

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Employment, Education and Training)

**HIGHER EDUCATION FUNDING AMENDMENT
BILL (NO. 1) 1995**

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SCHEDULE

AMENDMENTS OF THE HIGHER EDUCATION FUNDING ACT 1988



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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Employment, Education and Training)

A BILL

FOR

**An Act to amend the *Higher Education Funding Act 1988*,
and for related purposes**

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Higher Education Funding Amendment Act (No. 1) 1995*.

5 (2) In this Act, *Principal Act* means the *Higher Education Funding Act 1988*¹.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Schedule

3. The Principal Act is amended in accordance with the applicable items in the Schedule and the other items in the Schedule have effect according to their terms. 5

SCHEDULE

Section 3

**AMENDMENTS OF THE HIGHER EDUCATION
FUNDING ACT 1988**

1. Section 3 (definition of *course of study*):

Omit “course declared by the Minister, for the purposes of an Act relating to the funding of technical and further education, to be a course of technical and further education”, substitute “course of vocational education and training”.

2. Section 3:

Insert:

“*co-operative multimedia centre* means a body corporate established, ordinarily by a consortium of persons or organisations with interests that relate to the multimedia industry, for purposes that include:

- (a) arranging for, or providing services relating to, education and training; and
- (b) undertaking other activities;

that will assist in the development of that industry.

course of vocational education and training means a course that is identified as a course of vocational education and training in accordance with guidelines issued by the Minister for the purposes of this definition.

multimedia industry means the industry concerned with all aspects of the presentation of information through a single format by making co-ordinated use of a range of different means of communication.”.

3. Paragraphs 17(f), (g) and (h):

Omit the paragraphs, substitute:

- “(f) in the case of the year 1994—\$3,520,163,000; and
- (g) in the case of the year 1995—\$3,652,019,000; and
- (h) in the case of the year 1996—\$3,755,378,000.”.

4. Paragraphs 20(3)(e), (f), (g) and (h):

Omit the paragraphs, substitute:

- “(e) in the case of the year 1993—\$54,065,000; and
- (f) in the case of the year 1994—\$78,613,000; and
- (g) in the case of the year 1995—\$69,037,000; and
- (h) in the case of the year 1996—\$73,009,000.”.

5. Subsection 22A(2):

Omit the subsection, substitute:

SCHEDULE—continued

“(2) The Minister may approve a proposal for expenditure by all or any of the following:

- (a) an open learning organisation;
- (b) an institution;
- (c) another incorporated body;

for the purpose of providing teaching and learning assistance:

- (d) to clients of an open learning organisation; or
- (e) to such other persons as are identified, in accordance with subsection (2A), by the Minister in the notice approving the proposal for expenditure.

“(2A) The Minister may identify persons for the purposes of paragraph (2)(e) in respect of a proposal for expenditure only if the Minister is satisfied that provision of teaching and learning assistance to those persons under that proposal:

- (a) accords with national tertiary education priorities; and
- (b) will foster open learning approaches in the provision of tertiary education services.”.

6. Transitional

Any approval of a proposal for expenditure given under subsection 22A(2) of the Principal Act has effect on and after the day on which this Act receives the Royal Assent as if it were an approval given under subsection 22A(2) of the Principal Act as amended by this Act.

7. Paragraphs 22A(5)(b), (c) and (d):

Omit the paragraphs, substitute:

- “(b) for the year 1994—\$11,680,000; and
- (c) for the year 1995—\$12,675,000; and
- (d) for the year 1996—\$12,498,000.”.

8. After section 23B:

Insert:

Grants to co-operative multimedia centres

“23BA.(1) The Minister may approve a proposal for expenditure by a co-operative multimedia centre if the Minister is satisfied that the purposes of the proposal include:

- (a) arranging for, or providing services related to, education and training; and
 - (b) undertaking other activities;
- that will assist in the development of the multimedia industry.

SCHEDULE—continued

“(2) If the Minister approves a proposal under subsection (1), the Minister must, subject to section 23C, determine an amount of approved expenditure in respect of the proposal in respect of the year commencing on the date of the approval and each of the 2 succeeding years.

“(3) Financial assistance is granted to a co-operative multimedia centre in respect of a proposal approved under subsection (1) on condition that the centre enters into an agreement with the Commonwealth that sets out the terms on which money is provided by the Commonwealth and accepted by the centre.

“(4) After the start of the third year of funding of a co-operative multimedia centre the Minister must arrange for a review of the operations of the centre to be conducted. The review is to be completed not later than 6 months before the end of the third year of funding.

“(5) If the Minister is satisfied, on the basis of the review, that the multimedia centre has substantially assisted in the development of the multimedia industry, the Minister may approve a further proposal for expenditure by the centre that meets the criteria specified in subsection (1).

“(6) If the Minister approves a further proposal under subsection (5), the Minister must determine an amount of approved expenditure in respect of the proposal in respect of each of the 4 years following the end of the third year of funding or in respect of each of such lesser number of years as the Minister thinks appropriate.

“(7) Financial assistance is granted to a co-operative multimedia centre in respect of a further proposal approved under subsection (5) on condition that the centre enters into a further agreement with the Commonwealth that sets out the terms on which money is provided by the Commonwealth and accepted by the centre.

“(8) There is payable to a co-operative multimedia centre in respect of a year an amount equal to the approved expenditure determined by the Minister under subsection (2) or (6) in respect of that centre and that year.”.

9. After paragraph 23C(1)(e):

Insert the following word and paragraph:

“and (f) the amounts determined by the Minister under section 23BA (Grants for co-operative multimedia centres);”.

10. Paragraphs 23C(2)(a), (b) and (c):

Omit the paragraphs, substitute:

“(a) for the year 1994—\$431,919,000; and

(b) for the year 1995—\$499,269,000; and

SCHEDULE—continued

- (c) for the year 1996—\$471,941,000; and
- (d) for the year 1997—\$8,247,000; and
- (e) for the year 1998—\$8,247,000; and
- (f) for the year 1999—\$8,247,000.”.

11. Paragraphs 24(3)(e), (f), (g) and (h):

Omit the paragraphs, substitute:

- “(e) in the case of the year 1993—\$4,494,000; and
- (f) in the case of the year 1994—\$4,592,000; and
- (g) in the case of the year 1995—\$4,647,000; and
- (h) in the case of the year 1996—\$4,734,000.”.

12. Paragraphs 27A(6)(a), (b) and (c):

Omit the paragraphs, substitute:

- “(a) for the year 1994—\$35,537,000; and
- (b) for the year 1995—\$36,328,000; and
- (c) for the year 1996—\$36,328,000.”.

13. After subsection 35(5):

Insert:

“(5A) A student is an exempt student in relation to a course of study in respect of a semester if:

- (a) the student will occupy a place in that course of study in respect of that semester; and
- (b) that place is jointly funded by an employer within the meaning of subsection (6) and by the Commonwealth; and
- (c) the student is, in accordance with guidelines issued by the Minister for the purposes of this section, declared by the institution providing the course of study to be an exempt student.

“(5B) The Minister may make guidelines for the purposes of subsection (5A) setting out the circumstances in which an institution may declare that a student occupying a place in a course of study in respect of a semester:

- (a) that is provided by that institution; and
- (b) that is jointly funded by an employer within the meaning of subsection (6) and by the Commonwealth;

is an exempt student.”.

14. Subsection 35(6):

Omit “subsection (5)”, substitute “subsections (5), (5A) and (5B)”.

SCHEDULE—continued

15. Subsection 43(3):

Omit “or may be lodged with the appropriate officer of the institution”.

16. After section 106M:

Insert:

Further review of reconsideration decision concerning remission of semester debt

“106MA.(1) If:

- (a) application is made to the Administrative Appeals Tribunal for review of a decision (the *reconsideration decision*) of the Secretary under subsection 106M(3); and
- (b) information is provided for the purposes of that review that was not provided to the Secretary;

the Secretary may review the reconsideration decision at any time before the determination of the application for review to the Tribunal.

“(2) On reviewing the reconsideration decision, and taking into account the information provided for the purposes of the application to the Administrative Appeals Tribunal, the Secretary must, as soon as practicable:

- (a) confirm the reconsideration decision; or
- (b) vary the reconsideration decision; or
- (c) revoke the reconsideration decision and substitute a decision to remit the semester debt;

and notify the applicant and the Registrar of the Tribunal of the decision made on that review.

“(3) The notice of the decision must include a statement of the reasons for the decision.

“(4) A failure to comply with subsection (3) does not affect the validity of the notice or of the decision notified.

“(5) If, on a review of a reconsideration decision, the Secretary varies the reconsideration decision, the application to the Administrative Appeals Tribunal is taken to be an application for review of the reconsideration decision as so varied unless the applicant, by notice in writing to the Registrar of the Tribunal, withdraws the application.

“(6) If, on a review of the reconsideration decision, the Secretary decides to revoke the reconsideration decision and to substitute a decision to remit the semester debt:

SCHEDULE—continued

- (a) the Secretary must notify the Administrative Appeals Tribunal to that effect; and
- (b) the application to the Tribunal is taken to have been withdrawn by the applicant.”.

17. Transitional

If:

- (a) before the day on which this Act receives the Royal Assent, application had been made under subsection 106M(6) of the Principal Act to the Administrative Appeals Tribunal for review of a decision (the *reconsideration decision*) of the Secretary under subsection 106M(3) of that Act; and
- (b) information has been provided for the purpose of that review that was not provided to the Secretary; and
- (c) the determination of the application for review by the Tribunal has not taken place;

section 106MA of the Principal Act as amended by this Act applies in relation to review of the reconsideration decision as if the application to the Tribunal had been made on or after that day.

18. Paragraph 110(c):

Omit “or subsection 34A(6) or (7)”.

NOTE

- 1. No. 2, 1989, as amended. For previous amendments, see No. 138, 1988, Nos. 80, 168 and 179, 1989; No. 122, 1990; Nos. 53, 177 and 216, 1991; Nos. 74 and 158, 1992; No. 116, 1993 and Nos. 24 and 178, 1994.









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