
HOME EDUCATION ASSOCIATION OF AUSTRALIA SUBMISSION REVIEW OF AUSTRALIA'S WELFARE SYSTEM

Relevancy

The Home Education Association submission has relevancy for the following considerations in the Welfare Review:

Pillar One: Simpler and sustainable income support system

Fair rate structure

Page 55 to 60 of the Interim Report considers changes that could be considered to rates of payment for different groups. In shaping the future directions for a fairer rate structure the Reference Group would like feedback on:

- How should rates be set, taking into account circumstances such as age, capacity to work, single/couple status, living arrangements and/or parental responsibilities?

Support for families with children and young people

Page 65 to 68 of the Interim Report considers how the payments could be changed to improve support to families with children and young people. In shaping the future directions for support for families with children and young people the Reference Group would like feedback on:

- How can we better support families with the costs of children and young people to ensure they complete their education and transition to work?
- In what circumstances should young people be able to access income support in their own right?

Pillar Two: Strengthening individual and family capability

Improving individual and family functioning

Page 90 to 93 of the Interim Report considers cost effective approaches that support employment outcomes by improving family functioning and the provision of services especially to people with mental health conditions to assist them to stabilise their lives and engage in education, work and social activities. In shaping the future directions for improving individual and family functioning, the Reference Group would like feedback on:

- How can services enhance family functioning to improve employment outcomes?
- How can services be improved to achieve employment and social participation for people with complex needs?

Submission prepared by:

Esther Hughes, BA (Hon), MA, GDURP, MEnvSC

and Katherine Watson BA (Hon) JD GDLP LLM

on behalf of the Home Education Association of Australia

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Introduction

The Home Education Association of Australia (HEA) is national body that represents the interests of Home Schoolers/Home Educators throughout Australia.

The purpose of this submission is to request an amendment to the *Student Assistance (Education Institutions and Courses) Determination* or the *Social Security Act 1991*. Due to the current definitions Home Schooling families are not entitled to receive Centrelink payments beyond the age of 16 that other families with children in the school system may receive. The inequity of this situation affects vulnerable members of the community.

Home Education as a legitimate form of schooling

Home education is acknowledged as a legitimate form of education offered in Australia by the laws of the States and Territories of Australia. It is generally subject to the requirement of registration.

In NSW, for example, registration is administered by the Board of Studies, Teaching and Educational Standards (BOSTES) and is compulsory until the age of 17. The registration process assesses the programme of study and the achievements of the child and approval is granted to successful applicants, providing the assurance that the child is being adequately educated. Individual students who are complying with State requirements should be able to qualify for a Centrelink benefit.

The problem for low income earners when their child turns 16

Centrelink provides Family Tax Benefit (FTB) parts A and B for low income families until the student turns 16. After reaching the age of 16, subject to eligibility criteria, the family of that person may be entitled to continue to receive FTB or the young person may be eligible for Youth Allowance.

In order to be eligible for Family Tax Benefit, under the *A New Tax System (Family Assistance) Act 1999* the person is a 'FTB child' from 16 18 years of age if '*the individual is a senior secondary school child*' (s22(3)(e) and (s22(4)(e)). In order to be considered a "*senior secondary school child*", the individual must be:

"undertaking full-time study in an approved course of education or study that would, in the Secretary's opinion, assist or allow the individual to complete the final year of secondary school or an equivalent level of education;" (s22B (1)(i))

Section 3 of the Act states that:

"undertaking full-time study" has the same meaning as in the *Social Security Act 1991* (outlined above).

"approved course of education or study" has the meaning given by subsection 541B(5) of the *Social Security Act 1991* for the purposes of paragraph (1)(c) of that section.

In order to be eligible for Youth Allowance, the *Social Security Act 1991* provides that the person must satisfy the 'activity test'(s541). The 'activity test' may be satisfied by 'undertaking full time study' (s541(10(a)). In order to be considered to be "*undertaking full-time study*" the Act requires that the young person must be:

- enrolled in a course of education at an *educational institution* (s541B(1)(a)(i))
- the course in question is an *approved course of education or study* (s541B(1)(c))
- making satisfactory progress towards completing the course.(s541B(1)(d))

By the provisions of *A New Tax System (Family Assistance) Act 1999* s22B(1)(i), this definition of 'undertaking full-time study also applies to determine eligibility for Family Tax Benefit where a child is over 16. Given that the definition for "undertaking full time study" for the purposes of *Social Security Act 1991* s541B require an approved course of education of study under *Social Security Act 1991* s541B(1)(c), the addition of this requirement in *A New Tax System (Family Assistance) Act 1999* s22B (1)(i) is redundant.

Therefore, fulfilment of s541B of the *Social Security Act 1991* is a requirement for eligibility for either Youth Allowance or Family Tax Benefit for a student aged over 16. For students who are legally registered with the appropriate state authority for the purposes of secondary level home education the crucial issues relate to the definition of '*educational institution*' and '*approved course of education or study*'.

Education Institution

In relation to the definition of the educational institution, the *Student Assistance Act 1973* provides that

education institution means:

- (a) a higher education institution; or
- (b) a technical and further education institution; or
- (c) a **secondary school**; or
- (d) any other institution (including an educational institution), authority or body, that is in Australia and that, in accordance with a determination by the Minister, is to be regarded as an education institution for the purposes of this Act.

secondary school means an educational institution in Australia that, in accordance with a determination by the Minister, is to be regarded as a secondary school for the purposes of this Act.

The current such determination *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2) (the Determination)* provides, at section 6, that:

For the definition of *secondary school* in subsection 3(1) of the Act, the following are to be regarded as secondary schools for the purposes of the Act:

- (a) an institution located in Australia that is a government secondary school;
- (b) an institution located in Australia that is recognised as a secondary school under the law of the State or Territory in which the institution is located.

The requirement that students undertake education at an 'institution' removes the right of a family to home educate their children. Where a commonly recognised right is to be removed by legislation it is important that the drafters provide evidence of clear intent. In this instance it is unlikely that the intention was to reduce the scope of educational choice available to low income families. It is

more likely that this result is an unintended consequence of drafting which did not specifically consider the circumstances of home education.

Course of education or study

Approved course of education or study is defined as including any course of study determined by the Minister to be a secondary course for the purposes of the Act.

- (1) **The Minister may, for the purposes of this Act, determine in writing** that:
- (a) a course of study or instruction is a secondary course, or a tertiary course; or
 - (b) a part of a course of study or instruction is a part of a secondary course, or a part of a tertiary course.
- (2) For the purposes of this section, a determination that:
- (a) was made under paragraph 7(1)(c) as in force before the day on which this section commences; and
 - (b) was in force immediately before that day;
- is taken to be a determination under subsection (1) of this section and may be amended or repealed accordingly.
- (3) A determination under subsection (1) is a legislative instrument.
(*Student Assistance act 1973 s5D*)

In relation to the definition of **approved course of study**, the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2) (the Determination)* provides, at section 4, that

accredited secondary course means a course accredited as a secondary course by the State or Territory authority responsible for the accreditation of secondary courses in the State or Territory in which the course is conducted.

Section 9 of the Determination further specifies that such *accredited secondary course* include:

- For paragraph 5D (1) (a) of the Act, a secondary course is a course:
- (a) **specified in Column 1 of the table in Schedule 1** to this instrument that is provided by an education institution specified for that course in Column 2 of that table; or
 - (b) provided by a secondary school, a registered training organisation or a higher education institution that leads to an accredited secondary course qualification involving:
 - (i) accredited secondary course subjects; or
 - (ii) a VET course.

Schedule 1 of the Determination outlines the courses as follows:

| Schedule 1 | Secondary courses |
|-----------------------------|--|
| Column 1 – Course | Column 2 – Education institution |
| Accredited secondary course | Secondary school Registered training organisation Higher education institution |
| ESL Course | Special school Secondary school |
| Preparatory course | Special school Secondary school Registered training organisation |

| Column 1 – Course | Column 2 – Education institution |
|--|----------------------------------|
| | Higher education institution |
| | Special school |
| School-based apprenticeship or traineeship | Secondary school |
| International Baccalaureate | Secondary school |

Despite being recognised by legislation in every state and territory as a valid educational option, home education at a secondary level is not recognised by the *Social Security Act 1991* or by this Determination. As a result, home educated students who would be eligible for Family Tax Benefit or Youth Allowance if they attended an institutional school are denied that support purely because they are home educated. This discrepancy has no basis in policy as home education is a recognised educational choice. The HEA strongly advocates a resolution to this problem. Such resolution would be quite simple and require only an amendment to this Determination such that registered home education is recognised for the purposes of the *Social Security Act 1991* s541B.

Implications

There are several implications.

1. Homeschool families are *severely disadvantaged* through a lack of governmental support.
2. There is a *social inequity* in that students of public and private schools are financially supported and home educated students are not.
3. Reduction of family income causes *further compounding of financial load* on home educating families. It affects low income earners who are already at a disadvantage and this can lead to a reduction in the quality of life and education. Home schoolers are already required to pay the full cost of educational resources, classes and tuition.
4. Without financial support there is pressure to send children into an environment that is often *detrimental to the physical, emotional and mental health* of the child. For example, families may feel compelled to send their child to a tertiary institution earlier than anticipated in order to maintain family financial viability. This decision is forced upon them prematurely - *whether the child is ready or not*.
5. Some home schoolers have taken their children out of the school system due to bullying, emotional distress or a form of disability. The needs of these children cannot be met in mainstream institutions. The financial implications of this issue mean that decisions regarding a young person's education must be made for reasons other than the best interests of the child.
6. Centrelink does not inform home school families of their unique situation, the pending loss of payments or the reasons why. This leaves home schoolers in a position of being unaware and ill prepared. Students miss cut-off dates for enrolments which further delays access to vital funds. Centrelink staff are often poorly trained regarding home schooling and accurate information is difficult to access.

See Appendix 1 for personal accounts.

What can be done?

- Home educators can be made eligible for the same educational assistance that all other students in Australia receive.

The Minister for Education is able to make the determination which defines a secondary course in Australia. A designation which specifies “**Home Schooling**” as a **Course** and “**Home School**” as an **Educational Institution** can be added to the *Student Assistance (Education Institutions and Courses) Determination*.

Alternatively, Home Schooling could be included in s542 of the Social Security Act, “Situations in which a person is not required to satisfy the activity test” so as to grant an exemption from fulfilling the activity requirements in s541.

- Centrelink can ensure that home schooled families are informed of possible changes to their income and the reasons for these changes well in advance. Centrelink staff should be trained to answer questions and advise home schoolers with accurate and current information.

By implementing these changes the inequitable nature of the current legislation would be removed, families would be alleviated of the financial hardship associated with income loss and students would be able to receive support for their education regardless of educational choice.

Thank you for your consideration of this important matter.

HEA
Home Education Association of Australia

Appendix 1

Personal accounts of home educating families in Australia

“Due to Centrelink policy, my homeschooled children have had to commence tertiary education from the age of 16. I think it would have been better for them to remain least another year studying from home. They were always the youngest in their classes and the extra maturity would have been beneficial. It would have been better socially, and it would have given them more time to choose a career path.

When my son turned 16 he was denied Newstart payments for about 3 months, costing us around \$1500 until he was enrolled in Open Universities. I mistakenly thought that since the age of compulsory schooling had gone up and because he was registered until 17 we would get the Centrelink benefit. It was a huge financial setback for us and really hard to make ends meet. I was not pleased that he was forced to enrol in institutionalised learning, as he needed more time to finish year 11 and 12 equivalent studies and prepare him for tertiary education.”

“I have one family at the moment in the Bendigo region. They are living on one part-time income. The mum has always home educated. The dad was a teacher who got badly burnt out”. He used up his sick leave, his long service leave, etc before going part time and eventually resigning. His wife has now gone out to work part time and dad's home educating the kids. The eldest turned 16 at the end of last year and the family received the notice that they'd lose his share of the family benefit and not be eligible for Youth Allowance. They are living on a really tight budget and just can't do without that money. Both parents have been unable to find full time work (except by the dad returning to teaching which he just can't face). The family is now faced with tough choices. Either:

- The dad goes to work part time and leaves the kids home to educate themselves while he's at work.
- The 16 year old gets some sort of part time job. The problem here is that he'd have an income but the family would still be short. It seems unfair these days for a 16 year old to have to contribute to his family's grocery bill.
- The 16 year old enters some kind of full time programme in order to be eligible for the Youth Allowance. At the moment he still enjoys learning at home. He is an academic type of boy but has not yet decided on a direction for further study. He really needs time to continue his love of learning without the pressure of choosing a career oriented course.

This family is at a significant disadvantage because their young talented son may be forced into a dead end job in order to help out with the family finances when he really needs more time to pursue his love of learning and decide on a course for further education.”

“As a low, one income family, I had been receiving FTB A and B for my three children. In August 2013, I was asked to update my eldest daughter's education details. After doing so, I received a letter stating I was no longer eligible to receive FTB for her on the grounds of her mode of education.

I queried this, as she was a full-time student, about to turn 16, and registered as a home schooler with the NSW Board of Studies till September, 2014. Like all NSW students she is required to be in full time education till the age of 17.

On appeal, it was explained to me that the legislation used to define a full time student between 16-17 years excludes home educated students.

The loss of income for my daughter was significant and has caused considerable hardship in our family, with grocery and educational budgets having to be cut and dental treatments indefinitely postponed. In addition to loss of FTB, she is no longer on my Healthcare card, or eligible for dental benefits.

I feel that the type of schooling provided should not impact on the provision of tax benefits for a child, as long as she/he is engaged in a legal form of full-time secondary schooling. Home education fits this description.

Leaving the current legislation as is discriminates against families who are legally home educating and otherwise eligible for Family Tax Benefits.”