet Rule 3.

In cases where the route of the morning and afternoon transport services differs in length, the average of the two should be taken.

#### **4.2.10 Rule 3 - Conditions affecting access to school**

Examples of adverse travel conditions or other circumstances beyond the family's control that may be approved under this guideline include:

- impassable roads due to special weather conditions (see 4.2.13); or
- the applicant and (if applicable) his/her partner do not have access to a vehicle or are medically unfit or legally unable to drive a vehicle (see 4.2.19); or
- public transport routes/schedules; or
- other unusual circumstances of isolation (eg student lives on an island which is not serviced by regular public transport).

The circumstances under which this guideline may be applied are not limited to the events listed above. Other circumstances may be approved, provided they are beyond the control of the family and are supported by independent evidence that clearly establishes the condition. Information about the form of evidence required for the first two examples above is at 4.2.13-14.

#### **4.2.11 Rule 3 - Circumstances beyond the family's control**

To meet Rule 3, the circumstances that prevent the student having reasonable access to school must be beyond the control of the family. A student should not be considered geographically isolated if the family's lifestyle choices or commitments or domestic behaviours make it **inconvenient or difficult** (rather than not feasible) to transport the student to school or where the family chooses not to use the local school for reasons outside these guidelines.

For example, AIC should not be approved where a parent travels daily to and from work at times which do not necessarily coincide with the school start/finish times, or where a parent's job involves shift work and child care arrangements need to be made.

### **Example**

Stephen's parents have moved to a hobby farm 14 km from the nearest high school. There is no public transport available. His father drives 38 km to work in the nearby city, leaving at 7:30 am daily and arriving at his office at 8:15 am. His mother works in town near the high school and leaves his baby sister at a child care centre at 7:45 am, which she says is too early for Stephen to arrive at school.

This case should not be approved for AIC as it should not be claimed that Stephen does not have 'reasonable daily access' to a school. His parents have made certain lifestyle choices which make it inconvenient, rather than unreasonable, for them to get Stephen to school

**Note: This concession is not available in cases where the student has been excluded or banned from the available transport service by the transport company in consultation with education authorities.**

#### **4.2.12 Rule 3 - Evidence student does not have reasonable access to school**

To establish that a student does not have reasonable access to a local school, the applicant needs to demonstrate that the student's attendance at school, travel time or travel distance would actually be affected (were it not for the circumstance that the student boards away from home, lives in a second home or studies by distance education methods) on at least 20 school term days a year.

**Note: It also needs to be demonstrated that lack of access is the result of adverse travel conditions or other circumstances beyond the family's control (see 4.2.11).**

Where possible, evidence of the impact on attendance should be in the form of a statement, certified by the school principal, showing the dates of the student's absences from the school in the **previous year**. If this is not available for the student, records for a sibling or another student in similar circumstances may be accepted. Where this information is not available, the evidence presented to verify the adverse travel conditions or other circumstance must also provide sufficient detail to demonstrate the actual impact the conditions or circumstance has/had (or would have had) on daily attendance at the school.

Claims on the basis of travel time or travel distance should explain how travel time or travel distances are/were affected by the adverse conditions or other circumstance (ie it must be clearly demonstrated that travel time for the return journey is at least 3 hours or that the travel distances meet the relevant distance rule).

Claims should be examined closely where the circumstance affecting access is long-standing (eg condition of roads), particularly if the student has previously attended school locally (eg primary school) without excessive absences.

Evidence required to establish a case on the basis of impassable roads caused by special weather conditions is set out in 4.2.13.

#### **4.2.13 Rule 3 - Applications on special weather conditions causing impassable roads**

A student whose home does not satisfy the distance and time criteria may still be geographically isolated if the parents provide evidence that the students would, if living at home, be denied reasonable daily access to appropriate schooling for at least 20 school term days a year because of special weather conditions (see 4.2.14).

Applications based on the effect of weather conditions on a student's access to local schooling facilities should be determined in line with the likely impact that the conditions may have on the

ability of the individual student to attend the local school. Each application should be assessed on its merits taking into account the evidence provided to support the claim.

The test is whether it would be likely, based on historical weather conditions, that the student would be absent from school for 20 or more school term days a year were he/she to attend the nearest appropriate school.

The student's previous year's attendance pattern at the local school (or that of another student where the student in question boarded away from home previously) may provide good grounds for the likelihood of local school attendance being disrupted in the current year of study.

Where such evidence is provided, and supported by the local school, the appropriate AIC allowance may be approved.

Where attendance was not sufficiently disrupted in the preceding year because, for example, drought or otherwise low levels of rainfall, evidence may be provided from the preceding 5 years to support the likelihood of least 20 days absence from school in the current year if the period of drought/low rainfall were to end.

It is not necessary for records to be provided for each of the 5 preceding years. Sufficient records need to be provided, however, to allow a considered judgement to be made on the likelihood of weather conditions affecting daily school attendance.

Where weather conditions in the preceding 5-year period were atypical (for example, drought conditions were prevalent for the bulk of the time), it may be appropriate (and acceptable) for records and other relevant information to be provided in respect of earlier years.

**Note: Recent court decisions provide guidance about the meaning of the word "likely" in this context. The word "likely" means, in this context, "more than a remote possibility".**

#### **4.2.14 What are special weather conditions?**

It is not necessary that the weather conditions leading to a student's absence from school be extraordinary or abnormal. The fact that a student's access to schooling has been, or is likely to be disrupted by weather conditions for at least 20 school term days a year is sufficient for this criteria to be satisfied. In this context, weather conditions prevailing in the current or previous year do not have to be unusual in the sense that the conditions are markedly different from other years.

In respect of road access, the issue is whether on some days in a year weather conditions are likely to apply which make existing roads in their current state impassable, whereas on other 'normal' days (that may cover most of the year), roads are passable. The special weather conditions provision would apply when, for example, rainfall might be expected to make roads impassable for at least 20 school term days of a year.

**Note: The term "special weather conditions" was previously referred to and now replaces "adverse weather conditions". Recent court decisions have provided this term which more accurately reflects varying weather conditions.**

#### **4.2.15 Likelihood of school absence**

For this criteria to be satisfied, the applicant needs to demonstrate that, because of special weather conditions, it is **likely** that the student would be absent from school for at least 20 school term days a year.

If the school confirms that under certain weather conditions there would be more than a remote possibility that 20 days school absence may occur, grounds would exist for an allowance under AIC to be payable.

#### **4.2.16 Impassable roads – evidence that attendance is likely to be adversely affected**

If there is no evidence that school attendance, for the student in question or another student, has been adversely affected due to impassable roads then the following evidence must be provided:

- a report, where applicable, from the company which operates the school bus service, indicating how the bus route (or the student's access to the bus service) was affected and the number of days over the relevant period(s) on which it was so affected; or
- a report from the shire/council engineer or other similar officer stating that the road(s) in question was/were impassable on particular dates (and the reasons eg rainfall, road construction); or
- a report from the shire/council engineer or other similar officer describing in detail the weather or other circumstances in which the road becomes impassable, including the duration for which it is impassable, and evidence (eg rainfall records) showing the dates on which those weather or other circumstances occurred in previous years. Where provided, the professional opinion of this officer as to the impact of the circumstances described should be taken into account; or
- a report from a local, state or national authority having prime responsibility for roads, water, or land management stating that the road(s) in question was/were impassable on particular dates (and the reasons eg rainfall, road construction); or
- a report from a local, state or national authority having prime responsibility for roads, water, or land management describing in detail the weather or other circumstances in which the road becomes impassable, including the duration for which it is impassable, and evidence (eg rainfall records) showing the dates on which those weather or other circumstances occurred in previous years. Where provided, the professional opinion of this officer as to the impact of the circumstances described should be taken into account.

**Note: The circumstances that prevent the student having reasonable access to school must be beyond the family's control (see 4.2.11). Normally an impassable road on the family's property will not be considered beyond the family's control nor is the inability to access a private vehicle due to an applicant or partner being medically unfit or unable to drive unless supported by medical or court documentation (4.2.19).**

A concession is available where circumstances arising in (or just prior to) the year of assistance affect, or threaten to affect, a student's access to local schooling (see 4.2.20).

**Note: Rainfall levels, other weather conditions or the material used in road construction are only relevant to the extent they actually contribute to a road being impassable.**

#### **4.2.17 Continuation of an AIC Allowance**

Once an allowance is granted on the basis of "special weather conditions", the AIC allowance can continue to apply until the end of the applicant's secondary school study provided:

- the family's principal home remains the same;
- school access circumstances do not change (that is, "special weather conditions" continue to apply);
- the applicant continues to board away from home to study at the same school; and
- the applicant meets other eligibility conditions.

Where circumstances do not change from year to year, applicants do not need to resubmit evidence at the beginning of each year to show that special weather conditions continue to exist.

#### **4.2.18 Change in circumstances during the year**

Where school access circumstances change during the year to the extent that special weather conditions no longer prohibit access to the local school (for example, a road that was previously prone to flooding was upgraded to all-weather status), the AIC allowance can continue to the end of the year in which the change occurred provided:

- the student remains at the same school attended before the change in circumstances occurred; and
- the applicant meets other eligibility conditions.

Affected families would have their application for the next year of study assessed in accordance with the usual isolation rules. Where these rules are not met for that year, the AIC allowance would not be payable.

#### **4.2.19 Rule 3 - Evidence of non-access to private transport**

Claim forms based on claims that the applicant and partner (where applicable) do not have (access to) a vehicle or are medically unfit or legally unable to drive a vehicle must be accompanied by appropriate documentation, for example, medical and court reports. The evidence provided should state the likely duration of the situation.

#### **4.2.20 Rule 3 - Conditions in year of assistance concession**

Geographic isolation under Rule 3 is normally determined on the basis of the affect on access to the local school in the year or years before that in which assistance is sought. A concession is available, however, where:

- circumstances arise in (or just prior to) the year of assistance that affect, or threaten to affect, a student's access to local schooling;
- these circumstances are beyond the control of the family; and
- on the strength of these circumstances, the family arranges for the student to board away from home, live at a second family home or study by distance education methods.

In such circumstances, a student's geographic isolation status may be established if evidence is supplied that demonstrates that the adverse travel conditions or other circumstances beyond the family's control would have affected the student's access to local schooling. Full entitlement is subject to evidence demonstrating that access would have been affected on at least 20 days of the school year. However, partial entitlement is available on a term pro-rata basis if access is affected for less than 20 days (see 4.2.21).

This concession of allowing consideration of circumstances in the year of assistance, is not available where the student was boarding, living in a second home or studying by distance education methods in the previous year, as this would indicate that it was not the recent conditions which led to the family's decision.

#### **4.2.21 Rule 3 - How pro-rata entitlement is calculated**

The entitlement for a student granted the concession described in 4.2.20 is calculated on the basis of the number of school days in the year of assistance on which it can be demonstrated that the student's access to school would have been affected (in accordance with the provisions of 4.2.7).

In 4 term States or Territories, if a student's access to local schooling would have been affected on at least:

- 5 school days, then the applicant is entitled to assistance for one term;
- 10 school days, then the applicant is entitled to assistance for two terms;
- 15 school days, then the applicant is entitled to assistance for three terms; and
- 20 school days, then the applicant is entitled for the whole year.

In Tasmania, if a student's access to local schooling would have been affected on at least:

- 6.5 school days, then the applicant is entitled to assistance for one term;
- 13 school days, then the applicant is entitled to assistance for two terms; and
- 19.5 school days, then the applicant is entitled for the whole year.

**Note: Calculation of entitlement is carried out in term lots, that is, a student should not be eligible for assistance for part of a term under this provision. As a result, a student who misses a total of 8 days of school for example, will be eligible for one term only (in all States/Territories).**



## **4.3 Students with Special Needs**

- 4.3.1 Students with special needs - summary
- 4.3.2 Definition of a disability or health-related condition
- 4.3.3 Maintained special course provisions
- 4.3.4 Evidence requirements for special needs
- 4.3.5 Duration of special need assessment
- 4.3.6 Student attends a special school
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- 4.3.10 Student needs testing / remediation for a learning disability
- 4.3.11 Student needs specialist remedial tuition
- 4.3.12 Student cannot access a pre-requisite subject
- 4.3.13 Student would suffer serious educational disadvantage if not able to bypass local school
- 4.3.14 Contact with State/Territory education authorities

### **4.3.1 Students with special needs - summary**

Where a student has a disability, other health-related condition or a special education need which requires a special school programme, special facilities and/or a special environment, the nearest appropriate school (for the purposes of the geographic isolation rules outlined in 4.2) may be regarded as the nearest government school which has or can provide access to the special programme, facilities and/or environment required for the student.

The specific circumstances under which a student can be regarded as having a special need are:

- the student attends a special school (see 4.3.6);
- the student needs access to special facilities or a special environment (see 4.3.7);
- the student needs to study from home (see 4.3.8);
- the student needs to be removed from the local school environment (because of expulsion or health reasons) (see 4.3.9);
- the student needs testing and/or remediation for a learning disability (see 4.3.10),
- the student needs specialist remedial tuition (see 4.3.11);
- the local secondary school does not offer a subject which is a pre-requisite for entry to a tertiary field of study (see 4.3.12); and
- the student would suffer serious educational disadvantage if they were not able to bypass the local school (see 4.3.13).

### **4.3.2 Definition of a disability or health-related condition**

For the purposes of this chapter a 'disability or health-related condition' is defined as:

- a physical or intellectual disability;
- a psychological, emotional or behavioural problem;
- a medical condition; or
- pregnancy.

### **4.3.3 Maintained special course provisions**

Prior to 1992, students studying in a special talent course, a certificate course, or certain courses at Victorian Technical Schools were regarded as having "special education needs".

For any student who received AIC on this basis in 1992, this classification was maintained until the completion or discontinuation of the specified course.

As it is believed that all such students have now completed or discontinued the specified courses this provision no longer applies.

#### **4.3.4 Evidence requirements for special needs**

Except for students who attend a special school, claim forms on the basis that the student has a special need will need to be supported by evidence. Details of the evidence required are provided in the paragraph dealing with each type of special need.

Normally, where a student has a special need which requires supporting evidence, such evidence needs to be updated each year to ensure that a change in circumstances (eg availability of special facilities close to home, or cessation of the need for treatment) has not affected eligibility.

Evidence is not required if the applicant confirms that the circumstances of the claim have not changed and:

- it is clear from evidence previously provided that the student's condition is permanent and requires ongoing access to facilities and/or an environment that is not available locally; or
- the evidence provided for the previous year indicated that the student's course or treatment will carry on for the current year; or
- the student had a demonstrated special need in Year 11 and is entering Year 12 at the same school (and is eligible for the Year 12 Continuity of Schooling concession - see 4.4.6).

#### **4.3.5 Duration of special need assessment**

Some circumstances under which a student is regarded as having a special need are temporary, for example, pregnancy or medical treatment.

Where a student has been assessed as having a special need, this assessment may carry on to allow continuity of schooling (at the same school) until the end of the school year or an allowance ceases to be payable (eg because they cease to board away). See also 4.4.6 for Year 12 Continuity of Schooling concession.

#### **4.3.6 Student attends a special school**

A student may be regarded as having a special need if they attend a special school. For the purposes of AIC a 'special school' is an institution that:

- specifically and primarily caters for students with disabilities, health-related conditions and/or learning difficulties; and
- is recognised as a school by Commonwealth or State/Territory education authorities.

A mainstream school that has special facilities for students with disabilities, health-related conditions and/or learning difficulties is not regarded as a special school. Students attending such a school must be assessed under the provisions of 4.3.7.

A claim form for a student who attends a special school does not need to be supported by evidence. The fact that the student attends the school will normally be sufficient to establish that the student has special needs.

#### **4.3.7 Student needs access to special facilities or a special environment**

A student may be regarded as having a special need if they need access to special facilities or a special environment which help manage or overcome a disability or health-related condition. Special facilities or a special environment includes:

- a special centre which caters for the child's condition and which they must attend part-time while spending the remaining time at school;

- special educational or physical facilities within a normal school (eg a visiting specialist teacher for blind students or ramps for easy wheelchair access, etc.);
- in the case of a psychological, emotional or behavioural problem, the controlled environment and close supervision that are normal features of boarding institutions;
- an environment with a climate which gives relief from a health-related condition that is associated with the climate in the vicinity of the home;
- an environment in which the student can avoid the effects of lengthy daily travel; or
- an environment in which the student can obtain essential and extensive medical treatment.

A claim for a student needing to access special facilities must be supported by medical evidence and (where applicable) a statement from the school or service offering the facility or treatment outlining how it will assist in the management of the condition. Evidence from a specialist is necessary for conditions that require specialist treatment (eg psychiatric or severe allergic conditions). The evidence must establish the nature of the condition and clearly demonstrate that:

- the special facilities or environment are not accessible at a local school or in the vicinity of the principal family home;
- the student's condition would be better managed or overcome by access to the facilities and/or environment at the board (or second home) location; and
- (where applicable) the special facilities or environment are necessary to such an extent that it requires the student to live away from home (rather than access them periodically).

For medical conditions that are not clearly serious (eg allergy, conditions affecting travel), the evidence must also demonstrate that:

- there is no suitable medication or treatment which is both reasonably available and could alleviate the effects of the condition; and
- the condition is likely to result in the student being absent from local schooling on at least 20 days of the school year.

### **Example 1**

Dylan's father is in prison and Dylan has faced taunts and ridicule in the small town where he lives. He starts truanting and his behaviour and emotional health deteriorate to the extent that doctors and school guidance counsellors strongly recommend he board for the rest of the year in the supervised environment of a boarding school. AIC may be approved.

### **Example 2**

Kelly's younger sister has multiple intellectual and behavioural problems which demand significant care and attention from her parents. The parents are seeking assistance for Kelly to go to boarding school as they are worried that her senior secondary education is likely to suffer because of the disruptive atmosphere at home. To date, Kelly has done well at her local school and there is no evidence that Kelly herself has any psychological or behavioural problems. AIC should not be approved.

### **Example 3**

Donna, 14, has rheumatoid arthritis. Although her condition can, to some extent, be alleviated by medication, it is exacerbated by frequent and lengthy travel. Her condition requires regular supervision by a medical specialist. AIC may be approved.

### **Example 4**

Andrea attends boarding school on a weekly basis in a city one and a half hour's drive from her home. Her route to the city passes the local (appropriate) secondary school, that is 25 km from the home and connected by a school bus service.

Her mother has applied for AIC on the grounds that Andrea suffers from motion sickness and cannot travel to school daily (but can travel a longer distance twice weekly to boarding school). A GP's certificate states only that Andrea suffers from motion sickness. AIC should not be approved.

**Example 5**

David is in remission from leukemia but needs frequent medical checks. His parents apply for AIC so that he can attend school and board in the city close to the specialist who is supervising his case. AIC may be approved.

**Example 6**

Penelope attends a boarding school in a provincial city. Her mother applies for AIC on the grounds that her daughter suffers from asthma and must visit her specialist regularly. The specialist lives in the capital city, that is closer to the principal family home than to the school. AIC should not be approved.

**Example 7**

Dominic, Carly and Brendan have been registered to attend boarding school as each reaches Year 7. The dentist in their home town suggests that the two eldest children would benefit from orthodontic treatment once they are living in the city. Soon after starting boarding school, Dominic begins to receive specialist orthodontic treatment. His father applies for AIC under 4.3.7. This claim should not be approved.

**Example 8**

Elliot, 10, has lived all his life in a mining town. Medical tests show that certain heavy metal levels in his blood are abnormally and dangerously high and his intellectual development is at risk. His parents are advised by medical authorities to board him away from home as soon as possible and they apply for AIC. The claim may be approved.

**Example 9**

Elissa has suffered from asthma all her life. It is kept under control by medication. There is no evidence that her condition is worsened or improved by living in different environments. She is due to go away to boarding school in year 8 and her mother applies for AIC on the grounds that Elissa suffers from chronic asthma. Approval should not be granted.

**4.3.8 Student needs to study from home**

A student may be regarded as having a special need if they study by distance education because of a health-related condition that:

- needs facilities and/or environmental conditions (eg care) available from the family home; or
- requires the student to avoid contact of the sort that would occur at a school; or
- requires the student to avoid travel of the sort that would be necessary to attend school each day.

A claim for a student needing to study from home must be supported by medical evidence that establishes the nature of the condition. Evidence from a specialist is necessary for conditions which require specialist treatment (eg psychiatric or severe allergic conditions).

For conditions other than pregnancy, it must be clear that it would be harmful (not merely a discomfort) to the student's health if they were to attend school daily. For medical conditions that are not clearly serious (eg allergy), the evidence must demonstrate that:

- there is no suitable medication or treatment which is both reasonably available and could alleviate the effects of the condition; and
- the condition is likely to result in the student being absent from local schooling on at least 20 days of the school year.

### **Example 1**

Brenda, 15, is six months pregnant and does not want to continue going to the local high school. Her teachers arrange for her to study at home and help her to enrol at a distance education centre. AIC Distance Education Allowance may be approved.

### **Example 2**

Shelley, 12, has been diagnosed with a brain tumour. She is trying to keep up with her school work by studying by distance education methods at home while at the same time undergoing extensive medical treatment. She can concentrate for short periods only, and the distance education centre expects her to submit assignments only as and when she feels capable of doing so. AIC Distance Education Allowance may be paid as long as the school considers Shelley to be enrolled and studying full-time (for her).

## **4.3.9 Student needs to be removed from local school environment**

A student may be regarded as having a special need if they need to be removed from the local school environment (that is, the school grounds and buildings for which the education authorities have legal responsibilities) because of:

- interpersonal problems affecting psychological, emotional or physical health (eg bullying, harassment);
- expulsion from school.

A claim for a student who needs to be removed from the local school environment must be supported by a statement from the Chief Executive of the State/Territory education authority, or an officer delegated to act on his or her behalf. The statement must indicate:

- the reason for the student to be removed from the local school (in broad terms only, eg interpersonal problems affecting health, expulsion);
- that attempts have been made by the family and the school to resolve the problem (without success); and
- that there is no suitable school in the district that the student can attend daily.

If the claim is on the basis of health related conditions, it must also be supported by medical evidence that establishes that there is a health related problem and recommends that the student be removed from the school. This medical evidence need not be detailed if the education authorities support the claim.

## **4.3.10 Student needs testing / remediation for a learning disability**

A student may be regarded as having a special need if they need to live away from home for at least 5 days to undertake diagnostic testing and/or remediation for a learning disability at an institution or centre providing specialist services in the area of learning disabilities.

The placement in such a institution or centre must be with the approval of the relevant educational guidance authorities and/or the institution concerned.

A claim form on this basis must be supported by a statement from:

- the State/Territory educational guidance authorities, or a delegate of the authority (eg an independent educational psychologist); or
- guidance authorities in a non-government education system (eg Catholic Education Office).

**Note: A statement from a teacher or counsellor at the school is not acceptable evidence on its own.**

The statement must give the period for which testing/remedial tuition is required.

#### **4.3.11 Student needs specialist remedial tuition**

A student may be regarded as having a special need if they require access to a remedial tuition programme delivered by a specialist remedial teacher or facility.

The remedial programme must be of at least one and a half hours per week in an area of specific learning disability. It is not sufficient that the programme merely involves increased individual attention or a modified course of the type generally available in non-specialist schools to students with learning difficulties.

The student may receive the remedial tuition at either the school or institution that they attend full-time or a special remedial centre which they attend part-time while spending the remainder of the school week at a mainstream school.

A claim form on this basis must be supported by evidence to verify the need for specialist remedial tuition, in the form of a recent written recommendation from:

- the relevant State, Territory or non-government education guidance authorities at the appropriate regional district office level; or
- a specialist assessment service used by the above (eg an educational psychologist, child psychologist, health professional).

**A statement from a teacher or school is not sufficient evidence.**

Evidence is also required from the Principal of the school or Director of the facility that provides the remedial tuition, giving details of the programme (see 2nd dot point below).

Together the evidence must clearly demonstrate that:

- the student requires specialist remedial tuition to overcome a particular learning disability;
- the student is receiving tuition of at least one and a half hours a week in a special remedial class from a specialist remedial teacher (eg a teacher with a special education qualification); and
- the remedial tuition required is of a type that is not available locally.

If a report recommends that a student requires remedial tuition for a period of at least two years, it will not be necessary to submit a second such report until the beginning of the third year. The maximum period of benefits that can be based on a single report is two years. Evidence from the school or facility, however, must be provided each year.

#### **Example**

Julio's family has arrived from Chile and is living in a medium sized country town. While the school offers a broad range of subjects there are no teachers with English as a Second Language (ESL) skills and Julio, in Year 8, is finding it extremely difficult to cope and is regressing in his studies. The State education guidance authorities indicate that he needs to attend a school that provides specialist remedial classes in English. Appropriate evidence is also supplied by the boarding school Julio is to attend. AIC may be approved.

#### **4.3.12 Student cannot access a pre-requisite subject**

A student in Year 11 or Year 12 may be regarded as having a special need if the local school(s) does not offer a subject that is a pre-requisite for entry to a tertiary field of study.

The subject which is not available locally must be mandatory (not merely desirable) for entry to *each* course in the nominated tertiary field of study within the state or territory of the student's home (or place of board if the student is studying interstate), and indicated as such in the course information for the relevant tertiary institutions.

**Note: there are very few tertiary courses that require students to have studied specific subjects that are not readily available at all secondary schools.**

Approval **should not** be granted on the basis that:

- a subject that is not available locally will improve the student's likelihood of gaining a place in a preferred tertiary course; or
- a subject is a prerequisite to the study of an optional subject in a tertiary course (eg the study of Japanese as part of an Arts course).

A claim form on this basis must be supported by:

- a statement from the applicant, confirming that the student has made a firm decision that they would accept a place, if offered, in the nominated tertiary course;
- a statement from the student's school commenting on the student's ability to obtain the tertiary entrance score necessary for a place in the course; and
- evidence to confirm that the student has realistic prospects of meeting any other admission criteria set by the tertiary institution(s) for the nominated course.

#### **4.3.13 Student would suffer serious educational disadvantage if not able to bypass local school**

A student in Year 10, 11 or 12 may be regarded as having a special need if the State/Territory education authority confirm that they would suffer serious educational disadvantage if not able to bypass the local school(s).

It should be noted that a student who only has reasonable daily access to a school that does not offer education at the level at which they are able to enrol does not need to meet this provision (see 4.1.4). Likewise, the local government school is not considered appropriate for a student who meets one of the provisions set out in 4.3.6 - 4.3.12.

A student should not be regarded as having a special need solely on the basis of claims that are outside the aims of AIC Scheme, for example:

- claims about the adequacy of the local school (eg availability of certain subjects, mode of education delivery, standard of teaching or facilities, socio-economic or racial or ethnic mix of students);
- desires for the student to attend a school of choice, including a school that is classified as 'specialist' or 'selective' or a school that will 'enhance the student's academic prospects';
- one or more of the subjects at the school is delivered by non-traditional 'face to face' teaching methods (eg technologically based delivery); and
- the student's parents have moved from one non-geographically isolated area to another and the student cannot continue to study in the same subjects and/or the same system.

A Claim form on this basis must be supported by a statement from the Chief Executive Officer of the State/Territory education authority (eg Director-General) or an officer delegated to act on their behalf. The statement must:

- give the reason that the local school is inappropriate for the student's needs; and
- confirm that the student would be seriously educationally disadvantaged if unable to study elsewhere; and
- the State/Territory authority has no objection to AIC being paid.

**Note: It is not the role of Centrelink to make judgements on the quality of education provided at particular schools, these issues are the constitutional responsibility of the State/Territory education authorities. Similarly, it is not the role of Centrelink staff to "put" a case for bypassing to the State/Territory authorities, the onus to approach the State/Territory authorities in these matters rests with the applicant.**

**Example 1**

Karl's mother is a teacher at a school catering almost solely for Aboriginal students in a remote locality. Classes are conducted in a local Aboriginal language. There are no other schools within 200km. Karl may be approved for AIC. It is not necessary to obtain support from the State/Territory education authorities (refer 4.1.10).

**Example 2**

Stephanie, about to go into Year 11, wants to bypass the newly established high school in a mining town as, although it is possible for students to be awarded a Year 12 Certificate, it does not yet offer sufficient subjects to allow them to gain a tertiary entrance score. The State authority has listed this school as being approved for bypassing in Years 11 and 12. AIC may be approved without further referral to the State education authorities (refer 4.1.9). The authority expects facilities to be upgraded in a year's time, however, Stephanie may expect to receive AIC for both Years 11 and 12 in order to maintain continuity of schooling at her new school (refer 4.4.6).

**Example 3**

Jeremy, who is in Year 9, wants to study Japanese at the private boarding school his father attended in the city. The school he currently attends offers a standard range of subjects to Year 12, including French but not Japanese. AIC should not be approved.

**Example 4**

Carrie, 16, attends a girls' boarding school in the city where she is studying Spanish. Her local area school in the country does not teach Spanish on a 'face to face' basis but can allow Carrie to study the subject by distance education methods. AIC should not be approved.

**Example 5**

The education authorities in New Vicmania have reclassified a number of State high schools as 'specialist' schools. Mary has gained a place in one such school for gifted and talented students but she lives too far away to attend on a daily basis. Her father enquires about the AIC scheme to help with her boarding costs but should be advised that the scheme does not cover such cases.

**Example 6**

Craig and Stuart's mother died two years ago and their father has enrolled them in boarding school in the city as he finds it difficult to care for them on his own. There is no scope under the AIC Scheme to assist in cases such as this, and benefits should not be paid for the boys to bypass the local school.

**Example 7**

Phoebe's elder sister Phillipa received AIC in Years 11 and 12 because the local school catered to Year 10 only. The school has since been upgraded to Year 12. There are only two students in Year 11 and all subjects except English are delivered by distance education mode. Phoebe's family want her to attend the same school as her sister did and believe she will be seriously educationally disadvantaged by undertaking Year 11 and 12 at the local school. A teacher is supportive of the family's wishes but no recommendation is provided by the central State education authorities. AIC should not be approved.

**4.3.14 Contact with State/Territory education authorities**

Each year Centrelink AIC Processing Centres should:

- seek from the State/Territory authority lists of schools providing limited programmes (see 4.1.9); and
- provide the State/Territory with the AIC Policy Manual sections that are relevant to bypassing (eg 4.1.9, 4.3.13, 4.3.14).



It is important that the State/Territory education authority is aware that recommendations for bypassing must be based on academic considerations only and that factors that are beyond the scope of the aims of the AIC scheme, such as the following are not relevant:

- a desire to attend a non-government school;
- family connections with another school;
- social/ethnic/racial composition of the local school;
- a desire to attend a school of preference in order to optimise educational experience or to access special optional electives not generally available;
- difficulties with out-of-school care arrangements;
- a desire for a child from a sole parent family to attend boarding school; or
- the student's eligibility for any State/Territory government living away from home allowances.

Where there is evidence that the reason for bypassing the local school is outside the scope of the AIC Scheme the Claim form should be assessed ineligible.

State/Territory education authorities are free to add to the lists of schools with limited programmes according to re-evaluations made in the course of assessing support for bypassing. In such cases the new classification will be available for all students in similar circumstances who seek to bypass that school.

## 4.4 Students Deemed to be Isolated

- 4.4.1 Categories of students who may be deemed isolated
- 4.4.2 Student lives in a special institution
- 4.4.3 Occupation of parent(s) involves frequent moves
- 4.4.4 Occupation of sole parent requires frequent overnight absences
- 4.4.5 Student lives in a second family home with a sibling who meets a geographic isolation rule
- 4.4.6 Continuity of schooling concession
- 4.4.7 Retrospective continuity of schooling concession

### 4.4.1 Categories of students who may be deemed isolated

In certain circumstances a student may be regarded as not having reasonable daily access to appropriate schooling without meeting a geographic isolation rule (see 4.2.1). The specific circumstances in which a student may be deemed isolated are:

- the student has a disability or other health-related condition and needs to live in a special institution (see 4.4.2);
- the occupation of a student's parent(s) involves frequent moves (see 4.4.3);
- the occupation of a student's sole parent requires frequent overnight absences (see 4.4.4);
- the student lives in a second family home with a sibling who meets a geographic isolation rule (see 4.4.5);
- the student previously met (but due to a change of circumstance no longer meets) a geographic isolation rule and continues to study at the same school - this is called the continuity of schooling concession (see 4.4.6); and
- the student commenced board, living in a second family home or distance education methods study in anticipation of a (later) change of circumstance resulting in him or her meeting a geographic isolation condition - this is called retrospective continuity of schooling concession (see 4.4.7).

### 4.4.2 Student lives in a special institution

A student may be deemed to be isolated if, because of the nature and extent of a disability or other health-related condition, it is necessary or preferable for him or her to live at a special institution.

For the purposes of AIC, a 'special institution' is one designed specifically for children with a particular disability or other health-related condition and is recognised as such by the appropriate State, Territory or Commonwealth authority.

**Note: the student must undertake an approved course (see 3.4.4) at an approved institution (see 3.4.3). The special institution does not necessarily have to be a school (or approved institution). That is, the student may live at a special institution and attend school at another institution, such as a special school.**

A claim form for a student who lives in a special institution does not need to be supported by evidence. The fact that the student lives in a special institution will normally be sufficient to establish that they have a disability or other health-related condition and that it is necessary or preferable for him or her to reside at the special institution.

### 4.4.3 Occupation of parent(s) involves frequent moves

A student may be deemed to be isolated if:

- the occupation of the parent(s) is, by nature, itinerant (eg fencing contractors, railway workers, show people, fruit pickers, shearers, etc);

- the family does not normally live at a fixed address; and
- the parents move at least five times a year for work purposes.

In addition, this provision may apply to a student whose parent(s) are unemployed or sporadically employed and travel widely and frequently in search of suitable employment.

A student **should not** be deemed isolated under this provision where:

- the parent(s) work solely in a geographically limited area where it could reasonably be expected for them to maintain a fixed address (eg solely within a metropolitan area or within 56 km of a town/city); or
- the parent(s) are subject to transfer every 2 or 3 years (eg police officers, defence service personnel, teachers etc) and could normally be expected to spend at least one full school year in the one location (even though they may have moved on more than one occasion in a particular school year); or
- the primary reason for travelling and seeking work is for a 'working holiday'.

The ownership of a family home in a particular locality does not necessarily affect eligibility under this provision, except when:

- one parent lives there while the other moves about for employment purposes; or
- the student lives there while both parents are absent.

A claim form for a student with parent(s) whose occupation involves frequent moves must be supported by:

- a statement of the family's projected itinerary for the school year in which AIC is sought; (where relevant) a statement of the family's itinerary over the previous twelve month period; and
- verification of the family's past and proposed frequent movements in the form of employers' statements, Job Network/Centrelink registrations, membership of a show person's guild etc.

The evidence must clearly demonstrate that, due to work commitments or searching for work, the family is expected to move on at least 5 occasions during the year of assistance. If a family can demonstrate a history of frequent moves in the previous 12 months, this circumstance will help substantiate the claim. Claims that do not include this evidence should be examined with greater care, and, if necessary, further information sought.

### **Example 1**

Mr and Mrs Brown run a site development business that excavates and prepares land for commercial property development. Most of the locations are within the metropolitan area and the couple work at an average of 6 sites a year. They often spend up to three days and nights camping on-site while blasting and clearing the area. Their sons attend a private boarding school in a provincial city and Mr Brown applies for AIC under the itinerancy provision. AIC should not be approved as the family home is lived in by one or both parents for most of the year and at no time are the parents travelling or located more than 56 km from home.

### **Example 2**

Mr and Mrs Adams resign from their jobs and commence the round-Australia working holiday they have been planning for some years. They enrol their two daughters in boarding school and apply for AIC under the itinerancy provisions. AIC benefits should not be approved.

### **Example 3**

Mr Croft is made redundant from his job in a car assembly plant. He is forced to sell his house and decides to take his family with him while he looks for work in other cities and towns. He provides documentation from each Centrelink office that he registers with. He is eligible for Distance Education Allowance under AIC for his three young children until the family stops travelling and settles down close to a government school.

#### **4.4.4 Occupation of sole parent requires frequent overnight absences**

A student may be deemed to be isolated if the occupation of the student's sole parent, by its nature, requires consecutive frequent overnight absences from the principal family home (eg interstate transport driver).

A claim form for a student with a sole parent whose occupation requires frequent overnight absences must be supported by:

- a statement of the projected overnight absences for the school year in which AIC is sought;
- (where relevant) a statement of overnight absences over the previous twelve month period; and
- verification of the parent's past and proposed overnight absences (as described in the statements) in the form of employers' statements, transport contracts, travel records etc.

The evidence must clearly demonstrate that the nature of the parent's employment requires them to be absent from their principal family home overnight, on average, for half of the school week or more over the course of the school year. If a parent can demonstrate a history of frequent overnight absences in the previous 12 months, this circumstance will help substantiate the claim. Claims that do not include this evidence should be examined with greater care, and, if necessary, further information sought.

It is not sufficient for the parent to demonstrate that the parent has merely chosen employment at a location that is so far from the principal family home that frequent overnight absences from home will result.

#### **Example 1**

Ms O'Neal, a single parent, lives in Sydney 3 kilometres from the local government school but as her job in a Call Centre requires her to often work night shifts she chooses to send, Ben, her son to live with his grandparents in a rural community. The grandparent's home is more than 56 Kilometres from the nearest government school. As Ms O'Neal is the approved applicant and the principal family home is not isolated, and it is not compulsory/obligatory for her to work night shifts, AIC benefits should not be approved.

#### **4.4.5 Student lives in a second family home with a sibling who meets a geographic isolation rule**

A student may be deemed to be isolated if they live in an approved second family home (see 5.3.3) with a sibling who:

- meets an isolation condition (except under 4.4.5); and
- qualifies for Second Home Allowance to be paid on his or her behalf.

As a concession this provision is also extended to a student with a sibling who:

- is a secondary student aged 16 years or over;
- meets an isolation condition (except under 4.4.5);
- is receiving Youth Allowance or ABSTUDY at the 'standard rate' (or the 'away' rate if a parent is not living in the second family home); and
- was eligible for AIC (in the current or a previous year) immediately prior to transferring to Youth Allowance or ABSTUDY.

Since the student may be deemed isolated only on the basis of a sibling, this assessment should not be made until the sibling's claim form (for AIC, Youth Allowance or ABSTUDY) is approved in the year of assistance.

Normally, additional evidence will not be necessary to support a claim form on this basis, as the relevant information will be available from the sibling's (or the student's) claim form. Where necessary, AIC records may be checked to ensure the student was previously eligible for AIC. In some circumstances, it may be necessary to obtain further information to confirm that a Youth Allowance or ABSTUDY sibling continues to meet a geographic isolation condition.

Where a student has been deemed isolated under this provision and the sibling ceases to receive student assistance because, for example, he/she discontinues study, the student may remain eligible on the basis of continuity (see 4.4.6).

See 5.3.10 regarding the maximum annual entitlement of Second Home Allowance per family.

#### **4.4.6 Continuity of schooling concession**

The continuity of schooling concession is available to limit the disruption to the schooling of students whose circumstances change during the school year. The concession allows a student to be deemed as isolated if:

- due to a change of circumstance (eg change of principal family home, change of travel conditions, change in health conditions, change in parent's occupation), they cease to meet an isolation condition; and
- they continue to attend the same school (or continue to be enrolled through the same distance education school); and
- they continue to meet a geographic isolation rule in relation to the school actually attended (see 4.1.11).

This concession **should not** be applied for students who:

- did not meet an isolation condition at any stage in the year for which assistance is sought (an exception to this guideline exists for Year 12 students who did meet an isolation condition in the year prior to the year for which assistance is sought); or
- lived away from home in order to undertake a short term programme (eg for diagnostic testing or remedial tuition).

Under this provision a student may be deemed to be isolated:

- from the date of the change of circumstance until the end of the year in which the change of circumstance occurred; or
- for a student in Year 11, from the date of the change of circumstance until the end of the following year, provided they continue to Year 12.

Normally the continuity of schooling concession may be granted without the need for supporting evidence.

#### **4.4.7 Retrospective continuity of schooling concession**

The continuity of schooling concession (see 4.4.6) may also be applied in reverse where a student who does not meet a geographic isolation rule at the start of the school year may retrospectively be deemed to be isolated for the earlier part of the year if:

- due to a change of circumstance (eg change of principal family home, change in parent's occupation, change in health condition, discontinuation of school bus service) they commence to meet an isolation condition; and
- the student was placed in an approved boarding arrangement (see 5.2.4), enrolled in distance education studies or commenced living in a second home *in anticipation* of the change of circumstance that would make the student eligible later in the year; and
- the change has occurred and the student now meets an isolation condition.

This concession should not be applied if, prior to the change in circumstances, the student's principal family home did not meet a geographic isolation rule in relation to the school the student was attending, ie if they could have lived at home and attended that school daily.

To qualify for retrospective continuity an applicant must demonstrate that they were aware of the proposed change in circumstances at the time the student began to board, study by distance education methods or live in the second home.

If the application was lodged at that time no further proof would be needed. In other cases, however, suitable evidence would be required, eg a statement from an employer that reveals when the parent was advised of a proposed transfer, a copy of a letter from a bus company advising of a proposed change in services, etc.

## **5 AIC Allowances**

### **5.1 General Entitlement and Payment Features**

- 5.1.1 Determination of allowance
- 5.1.2 Determination of allowance for students living away from home and studying by distance education methods
- 5.1.3 Determination of rate
- 5.1.4 Amount of entitlement
- 5.1.5 One day minimum payment
- 5.1.6 Payment frequency - term instalments
- 5.1.7 Payment frequency - fortnightly instalments
- 5.1.8 Payment frequency - short-term boarders
- 5.1.9 Term instalments -four-term States and Territories
- 5.1.10 Term instalments - three-term State
- 5.1.11 Calculation of term payments
- 5.1.12 Taxation of allowances
- 5.1.13 Payee for allowances

#### **5.1.1 Determination of allowance**

The applicable allowance for a student will normally reflect a student's living arrangements while undertaking the approved course:

- for a student who boards away from home, the applicable allowance will normally be Boarding Allowance;
- for a student who lives in a second family home, the applicable allowance will normally be Second Home Allowance;
- for a student who lives at home while studying by distance education methods, the applicable allowance will normally be Distance Education Allowance.

Where, however, a student is in receipt of a Disability Support Pension or Parenting Payment (single), the applicable allowance is the Pensioner Education Supplement.

Where a student studies by distance education methods and periodically travels away from home to attend a short 'mini school' or residential school for their course, Distance Education Allowance remains the applicable allowance.

Where a student needs to stay in town for short periods during the year (eg while access from the principal family home to the school is cut-off due to special weather conditions) short-term Boarding Allowance is available (see 5.2.13).

See 5.1.2 regarding which is the appropriate allowance where a student lives away from home and studies by distance education methods.

#### **5.1.2 Determination of allowance for students living away from home and studying by distance education methods**

Where a student lives away from home and undertakes approved studies by distance education methods, the applicable allowance will be:

- Boarding Allowance where the student is boarding away from home in order to have daily access to appropriate schooling;
- Second Home Allowance where the student lives in a second family home in order to have daily access to appropriate schooling;
- Second Home Allowance where the student lives in a second family home maintained in order for a sibling to have daily access to appropriate schooling (see 5.3.2);

- Distance Education Allowance where the student lives in a second family home maintained for reasons other than access to appropriate schooling for the student or his/her siblings.

That is, where the student must live away from the principal family home in order to undertake approved studies (see 3.4) the allowance payable is primarily determined by the student's living arrangement.

Where the student could undertake distance education studies from the principal family home, the allowance payable will be determined by the student's mode of study unless the student lives in a second family home maintained in order for a sibling to undertake approved studies.

### 5.1.3 Determination of rate

Where allowances have different rates of entitlement for primary and secondary students (eg Distance Education Allowance) the following guidelines apply:

- the **primary rate** is payable to students undertaking ungraded or primary level study (see 3.4.5) who are less than 13 years of age;
- the **secondary rate** is payable to:
  - students undertaking ungraded or primary level study (see 3.4.5) who are 13 years of age or over; and
  - students undertaking secondary or tertiary level study (see 3.4.5).

### 5.1.4 Amount of entitlement

Provided the eligibility requirements are met (see 1.2.3), AIC allowances are available for the full calendar year, 1 January to 31 December.

If the eligibility requirements are not met for the full year, pro-rata entitlement is calculated on the basis of:

$$\frac{\text{number of days in eligibility period}}{\text{number of days in calendar year}} \times \text{rate of annual entitlement}$$

### 5.1.5 Minimum payment

An AIC allowance is payable in respect of a single day in the year.

### 5.1.6 Payment frequency - term instalments

The following allowances are payable by term instalments:

- Boarding Allowance for students living in schools, hostels or other residential institutions;
- Distance Education Allowance; and
- the Pensioner Education Supplement (PES) for students living in schools, hostels or other institutions.

These payments are made in advance in three or four instalments, depending on the number of school terms in the State or Territory where the student is studying. Each instalment covers a quarter (see 5.1.9) or a third (see 5.1.10) of the calendar year rather than the exact period between the relevant term dates.

### 5.1.7 Payment frequency - fortnightly instalments

The following allowances are payable fortnightly in arrears:

- Boarding Allowance for students boarding privately;
- Second Home Allowance; and



- PES for students boarding privately.

### **5.1.8 Payment frequency - short-term boarders**

Payment for short-term boarders may be made in the most appropriate manner.

If the student is boarding at an institution and the exact period is known in advance, payment may be made in advance.

Otherwise the allowance should be paid in a lump sum after the period of boarding has ended.

Entitlement for short-term boarders is normally calculated on the basis of the number of days the student boards away from home (see 5.2.13).

### **5.1.9 Term instalments -four-term States and Territories**

For four-term States or Territories, the term instalment periods are as follows:

1. 1 January - 31 March (90 days – 91 days in a leap year)
2. 1 April - 30 June (91 days)
3. 1 July - 30 September (92 days)
4. 1 October - 31 December (92 days)

see 5.1.11 regarding the calculation of term payments.

### **5.1.10 Term instalments - three-term State**

For Tasmania the term instalment periods are as follows:

5. 1 January - 30 April (120 days – 121 days in a leap year)
6. 1 May - 31 August (123 days)
7. 1 September- 31 December (122 days)

see 5.1.11 regarding the calculation of term payments.

### **5.1.11 Calculation of term payments**

Term instalments are calculated on the following basis:

$$\frac{\text{number of days in instalment period}}{\text{number of days in calendar year}} \times \text{rate of annual entitlement}$$

As a result the amount of instalments may vary slightly in accordance with the number of days in the instalment period.

### **5.1.12 Taxation of allowances**

Advice from the Australian Taxation Office indicates that all amounts paid under AIC appear to be 'supplementary amounts' for the purposes of section 24ABZF of the *Income Tax Assessment Act 1936* and therefore are exempt from income tax.

It is therefore not necessary to deduct tax from any AIC payments, nor is it necessary to provide a Group Certificate to an applicant where the only payments received in respect of that student are AIC allowances.

### **5.1.13 Payee for allowances**

Allowances may be paid direct to the applicant or to an agent nominated by the applicant (eg the school, private board provider, or the student).

It should be noted, however, that the applicant remains responsible for any overpayment, that may occur (see 1.4.1) irrespective of who receives the payment.

## **5.2 Boarding Allowance**

- 5.2.1 Purpose of Boarding Allowance
- 5.2.2 Components of Boarding Allowance
- 5.2.3 Eligibility for Basic Boarding Allowance
- 5.2.4 Approved board arrangement
- 5.2.5 Eligibility for Additional Boarding Allowance
- 5.2.6 Students in foster care
- 5.2.7 Boarding Costs
- 5.2.8 Actual boarding charges
- 5.2.9 Boarding fees paid by another party
- 5.2.10 Additional Boarding Allowance entitlement
- 5.2.11 Maximum rates of entitlement
- 5.2.12 Entitlement for part-time boarders
- 5.2.13 Entitlement for short-term boarders

### **5.2.1 Purpose of Boarding Allowance**

The Boarding Allowance is intended to contribute towards the costs incurred by families in boarding a student away from home to have daily access to appropriate schooling.

### **5.2.2 Components of Boarding Allowance**

There are two components of Boarding Allowance:

- the Basic Boarding Allowance component which is payable to all eligible students who board away from home (see 5.2.3);
- the Additional Boarding Allowance component, which is subject to the Parental Income Test (see 5.2.5) and boarding costs.

See section 6.4 for details on situations where the Parental Income Test may be waived.

### **5.2.3 Eligibility for Basic Boarding Allowance**

To qualify for the Basic Boarding Allowance component a student:

- must live away from home in an approved boarding arrangement during school term (see 5.2.4);
- must not be in receipt of a pension - the Pensioner Education Supplement is available for students in receipt of certain pensions (see 5.5); and
- must not have been formally placed in full-time residential care at a special institution by a State/Territory authority that provides a foster care allowance (or similar allowance intended for the upkeep of the student) to the institution/organisation that operates that institution.

**Note: the eligibility conditions outlined in Parts 2, 3 and 4 must also be met.**

### **5.2.4 Approved boarding arrangement**

A boarding arrangement at a boarding school, hostel or special institution is an approved boarding arrangement.

A private boarding arrangement is an approved boarding arrangement, except where provided by:

- a natural or adoptive parent of the student; or
- an older sibling where that person and the student live in what is, in effect, the family's second home (see 5.3.)

A boarding arrangement may be approved where the student does not board for the whole school week (see 5.2.12 for entitlement for part-time boarders).

### 5.2.5 Eligibility for Additional Boarding Allowance

To qualify for the Additional Boarding Allowance component:

- the student must qualify for Basic Boarding Allowance (see 5.2.3);
- the income level of the applicant and (if applicable) their partner must be at or below the applicable upper limit for the Parental Income Test (see 6.8.2) see Chapter 6 for details of the Parental Income Test; or
- the Parental Income Test is waived; and
- the level of the student's boarding costs (see 5.2.7) must exceed the level of Basic Boarding Allowance.

See Chapter 6 for details of the Parental Income Test and 6.4.1 in the situation where the Parental Income Test may be waived.

### 5.2.6 Students in foster care

A student in an official substitute or foster care arrangement may qualify for Additional Boarding Allowance *only if* the foster carer is not in receipt of a foster care allowance (or other similar allowance intended for the upkeep or personal use of the student) from a government authority (see 6.4.9).

Note: a student is eligible only if isolated or deemed isolated on the basis of the foster parent's principal family home (see Part 4) and, if boarding away from home, would be expected to spend vacations with the foster parent rather than a natural or adoptive parent.

To substantiate eligibility on this basis, the applicant (foster parent) must provide a statement from the relevant government agency:

- confirming that a direction or authorisation by a Court, Minister or government authority is currently in effect in relation to the student's care;
- confirming the details of the care arrangement, including the name and address of the person(s) authorised to care for the student; and
- indicating whether the authorised carer(s) is receiving a foster care allowance or similar allowance intended for the student's upkeep or personal use.

AIC is not payable in respect of a student who:

- is in a custodial institution such as a prison, remand centre or training school for the period of his or her committal (see 3.6.1); or
- is in State authorised care and whose permanent accommodation is financed wholly or substantially by a State or Territory government (see 3.6.3).

### 5.2.7 Boarding Costs

Additional Boarding Allowance is payable only if or to the extent that the family incurs boarding costs above the level of the Basic Boarding Allowance. A student's boarding costs are:

- the level of 'actual boarding charges' (see 5.2.8); plus
- \$250 to cover incidental expenditure.

A family may qualify for Additional Boarding Allowance only if the 'actual boarding charges' are greater than the minimum threshold of the rate of Basic Boarding Allowance less \$250 for incidentals. see 5.6.1 for current allowance rates.

A family may qualify for the maximum rate of Additional Boarding Allowance (see 5.2.11) only if the 'actual boarding charges' are at least the amount shown in 5.6.2.

### 5.2.8 Actual boarding charges

For the purposes of eligibility for Additional Boarding Allowance, ‘actual boarding charges’ are the fees charged by the boarding provider for the student during the relevant school year. It is the amount of boarding fees actually claimed by the institution after any reduction, subsidy, scholarship or refund is taken into account (see 5.2.9).

If, for example, an institution grants a student a scholarship or bursary for boarding costs and, as a result, the applicant is not actually charged boarding fees, then for the purposes of AIC, the actual boarding charges for the student are nil.

The charges must be for boarding only and may include accommodation-related costs, such as laundry. ‘Actual boarding charges’ do **not** include tuition fees or other associated education costs.

Children with disabilities who board in special institutions may remain there for periods beyond normal school terms. Costs incurred for these additional periods may be included as part of the child’s boarding costs for the year.

If a student moves to a different boarding facility (eg to less expensive boarding arrangements), the entitlement should be recalculated. The actual boarding charges should be based on the total boarding costs incurred for the school year. Any reassessment because of lower boarding costs is therefore retrospective to the commencement of entitlement to Additional Boarding Allowance.

If a student commences or ceases to board during the year, the actual boarding charges should be converted to an annual amount to allow a fair comparison of boarding costs and the rate of Basic Boarding Allowance.

### 5.2.9 Boarding fees paid by another party

The following circumstances do not affect the level of ‘actual boarding charges’ where:

- part or all of boarding fees is paid by another government source out of an entitlement (eg Family Payment) that would otherwise be paid direct to the parent or student; or
- assistance from State or Territory government or private sources (eg friends, relatives, a community organisation) is used to pay part or all of the boarding fee; or
- payment of boarding charges are covered as part of a ‘fringe benefit’ arrangement between the student’s family and an employer (including where the employer is a family company) - however, in this circumstance the value of the fringe benefit (over \$1,000) must be included for parental income testing purposes if Additional Boarding Allowance is being claimed.

### 5.2.10 Additional Boarding Allowance entitlement

Additional Boarding Allowance entitlement is subject to the result of the parental income test (see 6.1) and the level of the student’s boarding costs (see 5.2.7).

The maximum rate of additional component is payable if:

- the parental income test is waived (see 6.4) or the income level of the applicant and (if applicable) their partner must be at or below the Parental Income Free Area for the parental income test (see 6.8.1) – see Chapter 6 for details of the parental income test; and
- boarding costs (see 5.2.7) are greater than or equal to the applicable maximum rate of Boarding Allowance, including the additional component (see 5.2.11).

A partial rate of additional component is payable if:

- the level of the parental income is equal or lower than the applicable upper income limit (see 6.8.2); or

- boarding costs (see 5.2.7) are greater than the rate of Basic Boarding Allowance (see 5.2.11) but less than the applicable maximum rate of Boarding Allowance, including the additional component (see 5.2.11).

The actual rate of entitlement will be either the maximum rate of entitlement less the deduction resulting from the parental income test (see 6.1.5) or the level of boarding costs (see 5.2.7), whichever is the least.. See 6.2.2 to calculate parental income.

No additional component is payable if:

- the level of parental income is greater than the applicable upper income limit (see 6.8.2); or
- boarding costs (see 5.2.7) are less than or equal to rate of Basic Boarding Allowance (see 5.2.11).

### **5.2.11 Maximum rates of entitlement**

See 5.6.3 for current boarding allowance maximum rates of entitlement.

Entitlement is calculated on a pro-rata basis when a student is eligible for only part of the year (see 5.1.4).

### **5.2.12 Entitlement for part-time boarders**

To qualify for the full Boarding Allowance entitlement, an eligible student must live away from home full-time (i.e. for the full school week). To be accepted as a full-time boarder, a student must board away from home on at least four nights per week.

A part-time boarder is an eligible full-time student who lives away from home for fewer than 4 nights a week on a regular basis. Entitlement for a part-time boarder is calculated on a pro-rata basis as a proportion of one week (7 days).

Thus a student living away for one, two or three nights each week is entitled to 1/7, 2/7 or 3/7 (as appropriate) of his or her normal entitlement.

A part-time boarder is entitled over the same period as for a full-time boarder, including to the end of the academic year provided he or she boards part-time for the usual number of days in the final week of school term.

### **5.2.13 Entitlement for short-term boarders**

A short-term boarder is entitled only for the number of days they actually board away from home (see 3.7.1). As with all AIC allowances the student must be eligible for at least one day per year before assistance is payable (see 5.1.5).

## 5.3 Second Home Allowance

- 5.3.1 Purpose of Second Home Allowance
- 5.3.2 Eligibility for Second Home Allowance
- 5.3.3 Approved second family home
- 5.3.4 Approved principal family home
- 5.3.5 Neither parent at principal family home - (at least) one parent working
- 5.3.6 Neither parent at principal family home - neither parent working
- 5.3.7 Parent temporarily employed in isolated area
- 5.3.8 Loss of parent situations
- 5.3.9 Rate of entitlement
- 5.3.10 Maximum annual entitlement per family

### 5.3.1 Purpose of Second Home Allowance

Second Home Allowance is intended to contribute towards the costs incurred by families in maintaining a second home to enable their eligible student(s) to have daily access to appropriate schooling.

### 5.3.2 Eligibility for Second Home Allowance

To be eligible for Second Home Allowance:

- the student must live at an approved second family home during the school week (see 5.3.3);
- the nominated principal family home must remain approved as the principal family home (see 5.3.4); and
- the student must not be in receipt of a pension - the Pensioner Education Supplement is available for students in receipt of certain pensions (see 5.5).

**Note: the eligibility conditions outlined in Parts 2, 3 and 4 must also be met.**

**Note: Second Home Allowance may be paid in respect of a student who is deemed to be isolated because they live in a second family home with a sibling who meets a geographic isolation rule (see 4.4.5). If, during a year, the sibling ceases to meet one of the conditions outlined in 4.4.5, the Continuity of Schooling concession may be applied (see 4.4.6).**

### 5.3.3 Approved second family home

To be accepted as an approved second family home for the purposes of AIC, the second home must be maintained by the family for the primary purpose of providing daily access to appropriate education for at least one student who would not have such access from the family's principal home.

Examples where the second family home cannot be approved are where the:

- parents are separated or divorced and the second home is the normal residence of one of the parents; or
- second family home is used as the base for the family's major business or employment activity; or
- family receives social security Rent Assistance for the home (i.e. the home is considered to be the principal home for the purposes of social security Rent Assistance); or
- second home is either not closer or more accessible to the school the student actually attends.

The intention of the Second Home Allowance criteria is not met if the claimed second home is further away or less accessible to the school the student attends than the principal family home. It is not necessary that the applicant or applicant's partner live at the second home. The student may be in the care of another person, such as an older sibling or a grandparent. As long as some of the costs of maintaining the home are borne by the family (see definition of family 1.2), the student is regarded as living in a second family home rather than boarding.

#### **5.3.4 Approved principal family home**

In order to qualify for Second Home Allowance the family must also maintain a principal family home, that meets the following conditions:

- the home must be capable of providing adequate accommodation for the student's family (i.e. parents and dependent children);
- the family would normally live at this home during school vacations;
- the family must not receive income or any other benefit from persons living at the principal family home or any other residence on the same property as the principal family home, either directly (eg from rent paid by a tenant) or indirectly (eg as lodgings to an employee or person engaged as a property manager);

**and either:**

- at least one parent should be living (at least during the working week) at the principal family home; or
- if neither parent lives at the principal family home and at least one parent works in the vicinity of the second home, it must be clearly demonstrated that the principal family home is nevertheless the major centre of the family's employment or business activity (see 5.3.5); or
- if neither parent lives at the principal family home and neither parent is currently working, it must be clearly demonstrated that the home nominated as the principal family home remains the principal family home (see 5.3.6).

See 5.3.7 where a parent is temporarily employed in an isolated area.

#### **5.3.5 Neither parent at principal family home - (at least) one parent working**

If neither parent lives at the principal family home, on face value it would seem likely that the home nominated as the principal family home may not actually be the family's principal home. In such circumstances it is necessary for the applicant to demonstrate that the principal family home remains the family's primary residence and the major centre of the family's employment or business activity. Relevant information that may be provided to substantiate the Second Home Allowance claim is:

- evidence of the major source of family income (eg - a copy of tax return, statement from employer, contract of employment or copy of group certificate from business or employment);
- the times and locations of involvement in business or employment activity;
- when the homes were established and the periods of residence by the family at each; and
- where the family spends school holidays.

Information about whether the principal family home and second home are owned, being purchased, being rented, or are part of an employment package may be used as guide but is not, on its own, to be regarded as conclusive on this issue. Cases that are difficult to judge may, in the first instance, be referred to the AIC Helpdesk in the Service Integration Shop, Centrelink. Where necessary, the matter can be referred to the Youth and Student Community Segment, National Support Office, Centrelink for advice. The decision maker along with all other relevant circumstances of the application should consider this advice.



### 5.3.6 Neither parent at principal family home - neither parent working

Where the parent/s are retired, receiving Commonwealth income support (eg pension or allowances) or are otherwise not engaged in employment or business based either at the principal family home or second home, it is necessary for the applicant to demonstrate that the nominated principal family home is actually the principal family home. Relevant information that may be provided to substantiate the Second Home Allowance claim is:

- when the homes were established and the periods of residence by the family at each;
- how much time is spent by one or both parents living or staying at each address;
- where the family spends school holidays;
- where the family lived prior to retirement / receipt of income support / cessation of employment or business; and
- whether the student children in the family had access to school on a daily basis prior to the parents' retirement or receipt of income support.

Information about whether the principal family home and second home are owned, being purchased, being rented, or are part of an employment package may be used as guide but is not, on its own, to be regarded as conclusive on this issue. If, however, the family is in receipt of Rent Assistance from Centrelink, the home for which they are receiving this payment is deemed to be the family's current principal family home.

In order for Second Home Allowance to be approved it would be expected that:

- the dwelling claimed as the principal family home was the one in which the family normally lived prior to retirement or receipt of income support; and
- the student(s) in the family did not have access to an appropriate school on a daily basis prior to the parents' retirement or receipt of income support.

Where the parents have moved to the principal family home after having ceased employment or business and there is no overriding evidence that this is the principal home for all the family, Second Home Allowance should not be approved. Cases that are difficult to judge may be referred to the Youth and Student Community Segment, National Support Office, Centrelink for advice.

#### **Example 1**

For several years the Jones family has owned a home in the city and a 'holiday house' on an island just off the coast. Mr and Mrs Jones retire from the workforce, start receiving pensions, and begin spending lengthy periods at the house on the island. This house satisfies the geographic isolation criteria in respect of access to schooling for their two sons. The boys continue to live in the city home and attend school daily. Mr and Mrs Jones spend considerable time in the city home, including most weekends and some of the school holidays. They use both addresses for various purposes, but maintain that the island address is the 'principal' one. Second Home Allowance should not be approved, as there is no overriding evidence that the island house meets the definition of 'principal' home.

#### **Example 2**

Mr Jackson is involved in an accident involving severe physical and mental trauma and starts receiving a pension. The family cannot afford to maintain their home in the city and, on medical advice, Mr Jackson is advised to avoid urban areas. They move to a small isolated property. Mrs Jackson rents a flat on a weekly basis in the nearest town so that their three children can go to school. The isolated house satisfies the definition of principal home, therefore AIC can be approved.

### 5.3.7 Parent temporarily employed in isolated area

Where a parent accepts temporary (including fixed-term contract) employment in an isolated area, the dwelling in which that parent currently resides should not be accepted as the principal family home for the purposes of claiming Second Home Allowance if:

- the dwelling claimed as the second home is in fact the family's permanent home and the other parent lives there with the children who continue to attend school daily; or
- the family chooses to lease or rent out their permanent home (that normally allows access to school on a daily basis) to another person for the duration of the posting and the non-absent parent rents another house (claimed as the second home) from which the children attend school daily.

In addition, care should be taken in approving employer provided accommodation as a principal family home. In many instances such accommodation will not meet the requirements of a principal family home as set out in 5.3.4.

### **Example 1**

Mr Martyn has accepted a two-year government posting as a wildlife officer on Cocos Island. His wife and primary school age children accompany him and live in government subsidised accommodation. The eldest child Meredith boards with relatives in her home city as there is no high school on the island. Her father applies successfully for AIC Basic Boarding Allowance. Some months later, Mrs Martyn decides to return home with the other children and the family claims Second Home Allowances for all three students. The allowance cannot be approved, as Mrs Martyn and the children are living in their principal (permanent) home.

### **Example 2**

Mrs Redway who has lived with her husband and two secondary age children in Wagga Wagga accepts a posting as a teacher in a small country primary school. She is provided with subsidised accommodation (sufficient to house her entire family) near the school. Mrs and Mr Redway decide however, to maintain a home in Wagga so that their children can continue to access secondary school. Generally Mrs Redway stays at the accommodation provided by her employer during the school week and travels to be with her family in Wagga on weekends and holidays. Shortly after Mrs Redway takes up her posting her husband and children move to a new house in Wagga.

Mrs Redway applies for Second Home Allowance on behalf of her children, claiming that the home in which she lives is the family's principal family home. SHA cannot be approved, as Mrs Redway's permanent home is in fact the home in Wagga.

## **5.3.8 Loss of parent situations**

In cases where death or separation results in the sole parent continuing to live with the student(s) at a **previously** established second home while neither parent lives in the principal home, Second Home Allowance may continue provided the conditions for approval of the principal home and the second home continue to be met.

If, however, separation results in one parent living at the principal home and the other parent living with the student(s) in the 'second home', then the nominated 'second home' should not continue to be approved as a second family home (see 5.3.3). In this circumstance, the provisions set out in 2.1 are to be followed to determine the approved applicant and consequently, the student's principal home (i.e. the home of the approved applicant that may be the former second home). Geographic isolation is to be determined with reference to the principal home of the approved applicant.

**Note:** For the family to remain eligible on the basis of the continuity of schooling concession (see 4.4.6) the principal family home (that may previously have been an approved second home) must meet a geographic isolation criteria in relation to the school actually attended (see 4.1.11).

### **Example 1**

Mrs Kent and her husband divorce, leaving her with the family farm. Prior to the divorce, Mrs Kent had spent school terms living in accommodation in a mobile home park so that her two daughters could attend high school daily. She continues to maintain the 'second home' arrangement and, with

the help of her parents and brother-in-law, spends weekends and school holidays keeping the farm productive. AIC Second Home Allowance may be approved.

### **Example 2**

Alison's parents own an isolated property. So that Alison could access secondary schooling her parents set up an approved second home just 5 kilometres from the school Alison attends. Alison and her younger brother have spent school terms living in the second home with their mother for 3 years. Alison's parents separate during the school year and it is agreed that the children will remain living with their mother in what was the second home. As the children normally live with her, Alison's mother becomes the approved applicant for the purposes of AIC and the home in which she lives becomes Alison's principal home. As a result AIC Second Home Allowance is no longer payable from the date of the separation

### **Example 3**

Stuart's mother and her de facto partner moves to an isolated community and set up an art studio in an old building. The partner leaves and, as Stuart has reached secondary school age and has no access to a high school, his mother moves to a larger town and rents a house. Although she continues to own the isolated property, it is unused and dilapidated. She receives a pension, and applies for AIC Second Home Allowance in respect of the rented house. The claim form should not be approved.

## **5.3.9 Rate of entitlement**

See 5.6.4 for the current rate of entitlement for Second Home Allowance.

Entitlement is calculated on a pro-rata basis when a student is eligible for only part of the year (see 5.1.4).

## **5.3.10 Maximum annual entitlement per family**

See 5.6.4 for the maximum amount of Second Home Allowance payable to any one family.

Where a home is an approved second family home on the basis of one student and that student is in receipt of Youth Allowance or ABSTUDY, Second Home Allowance can be paid for a maximum of three other students at any one time (but only including a maximum of two other students deemed isolated under 4.4.5).

## 5.4 Distance Education Allowance

- 5.4.1 Purpose of Distance Education Allowance
- 5.4.2 Eligibility for Distance Education Allowance
- 5.4.3 Acceptable study location
- 5.4.4 Home tuition
- 5.4.5 Rate of entitlement

### 5.4.1 Purpose of Distance Education Allowance

The Distance Education Allowance is intended to contribute towards incidental costs incurred by families whose student children are undertaking their education by distance education methods. This allowance is not intended to meet the ongoing cost of provision of education (eg costs associated with teaching, tuition and supervision).

### 5.4.2 Eligibility for Distance Education Allowance

To be eligible for Distance Education Allowance a student must:

- be studying at home or an acceptable alternative to home (see 5.4.3);
- be undertaking an approved course (see 3.4.4); and
- not be in receipt of a pension - the Pensioner Education Supplement is available for students in receipt of certain pensions (see 5.5).

**Note: Eligibility conditions outlined in Parts 2, 3 and 4 must also be met.**

### 5.4.3 Acceptable study location

Students for whom Distance Education Allowance may be paid normally study from home. However, the following study arrangements are also acceptable:

- if a student studies at and uses facilities of a school that does not offer tuition at the student's level (eg a secondary student who has access to a local primary school); or
- if a student studies at premises which are not classified as a mainstream school and do not provide formal tuition by qualified teachers (eg Homeland Learning Centres, Schools of the Bush or 'Bush Book' schools in the Northern Territory).

**Note: A student is not regarded as isolated from appropriate schooling if a local school offers tuition at the student's level, even if that tuition is substantially or totally through distance education delivery method (see 4.1.9).**

### 5.4.4 Home tuition

A student may be eligible for Distance Education Allowance if undertaking a course of home tuition that has been formally approved by the State or Territory education authority as being a satisfactory alternative to the State or Territory provided curriculum.

Where home tuition approval from the State or Territory education authority lapses solely because the student has reached the statutory school leaving age, the home tuition programme may be deemed to be approved if it was approved immediately prior to the student reaching the statutory school leaving age.

**Note: Eligibility conditions outlined in Parts 2, 3 and 4 must also be met.**

### 5.4.5 Rate of entitlement

See 5.6.5 for current Distance Education Allowance rates.

## 5.5 Pensioner Education Supplement

- 5.5.1 Purpose of the Pensioner Education Supplement (PES)
- 5.5.2 Eligibility for PES
- 5.5.3 Secondary students
- 5.5.4 Rate of entitlement

### 5.5.1 Purpose of the Pensioner Education Supplement

The Pensioner Education Supplement is paid in respect of students in receipt of certain social security pensions and is intended to contribute towards educational costs incurred by parents of eligible students.

### 5.5.2 Eligibility for PES

To be eligible for the PES a student must:

- be studying at primary or equivalent ungraded level (see 3.4.5);
- be in receipt of a Disability Support Pension or a Parenting Payment (single); and
- qualify for either Boarding Allowance, Second Home Allowance or Distance Education Allowance (as applicable), except with regard to receipt of a pension.

**Note: Eligibility conditions outlined in Parts 2, 3 and 4 must also be met. In particular, see special age rules for pensioner students at 3.3.**

### 5.5.3 Secondary students

Secondary (or equivalent) students who receive a pension are not assisted under AIC. Such students on a Disability Support Pension may be eligible for the PES under the *Social Security Act 1991* when they turn 16. Secondary (or equivalent) students on a Parenting Payment (single) may be eligible for the PES under the *Social Security Act 1991* from the minimum school leaving age in their State/Territory.

**Note: Secondary students under the age of 16 and in receipt of a Parenting Payment (single) are not eligible for the PES under AIC.**

### 5.5.4 Rate of entitlement

See 5.6.6 for the current rate of entitlement for the Pensioner Education Supplement.

## 5.6 Current AIC Allowance Rates

- 5.6.1 When Additional Boarding Allowance is payable
- 5.6.2 When the maximum rate of Additional Boarding Allowance is payable
- 5.6.3 Boarding Allowance maximum rates of entitlement
- 5.6.4 Second Home Allowance
- 5.6.5 Distance Education Allowance rate of entitlement
- 5.6.6 Pensioner Education Supplement rate of entitlement

### 5.6.1 When Additional Boarding Allowance is payable

A family may qualify for Additional Boarding Allowance in 2003 only if the 'actual boarding charges' are greater than the minimum threshold of \$4,079 (that is, the rate of Basic Boarding Allowance, \$4,329 less \$250 for incidentals).

### 5.6.2 When the maximum rate of Additional Boarding Allowance is payable

A family may qualify for the maximum rate of Additional Boarding Allowance (see 5.2.11) in 2003 only if the 'actual boarding charges' are at least:

- \$5,095 (i.e. \$5,345 - \$250 incidentals) **for both primary and secondary rate students** (see 5.1.3).

### 5.6.3 Boarding Allowance maximum rates of entitlement

Boarding allowance rates for **2003** are as follows:

- where only Basic Boarding Allowance is payable, the rate is \$4,329 a year (\$166.04 per fortnight);
- where the additional component is payable for either a primary or secondary rate student (see 5.1.3), the maximum rate of Boarding Allowance is \$5,345 a year (\$205.01 per fortnight).

Entitlement is calculated on a pro-rata basis when a student is eligible for only part of the year (see 5.1.4).

### 5.6.4 Second Home Allowance

The rate of entitlement for Second Home Allowance in 2003 is \$4,329 a year (\$166.04 per fortnight). Entitlement is calculated on a pro-rata basis when a student is eligible for only part of a year (see 5.1.4).

The maximum amount of Second Home Allowance payable to any one family is \$12,987 per annum. That is, an allowance is payable for up to **three** eligible students only per family.

Where a home is an approved second family home on the basis of one student and that student is in receipt of Youth Allowance or ABSTUDY, Second Home Allowance can be paid for a maximum of three other students at any one time (but only including a maximum of two other students deemed isolated under 4.4.5).

### 5.6.5 Distance Education Allowance rate of entitlement

Distance Education Allowance rates for 2003 are:

- \$1,208 a year for primary rate students (see 5.1.3); and
- \$1,811 a year for secondary rate students (see 5.1.3).

### **5.6.6 Pensioner Education Supplement rate of entitlement**

The rate of entitlement for the PES in 2003 is \$62.40 a fortnight or \$1,627 per year.

## **6 The Parental Income Test**

### **6.1 Overview of the Parental Income Test**

- 6.1.1 Application of the Parental Income Test
- 6.1.2 Normal assessment on previous tax year
- 6.1.3 Different tax year
- 6.1.4 Proof of income

#### **6.1.1 Application of the Parental Income Test**

The Parental Income Test is normally applied to determine eligibility for Additional Boarding Allowance. However, the Parental Income Test may be waived if:

- Special assessment applies (see 6.4) because the applicant or the applicant's partner is getting a Commonwealth income-tested pension, benefit or allowance (see 6.4.3), or is in receipt of a Health Care Card (see 6.4.4); or
- the student is in State authorised care (see 6.4.9); or
- the student is living with or in an organisation or institution accepted as an approved applicant under 2.1.13.

#### **6.1.2 Normal assessment on previous tax year**

Where the Parental Income Test applies, assessment is normally based on the adjusted parental income for the tax year ending on 30 June of the year preceding the year for which benefits are sought (i.e. tax year 2001/2002 if seeking benefits for 2003).

However, this is not the case if:

- the income of the applicant and/or the applicant's partner is assessed on a tax year other than July to June (see 6.1.3); or
- the applicant and/or the applicant's partner is in receipt of an employer provided fringe benefit (see 6.6); or
- current income assessment (see 6.7) applies.

To calculate the parental income see 6.2.

#### **6.1.3 Different tax year**

The end of the relevant tax year may not fall on June 30 in the following circumstances:

- where the applicant and/or the applicant's partner has, under Section 18 of the *Income Tax Assessment Act 1936*, adopted a 12 month accounting period that ends on a date other than 30 June, (evidence of the different accounting period approved by the Australian Taxation Office (ATO) is required as there will be very few cases where this will apply); or
- where the income of the applicant and/or applicant's partner consists principally of income from a foreign country that uses a different taxation accounting period from that ending on 30 June (for example, New Zealand has a taxation period of 1 April to 31 March).

In such cases the tax year ending before 1 January of the year for which assistance is sought is considered unless current income assessment applies (see 6.7).

#### **6.1.4 Proof of income**

Where the income test applies (see 6.1.1) the applicant and (if applicable) the applicant's partner must provide proof of income to support the Claim form. Normally evidence should take the form of a Taxation Assessment Notice (TAN).



If a TAN is not available, the following are acceptable forms of interim evidence:

- a copy of the person's tax return;
- a letter from a qualified practising accountant or tax agent stating that "(applicant/partner's name)'s income for the 20XX/XX tax year is expected to be \$XXXX" or "... is not expected to exceed \$XXXX";
- where the person received a taxable pension, benefit or allowance from Centrelink (i.e. a social security pension, benefit or allowance) or the Department of Veterans' Affairs for the full tax year, a Statement of Benefit from the paying Department or Office; or
- group certificates and/or Statements of Benefit supported by a Statutory Declaration (or Accountant certification) confirming that these show the full amount of taxable income received by the person during the tax year.

Payment of Additional Boarding Allowance based on evidence other than a TAN must be followed up for verification at a later date. (The applicant should be asked to submit the TAN as soon as it becomes available.)

If acceptable evidence is not presented to verify the income of the applicant or the applicant's partner, only the non-means tested Basic Boarding Allowance may be paid (subject to the student being otherwise eligible).

## 6.2 Calculating Parental Income

- 6.2.1 Parental Income
- 6.2.2 Calculating parental income
- 6.2.3 Parental Income Free Area (PIFA)
- 6.2.4 Effect of PIFA on Additional Boarding Allowance entitlement
- 6.2.5 Upper Income Limit
- 6.2.6 Effect of Upper Income Limit on Additional Boarding Allowance entitlement
- 6.2.7 How dependent child / student affect the PIFA and Upper Income Limit
- 6.2.8 Dependent child / student
- 6.2.9 Children / students who do not increase the PIFA and Upper Income Limit
- 6.2.10 Changes in the number of dependent children / students
- 6.2.11 Maintenance payments
- 6.2.12 Textiles, Clothing and Footwear (TCF) Special Allowance
- 6.2.13 Effect of negative income
- 6.2.14 Income averaging not permitted
- 6.2.15 Income earned or received from overseas
- 6.2.16 Converting overseas income and fringe benefits to Australian amounts

### 6.2.1 Parental Income

The parental income test is applied to determine the rate at which the Additional Boarding Allowance will be paid. It is possible for the parental income test to be waived (see 6.1.1).

### 6.2.2 Calculating parental income

To calculate parental income:

- a. Calculate 'total parental income' by ADDING together:
  - the taxable income of the person(s) being income tested; and
  - any income derived overseas (whether taxed overseas or not) by a person being income tested (see 6.2.15); and
  - any maintenance payments to or on behalf of a person being income tested or a dependant of that person, from a former partner (see 6.2.11); and
  - the value of any claimed loss from rental property or a passive income earning investment (negative gearing) (see 6.5); and
  - the value of certain employer provided fringe benefits (see 6.6) provided to or for a person being income tested; and then
- b. DEDUCT from the 'total parental income':
  - maintenance paid (see 6.2.11) by a person being income tested to or for a former partner and/or dependants or dependent children / student no longer in his or her care.

See 6.3 for details of the person(s) being income tested.

### 6.2.3 Parental Income Free Area (PIFA)

The Parental Income Free Area (PIFA) is the level of income at or below which the **maximum** rate of Additional Boarding Allowance can be paid. The PIFA will be increased according to the number of other dependent children / students in the family.

See 6.2.7 for how dependent children / students affect the PIFA.

See 6.8.1 for the current PIFA level (unadjusted for other dependent children / students).

#### **6.2.4 Effect of PIFA on Additional Boarding Allowance entitlement**

The level of parental income (see 6.2.1) above the PIFA reduces the AIC Additional Boarding Allowance entitlement by \$1 for every whole \$4 of the excess.

The level of boarding costs also affects the rate of the Additional Boarding Allowance.

#### **6.2.5 Upper Income Limit**

The Upper Income Limit is the level of income above which **no** Additional Boarding Allowance can be paid. The Upper Income Limit will be increased according to the number of other dependent children / students in the applicant's family.

See 6.2.7 for how dependent children / students affect the Upper Income Limit.

See 6.8.2 for the current Upper Income Limit.

#### **6.2.6 Effect of Upper Income Limit on Additional Boarding Allowance entitlement**

Less than the maximum amount of the Additional Boarding Allowance is only payable where the parental income (see 6.2.1) is above the PIFA and at/or below the Upper Income Limit.

The level of boarding costs also affects the rate of the Additional Boarding Allowance.

No Additional Boarding Allowance is payable where the parental income is above the Upper Income Limit.

#### **6.2.7 How dependent child/student affect the PIFA and Upper Income Limit.**

Both the PIFA and the Upper Income Limit are increased according to the number of other dependent children/students (see 6.2.8) in the applicant's family.

Both the PIFA and the Upper Income Limit are **increased** by:

- \$3,792 for each additional child / student who:
  - is aged 16 or over; and
  - is in full-time education (whether or not in an approved course); and
  - does not qualify as independent under Youth Allowance or ABSTUDY rules; and
  - does not receive a social security or DVA pension, benefit or allowance (except Family Payment); or
  - is under 16 and eligible for either Boarding Allowance or Second Home Allowance under AIC.
- \$1,230 for the first other dependent child / student under 16 not included above; and
- \$2,562 for each subsequent dependent child / student under 16 not included above.

**Note: The Youth Allowance sibling adjustment (i.e. \$7,585) for students from families where two or more tertiary students are receiving the away-from-home rate does not apply.**

#### **6.2.8 Dependent child / student**

For purposes of calculating the PIFA and Upper Income Limit (see 6.2.7) a dependent child / student is a person who is under 16, or 16-24 and in full-time study and either:

- a natural or adoptive child of either the applicant or the applicant's partner; or
- wholly or substantially dependent on the applicant or the applicant's partner.

See 6.2.9 for children / students who are not considered dependent.

### **6.2.9 Children / students who do not increase the PIFA and Upper Income Limit**

Adjustments to the PIFA and Upper Income Limit cannot be made for the following children for the Additional Boarding Allowance:

- a child / student who is regarded independent under the Youth Allowance/ABSTUDY rules;
- a child / student who is in State authorised substitute care; or
- a child / student who is living with the applicant or applicant's partner under a student exchange programme; or
- a child / student who does not live with the applicant or applicant's partner but for whom the applicant or applicant's partner pays maintenance.

### **6.2.10 Changes in the number of dependent children / students**

All adjustments for dependent children/students are to be calculated on a continuing basis. This means that the entitlement must be reassessed during the year if the number of dependent children/students in the family changes.

Centrelink AIC Processing Centre officers should ensure that prompt action is taken to reassess entitlement and, where necessary, to carry out reassessments of related claim forms.

### **6.2.11 Maintenance payments**

The adjusted parental income takes into account all maintenance received or paid by the applicant or applicant's partner.

Maintenance received includes all payments from a former partner(s) for the upkeep of the applicant or applicant's partner and/or dependent(s).

Maintenance paid includes all payments made by the applicant or applicant's partner for the upkeep of a former partner(s) and/or dependents.

In both instances, payments for household expenses, rent, mortgage, rates, boarding costs, tuition fees and general education expenses or for any other purpose are to be included, even when made to a third party or to the student. Payments made by the Child Support Agency should also be included as these have originated from a non-custodial parent.

### **6.2.12 Textiles, Clothing and Footwear (TCF) Special Allowance**

The Textiles, Clothing and Footwear (TCF) Special Allowance is not counted in the parental income test as special assessment applies (see 6.4.3). This is paid under a Commonwealth scheme to people retrenched from employment in the textiles, clothing and footwear industries.

### **6.2.13 Effect of negative income**

Negative parental income is treated as zero income for AIC income testing purposes. The negative income of the applicant or the applicant's partner cannot be deducted from the other's income.

### **6.2.14 Income averaging not permitted**

For student assistance income testing purposes, parental income cannot be averaged over several years, as allowed for certain Australian Taxation Office purposes (eg primary producers).

**Note: This is not the same as carrying forward a previous year loss, that is an allowable deduction for both income tax and AIC income testing purposes.**

### **6.2.15 Income earned or received from overseas**

Gross income earned or received and taxed overseas (less any deductions allowed in that country), and the value of employer provided fringe benefits (see 6.6.1) provided overseas must be included under the parental income test. In addition, income earned in an Australian external territory (eg Norfolk Island) or an overseas country where there are no taxation arrangements must also be included.

### **6.2.16 Converting overseas income and fringe benefits to Australian amounts**

Income earned and the value of fringe benefits provided overseas will need to be converted to Australian dollars if the income is included in an overseas country's taxation assessment notice or similar document.

If the income or fringe benefit is shown on an Australian Taxation Assessment Notice or similar document, it has already been converted from overseas dollars to Australian dollars. In these cases care should be taken not to double count the income.

When a person has income or an employer provided fringe benefit from an overseas source, the overseas figure is converted to Australian dollars at the average exchange rate for the year. The overseas figures are divided by the appropriate exchange rate.

See 6.9 for the rates to be used when converting currency under these guidelines.

## **6.3 Whose Income is taken into Account?**

- 6.3.1 Applicant and partner usually income tested
- 6.3.2 Situations where income test not applied to applicant and partner
- 6.3.3 Circumstances where separated or divorced parents both income tested
- 6.3.4 Circumstances where applicant's new partner is income tested
- 6.3.5 Loss or change of applicant/applicant's partner during the year of study
- 6.3.6 Incomplete information about income

### **6.3.1 Applicant and partner usually income tested**

In general, the parental income test will apply to the incomes of the approved applicant and, where applicable, their partner. This will usually be the student's parents however, see 2.1 for details.

### **6.3.2 Situations where income test not applied to applicant and partner**

The parental income test does not take into account the incomes of the approved applicant and their partner (see 2.1) where the parental income test is waived (see 6.4).

### **6.3.3 Circumstances where separated or divorced parents both income tested**

Where the student's parents are separated or divorced, they share joint custody of the student and neither has a new partner the income of both parents will be taken into account under the parental income test, regardless of who is considered to be the approved applicant (see 2.1).

Likewise, if parents are separated but living under the same roof, both incomes must be taken into account, whether or not the parents share joint custody.

### **6.3.4 Circumstances where applicant's new partner is income tested**

Where the student's parents are separated or divorced, they share joint custody of the student, and one or both has a new partner, only the applicant and the applicant's new partner will be income tested.

### **6.3.5 Loss or change of applicant / applicant's partner during the year of study**

Generally, the parental income test will apply to the approved applicant and partner as at 1 January of the year of study. However, AIC will be reassessed (subject to 6.3.2) if the applicant and/or the applicant's partner change during the period of eligibility, that is, if the approved applicant changes or gains or loses a partner. As a result, if the approved applicant:

- loses a partner by death or separation, AIC is reassessed from the date of the change in circumstance with the adjusted parental income taking account of the income of the applicant only; or
- gains a partner (for example: remarries, or gains a defacto partner), AIC is reassessed from the date of change of circumstance with the adjusted parental income taking account of the combined income of the applicant and the new partner.

**Note: Reassessment is based on the adjusted family income for the previous tax year (see 6.1.2) unless special assessment (see 6.4.2) or current income assessment applies (see 6.7).**

If the approved applicant changes, the parental income test will apply to the new approved applicant and, where applicable, partner, from the date of the change of circumstance.

The effect of a change in the applicant or the loss or gain of an applicant's partner is illustrated in the following examples.

#### **Example 1**

Up to 14 August Sonia's parents live together in an isolated area and Sonia's mother is an eligible applicant under AIC. On 14 August Sonia's parents separate and her father commences a defacto relationship on that date. It is decided that Sonia's father and his de facto wife will have responsibility for care of Sonia from that date.

Prior to 14 August Sonia's mother was entitled to AIC on the basis of her income and that of Sonia's father. From 14 August onwards Sonia's mother is no longer eligible to receive AIC in respect of Sonia. From that date Sonia's father becomes the approved applicant and will need to submit a new AIC claim form. Entitlement will be calculated on the basis of the incomes of Sonia's father **and** his new partner.

#### **Example 2**

Jordan's parents separate on 14 February. Jordan's mother who is the approved applicant retains custody, pays his boarding fees, and Jordan stays with her in the school holidays. His parents reunite on 15 October.

The previous tax year's parental income test is applied to both parents' incomes to determine Jordan's entitlement for the periods 1 January to 13 February and 15 October to 31 December. The test is applied only to the mother's income for the period 14 February to 14 October.

#### **Example 3**

Adam's parents separated on 19 April when he was 3 years old. Since that time Adam has been in the care of his mother who is the approved applicant. Adam's father has limited contact with him but agrees with Adam's mother to pay Adam's boarding fees. On 16 August of the year of study Adam's parents reunite.

The previous tax year's parental income test is applied to Adam's mother to determine entitlement for the period 1 January to 16 August. The payments Adam's father is making in respect of his boarding fees during this period must also be taken into account as maintenance received by Adam's mother. From 16 August the test is applied to the incomes of both of Adam's parents.

### **6.3.6 Incomplete information about income**

Where, in respect of a person who is income tested:

- refuses to disclose income details; or
- income details are not known or not supplied; or
- acceptable proof of income is not provided (see 6.1.4);

Additional Boarding Allowance should not be paid (except if the income test is waived - see 6.4). Basic Boarding Allowance may be paid pending provision of income details and evidence.

## **6.4 Waiver of the Parental Income Test**

- 6.4.1 Reasons parental income test waived
- 6.4.2 Special assessment
- 6.4.3 Circumstances where special assessment applies
- 6.4.4 Special assessment - concession cards
- 6.4.5 Basis for special assessment - CDEP
- 6.4.6 Duration of special assessment
- 6.4.7 Special assessment lapses - reassessment on parental income
- 6.4.8 Student in foster care
- 6.4.9 Applicant is an organisation / institution

### **6.4.1 Reasons parental income test waived**

The parental income test is waived where:

- special assessment applies (see 6.4.2); or
- the applicant or the applicant's partner has been directed or authorised by a Court, Minister or government authority to care for the student (away from their natural or adoptive parents) under a substitute or foster care arrangement (see 6.4.9); or
- an organisation / institution is considered to be an approved applicant under 2.1.14 (see 6.4.9).

### **6.4.2 Special assessment**

The special assessment concession waives the parental income test for any period during which either the applicant or the applicant's partner:

- receives one of the types of income support specified in 6.4.3; or
- holds a valid Health Care Card (see 6.4.4).

This means that the income test is not applied to either person's income and, subject to boarding costs (see 5.2.7), the student is entitled to the maximum Additional Boarding Allowance during that period.

### **6.4.3 Circumstances where special assessment applies**

Special assessment applies for the period (at least one of) the applicant or the applicant's partner is receiving assistance under:

- a social security pension, income support benefit or allowance;
- a Department of Veterans' Affairs pension (**excluding** the Disability Pension);
- Farm Help;
- Exceptional Circumstances Relief Payment;
- the New Enterprise Incentive Scheme (NEIS);
- a Textiles Clothing and Footwear (TCF) Special Allowance;
- Youth Allowance/Austudy/ABSTUDY;
- an allowance for full-time vocational training or education; or
- Community Development Employment Projects (CDEP) Scheme wage and meets the conditions outlined in 6.4.5.

The concession also applies for the period an applicant or their partner holds a valid Health Care Card (HCC) for low-income earners (see 6.4.4).



#### 6.4.4 Special assessment - concession cards

Special assessment applies for the period the applicant or the applicant's partner holds a valid Health Care Card (HCC) for low-income earners.

However, the special assessment concession does not apply:

- for a period after the expiry date on the card; or
- where a parent holds a HCC because they receive a social security Mobility Allowance or Carer Allowance (in respect of a disabled child); or
- if the applicant or the applicant's partner holds only a Pensioner Concession Card or a Commonwealth Seniors Health Card (CSHC).

#### 6.4.5 Basis for special assessment - CDEP

A special assessment applies where the applicant or applicant's partner is receiving a Community Development Employment Projects (CDEP) Scheme wage as a participant and which is not paid to administer a CDEP project.

#### 6.4.6 Duration of special assessment

Special assessment will commence from 1 January of the year for which assistance is sought or the date the applicant or applicant's partner commences receiving one of the types of income support specified in 6.4.3 (or commences to hold a valid Health Care Card), whichever is later.

Special assessment will lapse on the date the applicant or applicant's partner ceases to receive the applicable type of income support (or ceases to hold a valid Health Care Card).

If the applicant or applicant's partner continues to receive one of the types of income support specified in 6.4.3 (or continues to hold a valid Health Care Card) to the end of the year for which assistance is sought, Special Assessment will carry through to the end of the year.

**Note: Where an applicant or their partner's Exceptional Circumstances Relief Payment ceases as a result of the drought recovery period ending, he or she is taken to be receiving a payment under that scheme until the end of the year in which payments cease. As a result special assessment continues to apply until the end of the calendar year.**

#### 6.4.7 Special assessment lapses - reassessment on parental income

Where special assessment lapses (see 6.4.7), the parental income test is applied to determine eligibility for Additional Boarding Allowance from the date on which the applicant or applicant's partner ceased to receive one of the types of income support specified in 6.4.3 or ceased to hold a valid Health Care Card. The parental income test should be applied to the adjusted parental income (see 6.2.1) for the previous tax year unless current income assessment conditions are satisfied (see 6.7).

#### **Example 1: Parents reunite after separating during year of study**

Joanne's mum is seeking AIC for 2001. Her parents separate on 1 February 2001. Her mother receives a Parenting Payment (single) and Joanne remains with her. Her parents reunite seven months later on 1 September 2001.

#### **Assessment basis:**

- 1.1.01 - 31.12.01 normal assessment on both parents' incomes for 2000-01
- 1.2.01 - 31.8.01 special assessment (income test waived)
- 1.9.01 - 31.12.01 normal assessment on both parents' income for 2000-01

**Example 2: Parent gains employment**

Cameron's father is seeking AIC for 2001. Cameron's father becomes unemployed on 11 April 2001, and receives Newstart Allowance. He starts work again on 23 May. His mother has a part-time job.

**Assessment basis:**

1.1.01 - 10.4.01 normal assessment on both parents' incomes for 2000-01

11.4.01 - 22.5.01 special assessment

23.5.01 - 31.12.01 current income or normal assessment, (Special assessment may again apply if another period of unemployment occurs later in the year and Newstart Allowance is received.)

**6.4.8 Student in foster care**

A student in State authorised care or foster care arrangement may, subject to boarding costs (see 5.2.7), receive maximum Additional Boarding Allowance if the foster carer is **not in receipt** of a foster care allowance (or other similar allowance intended for the upkeep or personal use of the student) from a government authority (see 5.2.6 for eligibility for Additional Boarding Allowance and evidence requirements).

In this circumstance the applicant should be the official foster parent (or his/her partner) and the parental income test is waived.

**6.4.9 Applicant is an organisation / institution**

Where an organisation or institution is the approved applicant under 2.1.14, the parental income test is waived and maximum Additional Boarding Allowance is payable subject to boarding costs (see 5.2.7).

## **6.5 Negative Gearing**

- 6.5.1 Introduction to negative gearing
- 6.5.2 Definition of rental property
- 6.5.3 Definition of passive income earning investment
- 6.5.4 Valuing rental property losses (negative gearing)
- 6.5.5 Self declaration
- 6.5.6 Compliance

### **6.5.1 Introduction to negative gearing**

An applicant or their partner who reduces their taxable income by claiming a loss against rental property or a passive income earning investment will have to add back the value of the deduction (commonly known as negative gearing) for AIC purposes.

These deductions are to be self-declared at the time of application, by the applicant and, where applicable, his/her partner.

Investment and rental property losses flowing through to the individual(s) from investments or rental property owned in a trust or company are not taken into account for AIC income testing.

Any substantial changes in taxable income deductions from negative gearing, may warrant reassessment because of the effect on current or reverse current income.

### **6.5.2 Definition of rental property**

For the purposes of AIC 'rental property' owned by an individual person includes:

- a house, home unit or flat;
- a room in a house, home unit or flat;
- an on-site caravan;
- a house-boat;
- overseas rental property; or
- any other similar rental property.

### **6.5.3 Definition of passive income earning investment**

For the purposes of AIC a 'passive income earning investment' is an investment where the person spends less than 17.5 hours, on average, each week working on that investment.

### **6.5.4 Valuing rental property losses (negative gearing)**

Only the amount allowed as a taxable income deduction claimed by the relevant taxpayer (ie the applicant or partner), will be added to their income for AIC purposes. For example: a relevant person's taxable income may be reduced by \$4,000 in share investment losses (negative gearing) - this amount will be added to that person's income for AIC purposes.

### **6.5.5 Self declaration**

The applicant or his or her partner is required to self-declare on the claim form, the net amount of negative gearing claimed against other taxable income in their individual or partnership income tax return.

### **6.5.6 Compliance**

The Centrelink Debt Recovery Unit will conduct compliance checks with the Australian Taxation Office (ATO).

## 6.6 Fringe Benefits

- 6.6.1 Introduction to fringe benefits
- 6.6.2 Valuing fringe benefits
- 6.6.3 First \$1,000 of reportable fringe benefits exempt
- 6.6.4 Fringe benefits tax accounting period
- 6.6.5 Overseas fringe benefits
- 6.6.6 Types of benefits to be included
- 6.6.7 Exclusion of fringe benefits from assessment

### 6.6.1 Introduction to fringe benefits

Fringe benefits include the value of any employer provided benefit received during the base tax year. An employer provided benefit is any right, privilege, service, in kind payment or facility that an employee receives (or assigns to someone else) from their employment.

Employees may 'sacrifice' an amount of their cash salary and receive the value of the amount as a fringe benefit. In other cases, a fringe benefit may be a fixed part of the employee's salary package.

Common forms of salary sacrifice or fringe benefits include:

- leasing of vehicles;
- extra superannuation contributions;
- investments;
- expense benefits;
- housing assistance; and
- low interest loans.

As the value of the benefit is not recorded as salary for the employee, they do not pay income tax on that amount. Instead, the employer pays fringe benefits tax (FBT) on the value of the benefit.

The amount to be declared is the 'Reportable fringe benefits total' as reported on the employee's group certificate. The reportable fringe benefit is used for the purposes of the AIC parental income test.

### 6.6.2 Valuing fringe benefits

The employer is now responsible for reporting fringe benefits on an employee's group certificate. The amount that is reported on the group certificate is the grossed-up value of the fringe benefit and is referred to as the 'reportable fringe benefit total'.

#### Fringe benefit tax rate

The FBT rate is the fringe benefits tax rate set by the *Fringe Benefits Tax Act 1986*. It is the highest marginal tax rate including the Medicare levy. The FBT rate for the FBT year ending 31 March 2003 is 0.485. The rate is expressed as a percentage of 1.

A fringe benefits tax year runs from 1 April to 31 March. Where applicants elect to give an employer statement of the value of their fringe benefits, the relevant fringe benefits tax year is the one completed in the relevant year of income. So, for example, for a 2002 AIC assessment, the relevant year of income will ordinarily be 2000/2001. The relevant fringe benefits year will be the one that ended on 31 March 2001. The exception to this is current income based assessments (see 6.7).

### **6.6.3 First \$1,000 of reportable fringe benefits exempt**

The first \$1,000 of reportable fringe benefits is exempt from the parental income test. Reportable fringe benefits in excess of \$1,000 appear on an employee's Group Certificate. The reportable fringe benefits will be reduced by the maximum tax rate and the adjusted fringe benefits will be added to the parental income.

### **6.6.4 Fringe benefits tax accounting period**

In respect of the reportable fringe benefits, the assessable value of such is normally measured against the fringe benefit tax accounting period (1 April to 31 March) ending prior to the year for which assistance is sought. This may vary if current income assessment applies (see 6.7). The reportable fringe benefits total is found on the group certificate provided by the employer.

### **6.6.5 Overseas fringe benefits**

Where an applicant or their partner is working overseas and getting any fringe benefits listed in 6.6.5, the Australian equivalent (see 6.2.16) of the value of the benefits is to be included.

### **6.6.6 Types of benefits to be included**

The types of fringe benefits include but not limited to:

- car fringe benefits;
- debt waiver benefits;
- loan fringe benefits;
- expense payment fringe benefits;
- housing fringe benefits;
- living-away-from-home allowance benefits;
- airline transport benefits;
- board fringe benefits (certain meals);
- car parking fringe benefits;
- property fringe benefits;
- residual fringe benefits.

Reporting fringe benefits is the responsibility of the employer. If further information is required in regard to fringe benefits, the employee should seek advice from the employer or the Australian Taxation Office.

### **6.6.7 Exclusion of fringe benefits from assessment**

Ministers of religion are treated the same as any other employee for the purposes of assessing adjusted fringe benefits.

The assessment of adjusted fringe benefits for ministers of religion is also based on the grossed fringe benefit recorded on their group certificate. Certain benefits received by ministers of religion are exempt under section 57 of the Fringe Benefits Tax Assessment Act. These benefits will not appear on their group certificate, and therefore will not be assessed as adjusted fringe benefits.

## **6.7 Current Income Assessment**

- 6.7.1 Assessment based on current tax year
- 6.7.2 Parental current income concession - fall in income
- 6.7.3 Circumstance causing hardship
- 6.7.4 Substantial drop in parental income
- 6.7.5 Duration of fall in income
- 6.7.6 Current income concession - date of effect
- 6.7.7 Estimated income
- 6.7.8 Approval of estimated income
- 6.7.9 Reverse current income (increase in income)

### **6.7.1 Assessment based on current tax year**

Assessment may be based on income for the current tax year (ie the tax year ending in the year for which benefits are sought) where:

- the person(s) being income tested suffer a substantial and lasting fall in income and the current income concession is approved (see 6.7.2); or
- the adjusted parental income for the current tax year is 25% or more than for the previous tax year and the reverse current income rule is applied (see 6.7.9).

There is **no** provision for the parental income test to be applied to any period later than the current tax year accounting period.

### **6.7.2 Parental current income concession - fall in income**

The current income concession applies where it would be unreasonable to assess eligibility for Additional Boarding Allowance on the basis of adjusted parental income for the normal income test period because:

- a circumstance causing hardship has occurred (see 6.7.3); and
- the drop in parental income is substantial (see 6.7.4); and
- the drop is likely to last for at least two years from the date of the circumstance causing hardship or 1 January of the year of study, whichever is the later (see 6.7.5).

### **6.7.3 Circumstance causing hardship**

Circumstances under which current income assessment may be approved are:

- permanent invalidity, retirement, or any similar circumstance that removes or reduces earning capacity;
- drought, bushfire or other circumstance (eg flood, cyclone) beyond the person's control; or
- any other circumstances causing hardship.

Loss of an applicant or applicant's partner through death or separation does not warrant current income assessment (see 6.3.5), unless the remaining applicant also suffers a significant and sustained fall in income that would make current income advantageous.

### **6.7.4 Substantial drop in parental income**

To constitute a substantial drop for the purposes of current income approval, the 'adjusted parental income' for the relevant period should **generally** be at least 25% lower than that for the normal assessment period.

While a drop of this size is a **general** yardstick, assessors should exercise discretion when the drop is less than 25%. Clearly, for people on lower incomes a lesser drop can have a substantial effect on their standard of living. Also, where the drop occurs late in the tax year or where the difference in tax year totals is influenced by 'one-off' income (such as redundancy or termination payments) the drop may be more substantial than is immediately apparent when comparing tax year totals.

**Note: Current income approvals should be given sympathetic consideration. The crucial factors are whether parental income for the normal test period is a reasonable approximation of family means and whether the drop in income is significant enough to affect entitlement.**

### **Example**

Mr and Mrs Presley had an income of \$30,000 in the normal assessment year. On 30 November in the following tax year Mr Presley retires. The income of the parents for that year is \$12,000 for the period 1 July - 30 November and then \$175 a week from superannuation for the period 30 November - 30 June. Although this does not represent a fall of 25% between the tax years, there has clearly been a drastic fall in parental income and current income assessment should be granted.

### **6.7.5 Duration of fall in income**

The circumstance causing a fall in income must be one that could reasonably be expected to last for at least two years. If the applicant claims that the fall in income is likely to last at least two years, this should be accepted unless there is evidence to the contrary.

However, claims based on seasonal falls in a market that is subject to short term fluctuations (eg in the case of primary producers due to market factors) should not be approved unless there are special circumstances (eg expert forecasts of a prolonged slump).

Where current income assessment has been granted on the expectation that the drop in income will last at least two years, any subsequent change in circumstances (eg an unemployed parent finds a new job in a shorter time-frame than originally expected) will not affect the current income assessment, unless there is evidence to suggest that the original request was not made in good faith.

However, the change in circumstances may mean an increase in the income on which the assessment is based. In such cases, a re-estimate of income for the current income tax year may be necessary (see 6.7.7).

### **6.7.6 Current income concession - date of effect**

If the date of the fall in income occurs prior to or on 1 January of the year in which assistance is sought, the date of effect for current income assessment is 1 January. In this circumstance, entitlement for the whole eligibility period is assessed on the adjusted parental income (see 6.2.1) for the current tax year (see 6.7.1).

If the date of the fall in income occurs after 1 January of the year in which assistance is sought, the date of effect for current income assessment is the date of the fall in income.

In this circumstance:

- entitlement for the period of eligibility prior to the date of the fall is assessed on the adjusted parental income (see 6.2.1) for the normal tax year (see 6.1.2); and
- entitlement for the period of eligibility from the date of the fall is assessed on the adjusted parental income (see 6.2.1) for the current tax year (see 6.7.1).

In most cases the date from which income has dropped will be readily established. However, where income is affected by circumstances such as drought, it will be necessary to establish an approximate date based on such considerations as the normal arrangements for marketing the



product and the period of production to which the income related when the adverse effect became apparent. If no precise date were available, the date chosen would be the first day of the most appropriate month.

### 6.7.7 Estimated income

An estimate of income may be used to determine provisional entitlement and commence payments. However, **actual** entitlement remains subject to **actual** income. Thus, the applicant's entitlement will be reassessed as soon as actual income details are available.

As a result applicants for this concession should be clearly warned at the outset of the possibility of overpayments resulting from under-estimates of income or from unexpected changes in circumstances.

Where an applicant has been assessed on an estimate of income in the current income year he/she should provide acceptable proof of income (see 6.1.4) as soon as possible after the end of the current tax year (see 6.7.1).

Where a reassessment of entitlement is necessary because actual income exceeds that of the original estimate, the reassessment should be based on the **lower** income figure of either:

- the actual adjusted parental income for the current tax year (ie the tax year ending in the year for which benefits are sought); or
- the actual adjusted parental income for the previous tax year (ie the tax year ending in the year prior to the year for which benefits are sought).

**Note: in exceptional cases the provisions of 6.4 (waiver of parental income test) or 6.7.9 (reverse current income assessment) may override this assessment.**

### 6.7.8 Approval of estimated income

In determining whether to approve current income assessment the assessor should consider whether an estimate of income provided is a reasonable one. An applicant's estimate should take into account the following:

- the actual income of the approved applicant and, where relevant, the applicant's partner for that part of the current income year up to the date of the drop;
- any taxable component of redundancy or separation payouts (eg superannuation or lump sum leave entitlements);
- indexation increases in remaining wages; and
- anticipated income from the date of the drop until the end of the tax year (including earnings from casual employment or occasional overtime).

Where an assessor believes the estimate may not be accurate, he or she should act to avoid overpayments by discussing the matter with the applicant and, where appropriate, seeking a new estimate.

An assessor should be satisfied that the estimate of the size of the drop is reasonable in the light of information available on relevant factors, such as previous earnings and current employment.

#### **Example 1: Drop in income before the year for which benefits are sought**

Marina's mother is seeking AIC for 1999. Marina's mother gives up full-time employment in November 1998. Marina's entitlement for the whole of the 1999-year of study is assessed on the incomes of both parents for the 1998/99 tax years.

If Marina's mother resumes full-time employment during the year of study, assessment may still be made on current income provided the original request for current income assessment was made

in good faith in the expectation that the drop in income would last at least two years, and current income assessment is more advantageous to Marina than normal assessment.

**Example 2: Drop in income between 1 January and 30 June of the year benefits are sought**

Reid's father is seeking AIC for 1999. Reid's father retires on 13 February 1999 and subsequently receives superannuation.

Entitlement up to 13 February is assessed in the normal way on his parents' income during the 1997/98 tax years.

Entitlement from 13 February to 31 December 1999 is assessed on his parents' income for the 1998/99 tax years. Should Reid's father re-enter the workforce the same principles apply as outlined in the previous example.

**6.7.9 Reverse current income (increase in income)**

A reverse current income assessment is applied where the adjusted parental income (see 6.2.1) for the current tax year (see 6.7.1) is **25% or more** than the adjusted parental income for the normal tax year (see 6.1.2).

However, if the adjusted parental income for the normal tax year is less than the Parental Income Free Area (see 6.2.3), the adjusted parental income for the current tax year must also be **25% or more** than the PIFA.

Where a reverse current income assessment is relevant, the entitlement is to be reassessed from 1 October. That is, normal tax year assessment will apply for the eligibility period prior to 1 October.

If an applicant considers that a reverse current income assessment will be necessary, but exact income details are not available, a provisional reverse current income assessment may be based on an estimate of adjusted parental income for the current tax year. When actual income details for the current tax year are available, a further reassessment may be necessary if the estimate proves to be inaccurate.

**Note: There is no provision for the parental income test to be applied to any period later than the current tax year (ie the tax year ending in the year for which benefits are sought) (see 6.7.1).**

**Example 1**

Adrian's father is seeking AIC for 1999. His father's entitlement is assessed on the basis of parental income of \$15,000 for the 1997/98 tax years. Subsequently his parent's income increases to \$27,000 in the 1998/99 tax years. Reverse current income does not apply as the current income is not at least 25% higher than the parental income test threshold of \$25,150.

**Example 2**

In 1999 Mr Bushell, a sole parent is receiving maximum Additional Boarding Allowance in respect of his daughter Maxine on the basis of his 1997/98 income. During the 1998/99 tax years Mr Bushell works on a very important project that requires him to work substantial amounts of overtime. Mr Bushell resigns on 20 May and receives a substantial lump sum termination payment that is taxable.

As Mr Bushell's 1998/99 income is more than 25% higher than in 1997/98 his entitlement must be reassessed using the 1998/99 tax year figure. This increased income leaves Mr Bushell eligible for only the Basic Boarding Allowance from 1 October 1999.

Mr Bushell finds himself unable to obtain new employment and expects to have a substantially lower taxable income for the 1999/2000 tax years. This lower income cannot be considered however, as there is no provision for income after the 1998/99 tax years to be taken into account.

Luckily Mr Bushell receives a Health Care Card from 11 September and special assessment applies. From this date he is therefore eligible for maximum Additional Boarding Allowance again.

## **6.8 Current AIC Income Limits and Interest Rates**

- 6.8.1 Parental Income Free Area
- 6.8.2 Upper income limit

### **6.8.1 Parental Income Free Area**

The level of parental income at or below which the maximum rate of Additional Boarding Allowance can be paid is known as the Parental Income Free Area (PIFA). Entitlement is reduced by \$1 for every whole \$4 of parental income over the PIFA.  
In 2003 the PIFA is \$27,400.

Any adjustments for dependent children / students (see 6.2.7) increase the PIFA.

### **6.8.2 Upper income limit**

Additional Boarding Allowance is payable only where the parental income is at or below the Upper Income Limit.

In 2003 the Upper Income Limit is \$31,463.

Any adjustments for dependent children / students (see 6.2.7) also increase the Upper Income Limit.

If the parental income exceeds the Upper Income Limits then only the Basic Boarding Allowance is payable.

## **6.9 Currency Exchange Rates**

Currency Exchange Rates are available on the Australian Taxation Office web site at [www.ato.gov.au](http://www.ato.gov.au).

The structure of Australian schooling

School year level	NSW, Vic., Tas., ACT	SA, NT	Qld, WA
12	Secondary	Secondary	Secondary
11			
10			
9			
8	Primary	Primary	Primary
7			
6			
5			
4			
3			
2			
1			
Pre-year 1	Kindergarten(NSW, ACT)  Preparatory(Vic., Tas.)	Reception(SA)  Transition(NT)	

## Persons before whom a Statutory Declaration may be made

### Members of certain professions

- Chiropractor
- Dentist
- Legal practitioner
- Medical practitioner
- Nurse
- Patent attorney
- Pharmacist
- Physiotherapist
- Psychologist
- Veterinary surgeon

### Other persons

- Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public Australian Consular Officer, or Australian Diplomatic Officer, (within the meaning of the Consular Fees Act 1985)
- Bailiff
- Bank officer with 5 or more continuous years of service
- Building society officer with 5 or more years of continuous service
- Chief executive officer of a Commonwealth court
- Civil marriage celebrant
- Clerk of a court
- Commissioner for Affidavits
- Commissioner for Declarations
- Credit union officer with 5 or more years of continuous service
- Fellow of the National Tax Accountants Association
- Finance company officer with 5 or more years of continuous service
- Holder of a statutory office not specified in another item in this Part
- Judge of a court
- Justice of the Peace
- Magistrate
- Master of a court
- Member of the Association of Taxation and Management Accountants
- Member of the Australian Defence Force who is:
  - (a) an officer; or
  - (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 years or more of continuous service; or
  - (c) warrant officer within the meaning of that Act
- Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants
- Member of the Institute of Corporate Managers, Secretaries and Administrators
- Member of the Institution of Engineers, Australia, other than at the grade of student
- Member of:
  - (a) the Parliament of the Commonwealth; or
  - (b) the Parliament of a State; or
  - (c) a Territory legislature; or
  - (d) a local government authority of a State or Territory

- Minister of religion registered under Division 1 of Part IV of the Marriage Act 1961
- Notary public
- Permanent employee of:
  - (a) the Commonwealth or of a Commonwealth authority; or
  - (b) a State or Territory or of a State or Territory authority; or
  - (c) a local government authority;
 with 5 or more years of continuous service who is not specified in another item in this Part
- Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public
- Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made
- Police officer
- Registrar, or Deputy Registrar, of a court
- Senior Executive Service officer of the Commonwealth, or of a State or Territory, or of a Commonwealth, State or Territory authority
- Sheriff
- Sheriffs officer
- Teacher employed on a full-time basis at a school or tertiary education institution

# Attachment

# C

Extract from the Office of the Federal Privacy Commissioner – 24 October 2002  
Copies of the Tax file number guidelines can be found at: <http://www.privacy.gov.au/act/tfn/#13>

## Tax file number guidelines 1992

### Annotated version including all amendments as at July 1997

#### Issued by the Privacy Commissioner

These Guidelines became law on 21 December 1992. They **replace** the previous Tax File Number Guidelines of October 1990. A set of annotations, in the form of Commissioner's Notes, appear underneath the Guidelines in *italics*. The annotations do not form part of the law and provide interpretive assistance only.

These Guidelines incorporate two sets of amendments issued on 9 October 1996.

**Commissioner's note:** *Interim Guidelines were contained in the Privacy Act 1988 and were replaced, first with the Tax File Number Guidelines 1990, and then with the 1992 Guidelines, issued in September 1992 and effective from 21 December 1992. A Table of Amendments since that time appears at the end of the Guidelines.*

*A set of annotations appear underneath the Guidelines in italics, each headed "Commissioner's Note". The annotations do not form part of the law and provide interpretive assistance only.*

#### Introduction

These Guidelines are issued under Section 17 of the *Privacy Act 1988*. They are intended to protect the privacy of individuals by restricting the use of tax file number information. The Privacy Act provides that a breach of the Guidelines is an interference with the privacy of an individual. An affected individual may complain to the Privacy Commissioner. Where appropriate the individual may seek compensation. Unauthorised use or disclosure of tax file numbers is also an offence under the *Taxation Administration Act 1953* with a penalty of up to \$10,000 fine, two years imprisonment, or both.

**Commissioner's note:** *These Guidelines protect the tax file number information of natural persons only. They are not intended to protect tax file number information relating to other entities, such as corporate entities, partnerships, superannuation funds and trusts. The tax file number provisions in the Taxation Administration Act 1953 on the other hand protect all tax file numbers, including individuals'. Specifically, section 8WA places restrictions on unauthorised requirements or requests that a tax file number be quoted, while section 8WB places restrictions on the unauthorised recording, maintaining a record of, use or disclosure of a tax file number.*

In complying with these Guidelines, tax file number recipients should have regard to the Annotations and Compliance Notes issued by the Privacy Commissioner. The Guidelines are legally binding. The Annotations and any Compliance Notes are intended to assist those affected in interpreting the Guidelines, and do not have the force of law.

For the purposes of these Guidelines, the term "taxation law" has a meaning which is wider than its usual meaning under the *Taxation Administration Act 1953*. Its extended meaning is given in Guideline 9.8. The terms "taxation purpose" and "tax related purpose" carry a similar extended meaning. A complete list of definitions appears in Guideline 9, "Meaning Of Terms".



**Commissioner's note:** *These Guidelines were first applied for authorised assistance agency purposes in 1990, and authorised superannuation purposes in 1996. The terms 'assistance agency law' and 'superannuation law' are defined in Guidelines 9.9 and 9.10 respectively.*

## **Guidelines**

### **1. General**

1.1 The tax file number is not to be used as a national identification system by whatever means.

**Commissioner's note:** *This does not preclude the use of the tax file number as an identifier for taxation law purposes by the Commissioner of Taxation.*

1.2 The rights of individuals under taxation, assistance agency or superannuation law to choose not to quote a tax file number shall be respected.

**Commissioner's note:** *This Guideline, which forms the basis of what is known as the 'voluntary quotation principle', recognises that an individual is not legally obliged to quote a tax file number. Neither taxation nor assistance agency nor superannuation laws make the quotation of a tax file number a requirement, although the financial consequences of not quoting can be severe. Under assistance agency law, the quotation of a tax file number is a condition for the receipt of assistance payments.*

### **2. Use and disclosure of tax file number information**

2.1 The tax file number is not to be used or disclosed to establish or confirm the identity of an individual for any purpose not authorised by taxation, assistance agency or superannuation law.

**Commissioner's note:** *The purpose of the tax file number is to facilitate tax and certain aspects of assistance agency and superannuation administration, not to assist with the identification of individuals for other purposes.*

2.2 The tax file number is not to be used or disclosed to obtain any information about an individual for any purpose not authorised by taxation, assistance agency or superannuation law.

2.3 Tax file number information is not to be used or disclosed (whether directly or indirectly) to match personal information about an individual except as authorised by taxation, assistance agency or superannuation law. In particular, matching of tax file number information is not to be undertaken by government agencies, employers, investment bodies or the trustees of superannuation funds for any purpose not authorised by taxation, assistance agency or superannuation law.

**Commissioner's note:** *The tax file number can only be used or disclosed by tax file number recipients for reasons necessary to administer or comply with taxation, assistance agency, or superannuation law. A tax file number recipient may not match personal information by means of the tax file number for any other purpose.*

2.4 Tax file number information shall only be used or disclosed by tax file number recipients as authorised by taxation, assistance agency or superannuation law.

**Commissioner's note:** *Only persons and organisations authorised by taxation, assistance agency, or superannuation law may use or disclose a tax file number. A list of classes of lawful tax file*

number recipients, current at the date of issue of these Guidelines, is appended. It was compiled jointly by the Commissioner of Taxation and the Insurance and Superannuation Commissioner under Tax File Number Guideline 3.1 and 3A.1.

### **3. Obligations of the Commissioner of Taxation**

3.1 The Commissioner of Taxation shall publicise, in a generally available publication, information relating to:

- (a) the classes of persons or bodies who are authorised by law to request an individual to quote that individual's tax file number;

**Commissioner's note:** *It is necessary for this publication to be made widely available so that individuals may be aware of those entitled to request tax file numbers and thus avoid unauthorised collection.*

- (b) the specific purposes for which such a request may be made;

**Commissioner's note:** *The Commissioner of Taxation must also publicise the circumstances under which those authorised may request tax file numbers so that requests may be limited to those circumstances alone.*

- (c) the prohibitions upon the collection, recording, use and disclosure of tax file number information; and

**Commissioner's note:** *The prohibitions on collection, recording, use and disclosure of tax file numbers must be publicised to assist in the prevention of misuse.*

- (d) the penalties that apply to unauthorised acts and practices in relation to tax file number information;

**Commissioner's note:** *Publicising the penalties against unauthorised acts and practices will act as a deterrent to misuse.*

together with information as to where detailed particulars relating to these matters can be obtained.

**Commissioner's note:** *The Commissioner of Taxation fulfils the obligation under Guideline 3.1 by the issuing of a document, 'Classes of Lawful Tax File Number Recipients' (appended to these Guidelines), in conjunction with the Insurance and Superannuation Commissioner (who has similar obligations set out at Guideline 3A). The ATO also includes notices on ATO forms and other publications, which may refer for detailed information to either (a) or (b) of this annotation. The ATO also publishes a number of Taxpayers Charter explanatory booklets.*

3.2 Wherever practicable, publication by the Commissioner of Taxation pursuant to 3.1 shall be made prior to any new circumstances in which a tax file number may be requested arising as a result of an amendment to a taxation law.

3.3 The Commissioner of Taxation shall ensure that any practice involving the collection of tax file number information which has been prescribed or approved by him, provides for individuals to be informed:

- (a) of the legal basis for collection;
- (b) that declining to quote a tax file number is not an offence; and
- (c) of the consequences of not quoting a tax file number.

**Commissioner's note:** *The Australian Taxation Office has issued a document entitled "Guidance on the Preparation of Tax File Number Forms", which outlines the design requirements for forms used to collect tax file number information. Copies of this document are available from the Privacy Section of the National Office of the Australian Taxation Office in Canberra. This document should be read in conjunction with the Privacy Commissioner's Compliance Notes 1/90: "Collection of Tax File Numbers by Investment Bodies", 2/90: "New Investments - Further Advice on Collection of Tax File Numbers by Investment Bodies", and Supplementary Note to Compliance Notes 1/90 and 2/90: "Requests for TFNs in Connection with New Accounts or Investments".*

3.4 The Commissioner of Taxation shall also observe all other relevant obligations contained in these Guidelines.

**Commissioner's note:** *The obligations on the Commissioner of Taxation relating to collection, recording, use and disclosure of tax file numbers under the Tax File Number Guidelines and Taxation Administration Act 1953 are complementary to, but may overlap with, responsibilities under the Information Privacy Principles and other legislation eg. secrecy provisions, the Data-matching Program (Assistance and Tax) Act 1990.*

### **3A. Obligations of the Insurance and Superannuation Commissioner**

**Commissioner's note:** *This Part was added by Amendment 1996 No.2 in recognition of the greater role of tax file numbers in the administration of superannuation due to legislative changes in that area. The following Guidelines place responsibilities on the Insurance and Superannuation Commissioner to provide community information similar to the responsibility borne by the Commissioner of Taxation.*

3A.1 The Insurance and Superannuation Commissioner shall ensure that any practice involving the collection of tax file number information which has been prescribed or approved by him or her provides for individuals to be informed:

- (a) of the legal basis for collection;
- (b) that declining to quote a tax file number is not an offence; and
- (c) of the consequences of not quoting a tax file number.

**Commissioner's note:** *The Insurance and Superannuation Commissioner has issued Approvals of the manner of quoting, requesting, and transferring tax file numbers for the purposes and possible future purposes of the Superannuation Industry (Supervision) Act, pursuant to various sections in Part 25A of that Act, and pursuant to various sections of the Retirement Savings Accounts Act 1997. These Approvals are published in the Insurance and Superannuation Commission's Superannuation Digest. Copies of the approvals may also be obtained from ISC offices.*

3A.2 The Insurance and Superannuation Commissioner shall publicise, in a generally available publication, information relating to:

- (a) the bodies, including the trustees of superannuation funds and employers, who are authorised under superannuation law to request tax file numbers;
- (b) the specific purposes under superannuation law for which a tax file number may be requested;
- (c) the prohibitions upon the collection, recording, use and disclosure of tax file number information; and

- (d) the penalties that apply to unauthorised acts and practices in relation to tax file number information;

together with information as to where detailed particulars relating to these matters can be obtained.

**Commissioner's note:** *The Insurance and Superannuation Commissioner fulfils the obligation under Guideline 3A.2 by the issuing of a document 'Classes of Lawful Tax File Number Recipients' (appended to these Guidelines), in conjunction with the Commissioner of Taxation. In addition, by arrangement with the ISC, the ATO publishes a booklet entitled 'Tax File Numbers - Responsibilities of Superannuation Trustees' and a fact sheet entitled 'Tax File Numbers - Responsibilities of Employers'. These are both available by contacting ATO offices.*

3A.3 Wherever practicable, publication by the Insurance and Superannuation Commissioner pursuant to 3A.2 shall be made prior to any new circumstances in which a tax file number may be requested arising as a result of an amendment to superannuation law.

3A.4 The Insurance and Superannuation Commissioner shall observe all other relevant obligations contained in these Guidelines.

## **4. Obligations of assistance agencies**

4.1 In cases where assistance agencies are entitled to require under assistance agency law or request under taxation law provision of a tax file number, they shall publicise, in a generally available publication, information relating to:

- (a) the specific purposes for which a tax file number may be required or requested by them;
- (b) the prohibitions upon the use and disclosure of tax file number information; and
- (c) the penalties that apply to unauthorised acts and practices in relation to tax file number information;

together with information as to where detailed particulars relating to these matters can be obtained.

**Commissioner's note:** *The obligations on assistance agencies relating to collection, recording, use and disclosure of tax file numbers under the Tax File Number Guidelines and Taxation Administration Act 1953 are complementary to, but may overlap with, responsibilities under the Information Privacy Principles and other legislation eg. secrecy provisions, the Data-matching Program (Assistance and Tax) Act 1990.*

4.2 Wherever practicable, publication by assistance agencies pursuant to 4.1 shall be made prior to any new circumstances in which a tax file number may be requested arising as a result of an amendment to assistance agency law.

**Commissioner's note:** *In practice assistance agencies fulfil the obligation under Guideline 4 in a number of ways. This may include: (a) by means of general privacy leaflets available on request; and (b) through notices included on assistance agency forms and other publications, which may refer for detailed information to general leaflets.*

4.3 Assistance agencies shall observe all other relevant obligations contained in these Guidelines.

## **5. Collection of tax file number information**

5.1 Tax file number information shall only be requested or collected from individuals by tax file number recipients as authorised by taxation, assistance agency or superannuation law.

**Commissioner's note:** Only persons and organisations authorised by taxation, assistance agency, or superannuation law may request or collect a tax file number. These are listed in 'Classes of Lawful Tax File Number Recipients', appended to this document. A request for a tax file number from any person or organisation other than those authorised is a criminal offence under the Taxation Administration Act and a breach of these Guidelines.

It is unlawful for any person or organisation to **require** an individual to provide that individual's tax file number. Assistance agencies, under assistance agency law, may make the provision of a tax file number a condition of assistance payments.

5.2 Tax file number recipients shall take such steps as are reasonable in the circumstances to ensure:

- (a) that the individual is informed:
  - (i) of the legal basis for collection;
  - (ii) that declining to quote a tax file number is not an offence; and
  - (iii) of the consequences of not quoting a tax file number.

**Commissioner's note:** Whenever a request for a tax file number is made, the individual should be informed of the taxation, assistance agency, or superannuation law which provides the tax file number recipient with the authority to make such a request. This could include oral notification but should also include stating the authority on any forms used to make the collection.

- (b) that the manner of collection does not intrude to an unreasonable extent upon the affairs of the individual; and

**Commissioner's note:** The manner in which tax file numbers are collected must not intrude upon the personal affairs of an individual except to the extent necessary to obtain the tax file number.

- (c) that only information which is necessary and relevant in relation to whichever of taxation, assistance agency or superannuation laws applies to the tax file number recipient.

**Commissioner's note:** Collection of tax file numbers should not be used as an opportunity to collect other information required by or of interest to the collector, for purposes other than taxation, assistance agency, or superannuation administration.

## 6. Storage, security and disposal of tax file number information

### 6.1 Tax file number recipients shall ensure:

- (a) that tax file number information is protected, by such security safeguards as it is reasonable in the circumstances to take, to prevent loss, unauthorised access, use, modification or disclosure, and other misuse; and

**Commissioner's note:** *Tax file number recipients need to be aware that tax file number information handling procedures and safeguards should anticipate all reasonably foreseeable risks to security. Some examples of tax file number security are physical and logical barriers such as building security, locked filing cabinets, user identity checks and password controls for computer systems.*

- (b) that access to records that contain tax file number information is restricted, where practicable, to persons undertaking duties related to responsibilities arising under taxation, assistance agency or superannuation law which necessitate the use of tax file numbers.

**Commissioner's note:** *Tax file number recipients should limit, where practicable, the persons who are able to have access to tax file number information to those who require access in order to carry out responsibilities under taxation, assistance agency, or superannuation law. To ensure that access to tax file number information is restricted to those requiring access, tax file numbers should, where practicable, be separately and securely stored. This Guideline also recognises that tax file number recipients may not strictly be administering the relevant law but may still be handling tax file numbers in accordance with the law.*

### 6.2 Tax file number recipients may dispose of tax file number information when it is no longer required by law nor administratively necessary to be retained. Any disposal of tax file number information shall be by appropriately secure means.

## 7. Incidental provision of tax file numbers

### 7.1 Where an individual is required by law, or chooses, to provide information which contains a tax file number for a purpose not connected with the operation of a taxation, assistance agency or superannuation law:

- (a) that individual shall not be prevented from removing the tax file number; and
- (b) if the tax file number is not removed, the recipient shall not record, use or disclose the tax file number.

**Commissioner's note:** *Parts (a) and (b) derive from s.8WA(2) and s.8WB of the Taxation Administration Act 1953. It reinforces the restrictions contained in those provisions on the recording, use and disclosure of tax file numbers. In particular, s.8WB makes it a criminal offence to record, maintain a record of, use or disclose another person's tax file number other than in specified circumstances.*

*This means, for example, that where an individual chooses not to delete their tax file number from a document that they provide to another person or organisation, say a bank when applying for a loan, then that other person or organisation must delete the tax file number from the document.*

*In addition, tax agents should delete tax file numbers when providing tax-related documents to other persons on behalf of their clients, for example as proof of income in support of a loan application.*

## 8. Staff training

8.1 Tax file number recipients shall take such steps as are reasonable in the circumstances:

- (a) to make all staff aware of the need to protect the privacy of individuals in relation to their tax file number information; and

**Commissioner's note:** *This responsibility will involve staff training and/or appropriate statements in publications or guidelines produced for all staff.*

- (b) to inform those staff whose duties include the collection of tax file number information, or access to tax file number information for the operation of taxation, assistance agency or superannuation law of:
  - (i) the circumstances in which tax file number information may be collected;
  - (ii) the need to protect the privacy of the individuals to whom the tax file number information relates.
  - (iii) the prohibitions on the use and disclosure of tax file number information; and
  - (iv) the sanctions that apply to breaches of tax file number and privacy requirements.

**Commissioner's note:** *Employees who deal with tax file numbers shall not have access to or use tax file number information to which they may have access in the course of performing their duties other than for the purpose of performing those duties. The sanctions are outlined in the Introduction to these Guidelines.*

## 9. Meaning of terms

9.1 Any term used in these Guidelines which is defined in the Privacy Act shall be interpreted in accordance with that definition.

9.2. **"Approved recipient"** means a tax file number recipient who:

- (a) has been engaged by an authorised recipient to provide services in circumstances where it is reasonably necessary to have access to tax file number information; or
- (b) has been permitted by an individual to have access to that individual's tax file number to assist in the management of that individual's taxation or assistance agency affairs

9.3 **"Authorised recipient"** means a tax file number recipient other than the Commissioner of Taxation and assistance agencies who has been authorised by taxation, assistance agency or superannuation law to receive tax file numbers.

9.4 **"Employer"** means an employer as defined in Section 221A of the *Income Tax Assessment Act 1936*.

9.5 **"Assistance agency"** means:

- (a) the Department of Health and Family Services;
- (b) the Department of Employment, Education, Training and Youth Affairs;
- (c) the Department of Social Security;
- (d) the Department of Veterans' Affairs.

9.6 **"Investment body"** means a person who is an investment body within the meaning of Section 202D of the *Income Tax Assessment Act 1936*.

9.7 **"Tax file number recipient"** has the same meaning as "file number recipient", which is defined in Section 11 of the Privacy Act, and shall include:

- (a) the Commissioner of Taxation;
- (b) an assistance agency as defined in 9.5 above;
- (c) an approved recipient as defined in 9.2 above; and
- (d) an authorised recipient as defined in 9.3 above.
- (e) the trustee of a superannuation fund as defined in 9.11 below.

9.8 **"Taxation law"** for the purpose of these Guidelines means:

- (a) an Act for which the Commissioner of Taxation has the general administration; including the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*;
- (b) an Act under which the Commissioner of Taxation has powers and functions related to the use of tax file numbers; including the *Higher Education Funding Act 1988*;
- (c) the; and
- (d) regulations under any Act or provisions referred to in paragraphs (a) to (c) of this definition.

9.9 **"Assistance agency law"** for the purpose of these Guidelines means:

- (a) those sections of the following Acts that deal with the handling of tax file numbers for the purposes of data-matching as set down in the *Data-matching Program (Assistance and Tax) Act 1990*:
  - (i) the *Child Care Act 1972*;
  - (ii) "the Act";
  - (iii) the *Social Security Act 1991*;
  - (iv) the *Veterans' Entitlements Act 1986*;
- (b) the *Data-matching Program (Assistance and Tax) Act 1990*;
- (c) relevant regulations made under any provisions referred to in paragraphs (a) and (b) of this definition.

9.10 **"Superannuation law"** for the purposes of these guidelines means:

- (a) an Act for which the Insurance and Superannuation Commissioner has the general administration; including the *Superannuation Industry (Supervision) Act 1993*.

9.11 **"Trustee"** for the purposes of these guidelines and in relation to superannuation funds is given the same meaning as trustee is given in the *Superannuation Industry (Supervision) Act 1993*.



## Table of amendments

*Interim Guidelines were contained in the Privacy Act 1988 and came into effect 1 January 1989. These were replaced with the Tax File Number Guidelines 1990, issued in May 1990 and which came into effect October 1990. The 1990 Guidelines were replaced with the Tax File Number Guidelines 1992, issued in September 1992 and which came into effect 21 December 1992.*

*The 1992 Guidelines were amended by two sets of amendments. Amendment 1996 No 1 was issued on 9 October 1996 and commenced on 17 November 1996. Amendment 1996 No 2 was issued on 9 October 1996 and commenced on 16 February 1997, on the date of the commencement of Schedule 4 of the Taxation Laws Amendment (No.2) Act 1996. A notice regarding these two amendments was published in the Government Gazette, GN 8, on 26 February 1997.*

Guideline affected	How affected
Guideline 1.2	amended by 9.10.96 amendment (No.2) to include reference to superannuation law
Guideline 2.1	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 2.2	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 2.3 (a), (b), and (c)	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 2.4	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 3A	inserted by 9.10.96 amendment (No.2)
Guideline 5.1	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 5.2 (c)	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 6.1 (b)	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 7.1	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 8.1 (b)	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 9.3	amended by 9.10.96 amendment (No.1) to include reference to superannuation law
Guideline 9.5 (a) and (b)	amended by 9.10.96 amendment (No.1) to reflect Department name change
Guideline 9.7 (e)	inserted by 9.10.96 amendment (No.1)

Guideline 9.8 (c)	deleted by 9.10.96 amendment (No.1)
Guideline 9.9 (a)(i)	amended by 9.10.96 amendment (No.1) to reflect legislative changes
Guideline 9.9 (a)(ii)	amended by 9.10.96 amendment (No.1) to reflect Departmental name change
Guideline 9.9 (a)(iv)	deleted by 9.10.96 amendment (No.1)
Guideline 9.10	inserted by 9.10.96 amendment (No.1)
Guideline 9.11	inserted by 9.10.96 amendment (No.1)

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## Classes of lawful tax file number recipients

### Compiled by the Commissioner of Taxation and the Insurance and Superannuation Commissioner pursuant to Tax File Number Guideline 3.1 and 3A.1

Sections 8WA and 8WB of the *Taxation Administration Act 1953* protect the privacy of tax file numbers by making it an offence to wrongfully request or receive tax file numbers, or to misuse or give them to anyone but the Australian Taxation Office or another authorised user. The maximum penalty that applies to offenders is a \$10,000 fine and two years imprisonment.

The following is a list of the classes of lawful tax file number recipients.

**The Australian Taxation Office** uses tax file numbers in accordance with taxation laws for the general administration of the income tax system. Tax file number information is used to administer the system efficiently and effectively within the provisions of those laws.

Disclosure: Under sections 16 and 16A of the *Income Tax Assessment Act 1936* and secrecy provisions in other laws that the Commissioner of Taxation administers, the Tax Office may disclose information to a range of bodies. Tax file number information may be disclosed to bodies where necessary in connection with the investigation of a suspected breach of privacy or security, for example the fraudulent use of tax file numbers. Tax file number information is also disclosed to higher education institutions under the *Higher Education Funding Act 1989*. These institutions appear elsewhere on this list.

**The Departments of Social Security, Employment, Education, Training and Youth Affairs, Veterans' Affairs, and Health and Family Services** have the authority to request a tax file number from recipients of assistance payments such as pensions, benefits and allowances. The Departments also use tax file numbers in carrying out matching activities under the *Data-matching Program (Assistance and Tax) Act 1990*.

Disclosure: to the Tax Office. Also to officers of the Department of Social Security who are responsible for the matching of data under the *Data-matching Program (Assistance and Tax) Act 1990*.

**Employers** who pay or are liable to pay salary or wages as defined in subsection 221A(1) of the *Income Tax Assessment Act 1936*. Salary or wages includes regular payments such as pensions, benefits, allowances, annuities, superannuation and workers compensation. Under Division 3 of Part VA of the Act employers collect tax file numbers from their employees' salary or wages under the pay-as-you-earn (PAYE) taxation system. Employers record the tax file numbers in their pay-roll system and use them to prepare their employees' group certificates or tax stamps sheets under the PAYE system.

Disclosure: to the Tax Office.

Employers can collect the tax file numbers of their employees under the *Superannuation Industry (Supervision) Act 1993* in connection with the operation or the possible future operation of that Act. The purpose of the collection is to pass the tax file number to the superannuation fund to which they contribute on the employee's behalf.

Disclosure: to the trustee of a superannuation fund to which they contribute on behalf of the employee.

**Paying authorities and eligible paying authorities** as authorised by the taxation laws in connection with payments made by them under the Prescribed Payments System (PPS). Paying authorities and eligible paying authorities collect tax file numbers on deduction forms and use them

to help determine the rate of tax to be deducted from the prescribed payment. They record the tax file numbers with the payment details and report them to the Tax Office.

Disclosure: to the Tax Office.

**Payers under the Reportable Payments System.** These are persons who make reportable payments. The terms "payer" and "reportable payment" are defined in Section 220AC of the *Income Tax Assessment Act 1936*. Under Division 1AA of Part VA of the Act, payers record tax file numbers provided to them by their payees (a person who receives a reportable payment) via Reportable Payments Declarations. The Payer is required to send the Reportable Payments Declaration to the Tax Office and to provide the Tax Office with an Annual Report of all reportable payments made and details, including the tax file numbers, of payees.

Disclosure: to the Tax Office.

**The Department of Employment, Education, Training and Youth Affairs** in its capacity as an administrator of the Higher Education Contribution Scheme (HECS) authorised under subsection 78(8) of the *Higher Education Funding Act 1988*. The Department processes details containing tax file numbers on behalf of the Tax Office. It does not use, record or disclose the tax file numbers in any other way or for any other purpose.

Disclosure: to the Tax Office.

**Higher education institutions** as listed in section 4 of the *Higher Education Funding Act 1988* authorised under subparagraph 41B(2) of that Act for the purposes of administering the Higher Education Contribution Scheme (HECS). The institutions receive tax file numbers on Payment Option Forms from students, send forms to the Tax Office, and keep a record of the tax file numbers for notification of the HECS debt to the Tax Office. Students can also lodge tax file number applications/enquiry forms with institutions and the institutions receive lists from the Tax Office with the tax file number details of such students.

Disclosure: to the Tax Office. The institutions do not disclose the file numbers to the Department of Employment, Education, Training and Youth Affairs.

**Superannuation bodies, Employers and the Superannuation Holding Accounts Reserve** can collect tax file numbers for taxation purposes under the *Small Superannuation Accounts Act 1995* and the *Income Tax Assessment Act 1936*.

Disclosure: Employers can disclose tax file number to superannuation bodies and the Superannuation Holding Accounts Reserve. Superannuation bodies can disclose tax file numbers to the Tax Office.

**Regulated Superannuation Funds, Regulated Exempt Public Sector Superannuation Schemes (as defined for the purposes of Part 25A of the *Superannuation Industry (Supervision) Act 1993*), and Approved Deposit Funds** can collect tax file numbers of beneficiaries and applicants to become beneficiaries in connection with the operation or the possible future operation of that Act. The purpose of the collection is to allow the location and identification of member's benefits where other identification material is insufficient to do so. The fund can also use the tax file number for the purpose of deducting correct taxation from eligible termination payments, and for making reports to the unclaimed money register administered by the Tax Office.

Disclosure:

- to other regulated superannuation funds, regulated exempt public sector superannuation schemes, and approved deposit funds, when the benefits of members are transferred to the other fund, unless the owner of the tax file number requests in writing that the number not be disclosed.
- to the Tax Office when reporting for the purposes of the unclaimed money register, or for eligible termination payment administration.

**The Child Support Agency** collects child and spouse maintenance payment from non-custodial parents as authorised under the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*. The Agency collects tax file numbers on application forms from parents and uses them to identify payments and generally administer the Act.

Disclosure: Nil.

**Tax agents, solicitors and accountants.** Tax agents registered under Part VIIA of the *Income Tax Assessment Act 1936*, solicitors and accountants and other people acting on behalf of an individual may collect the tax file numbers of their clients and use them as necessary to conduct the client's affairs.

Disclosure: to the Tax Office and the client only.

**Investment bodies** authorised to receive tax file number information under section 202DB of the *Income Tax Assessment Act 1936* for the purpose of providing investment income reports to the Tax Office under taxation laws. The following organisations are examples of investment bodies:

**Banks** within the meaning of the *Banking Act 1959*.

Disclosure: to the Tax Office.

**The Reserve Bank of Australia**

Disclosure: to the Tax Office.

**State Banks** within the meaning of paragraph 51 (xiii) of the *Constitution*.

Disclosure: to the Tax Office.

**Building societies, cooperative housing societies or similar societies** which are registered or incorporated under a law relating to such societies that is in force in a State or Territory.

Disclosure: to the Tax Office.

**Credit Unions** which are registered or incorporated under a law relating to credit unions that is in force in a State or Territory.

Disclosure: to the Tax Office.

**Government bodies or Authorities of the Commonwealth, a State or Territory** in their capacity as investment bodies as explained in subsection 202D(1) in the *Income Tax Assessment Act 1936*.

Disclosure: to the Tax Office.

**Managers of unit trusts** to which a unit trust scheme relates as defined in section 202A of the *Income Tax Assessment Act 1936*.

Disclosure: to the Tax Office.

**Public companies** within the meaning of the *Companies Act 1981* or a law in force in a State or Territory that corresponds to that Act.

Disclosure: to the Tax Office.

**Security dealers** for the purposes of the *Corporations Law*.

Disclosure: to the Tax Office. A securities dealer may also disclose tax file number information to investment bodies when making investments on behalf of a client.

**Solicitors** as defined in section 202A of the *Income Tax Assessment Act 1936*.

Disclosure: to the Tax Office. A solicitor may also disclose tax file number information to investment bodies when making investments on behalf of a client.

In addition to the classes of lawful tax file number recipients listed above, paragraphs 8WA(l)(a), (b) and (c) of the *Taxation Administration Act 1953* provide that in certain circumstances, other people and organisations can require or request tax file numbers. Generally, the reason for the requirement or request would need to be a taxation related one. For example, the Administrative Appeals Tribunal may request a tax file number when it receives an appeal from a taxpayer against a taxation assessment. People appointed to perform a duty arising from any Act administered by the Commissioner of Taxation may in certain circumstances also request a tax file number. An example of this are members of the Tax Agents' Board in their capacity as members of that Board.

In addition, a person's representative could require or request a tax file number when acting on behalf of that person, providing the proper authority has been given. This is consistent with part (b) of the definition of "approved recipient" described at 9.2 of the Tax File Number Guidelines 1996.