

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time

*(Employment, Education and Training)*

**HIGHER EDUCATION FUNDING  
AMENDMENT BILL 1993**

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## A BILL

FOR

### **An Act to amend the *Higher Education Funding Act 1988***

The Parliament of Australia enacts:

5 **Short title etc.**

1 (1) This Act may be cited as the *Higher Education Funding Amendment Act 1993*.

(2) In this Act, “**Principal Act**” means the *Higher Education Funding Act 1988*<sup>1</sup>.

10 **Commencement**

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

### Application

3. The amendments made by sections 12 to 20 (inclusive) apply in relation to semesters starting on or after 1 July 1994.

### Definitions

4. Section 3 of the Principal Act is amended by adding “and students who are New Zealand citizens because of the operation of section 29 of the *Citizenship Act 1977* of New Zealand” at the end of paragraph (d) of the definition of “fees”. 5

### Making and variation of determinations etc.

5. Section 9 of the Principal Act is amended: 10

(a) by omitting from subsection (1) all the words after “this Act” and substituting “must be made, issued or given in writing.”;

(b) by inserting after subsection (1) the following subsections:

“(1A) The issue of a guideline must be notified in the *Gazette*.

“(1B) The notification must set out the address of the place from which copies of the guideline may be obtained.”. 15

### Maximum grants

6. Section 17 of the Principal Act is amended by omitting paragraphs (e), (f) and (g) and substituting the following paragraphs:

“(e) in the case of the year 1993—\$2,936,081,000; and 20

(f) in the case of the year 1994—\$3,474,260,000; and

(g) in the case of the year 1995—\$3,534,396,000; and

(h) in the case of the year 1996—\$3,585,959,000.”.

### Grants for superannuation expenses

7. Section 20 of the Principal Act is amended by omitting paragraphs (3)(e), (f) and (g) and substituting the following paragraphs: 25

“(e) in the case of the year 1993—\$54,108,000; and

(f) in the case of the year 1994—\$78,302,000; and

(g) in the case of the year 1995—\$67,957,000; and

(h) in the case of the year 1996—\$70,544,000.”. 30

### Insertion of new section

8. After section 20 of the Principal Act the following section is inserted:

### Grants for redundancy expenses

“20A.(1) There is payable to an institution, as financial assistance in relation to the expenditure of the institution for redundancy payments for staff in 1994 and 1995, such amount (if any) as the Minister determines. 35

5 “(2) If the Minister determines an amount of financial assistance for an institution in respect of 1994 under subsection (1), the amount determined to be payable to the institution under section 15, or the amount determined to be payable to the institution under section 16, in respect of 1995 is to be reduced by the amount determined under subsection (1).

10 “(3) If the Minister determines an amount of financial assistance for an institution in respect of 1995 under subsection (1), the amount determined to be payable to the institution under section 15, or the amount determined to be payable to the institution under section 16, in respect of 1996 is to be reduced by the amount determined under subsection (1).

“(4) The total of the amounts paid under this section for 1994 is not to exceed the amount set out in section 17 in respect of 1995.

“(5) The total of the amounts paid under this section for 1995 is not to exceed the amount set out in section 17 in respect of 1996.”

### 15 **Grants to open learning organisations**

**9.** Section 22A of the Principal Act is amended by omitting paragraphs (5)(a), (b) and (c) and substituting the following paragraphs:

20 “(a) for the year 1993—\$10,945,000; and

(b) for the year 1994—\$27,064,000; and

(c) for the year 1995—\$9,435,000; and

(d) for the year 1996—\$204,000.”

### **Exempt students**

**10.** Section 35 of the Principal Act is amended:

25 (a) by omitting “year” (wherever occurring) and substituting “semester”.

(b) by adding at the end the following subsection:

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

30 (a) the student is a New Zealand citizen because of the operation of section 29 of the *Citizenship Act 1977* of New Zealand; and

(b) the student’s study is being sponsored or funded by the Australian International Development Assistance Bureau; and

35 (c) fees in respect of the student for the course of study are to be charged under guidelines issued under paragraph (d) of the definition of ‘fees’ in section 3.”

### **Repeal of section 36 and substitution of new section**

**11.** Section 36 of the Principal Act is repealed and the following section is substituted:

**Student load not to include work experience in industry**

“36.(1) If:

- (a) a student is undertaking a course of study at an institution; and
- (b) the student does work outside the institution as part of, or in connection with, that course of study; and 5
- (c) the work is not supervised by a member of the institution’s staff or by a person who is paid by the institution to do such supervision; and
- (d) the purpose of doing the work is to obtain work experience in industry;

then, for the purposes of this Chapter, the student’s student load for that course does not include that work. 10

“(2) Section (1) applies whether or not the work forms part of the standard student load for that course.

“(3) The Minister may issue guidelines setting out criteria that the institution must apply in deciding whether work done by a student outside the institution is done for the purpose of obtaining work experience in industry.”. 15

**Requirements before enrolment or undertaking course**

12. Section 41 of the Principal Act is amended:

- (a) by omitting paragraph (1)(b) and substituting the following paragraph: 20

“(b) if the student is not an excepted student in relation to that course for that semester, the student has given to the appropriate officer of the institution a document in the approved form, signed by the student: 25

- (i) stating that the student asks the Commonwealth, if the student is undertaking the course of study as a contributing student on the census date for the course of study for any semester without having paid at least 75% of the contribution payable by the student for the course of study for the semester concerned: 30

(A) to lend to the student an amount equal to the unpaid part of the contribution; and

(B) to apply the amount lent in discharge of the student’s liability to pay the unpaid part of the contribution; and 35

- (ii) acknowledging that, if the Commonwealth complies with the request, the student will be liable to make payments in accordance with Chapter 5A.”;

- (b) by omitting subsection (2). 40

**Insertion of new sections**

13. After section 41 of the Principal Act the following sections are inserted:

**Institutions to give students certain information on enrolment**

- 5 “41A.(1) If:
- (a) a contributing student has given an institution a document as mentioned in paragraph 41(1)(b); and
  - (b) the document does not include a number that purports to be the student’s tax file number;
- 10 the institution must notify the student in writing of the requirements of section 41B.

“(2) The institution must notify the student within 7 days after the student gives the institution the document.

**Certain students to give tax file number information by census date**

- 15 “41B.(1) This section applies if:
- (a) a contributing student has given an institution a document as mentioned in paragraph 41(1)(b) in respect of a designated course of study; and
  - (b) the document does not include a number that purports to be the student’s tax file number; and
  - (c) the institution has enrolled the student for, or permitted the student to undertake, the course in a semester.

“(2) The student must, on or before the census date for the semester:

- 25 (a) notify the appropriate officer of the institution in writing of a number that the institution is satisfied (in accordance with guidelines issued by the Commissioner) is the student’s tax file number; or
- (b) give to that officer a certificate (in a form approved by the Commissioner) stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to
- 30 the student.

**Student must be excluded from course if tax file number information not provided**

“41C. If, as at the census date for the semester, a student:

- 35 (a) has not notified the appropriate officer of the institution of a number that the institution is satisfied (in accordance with guidelines issued by the Commissioner) is the student’s tax file number; and
- (b) has not complied with paragraph 41B(2)(b);

the institution must cancel the student’s enrolment in the course, and must not permit the student to undertake the course in that semester.”

**Power of Commissioner to inform institution concerning tax file number**

14. Section 42 of the Principal Act is amended:

(a) by omitting from paragraph (1)(a) “sub-subparagraph 41(1)(b)(ii)(B) requesting the notification or” and substituting “paragraph 41B(2)(b) asking for the”; 5

(b) by omitting from paragraph (2)(a) “under sub-subparagraph 41(1)(b)(ii)(A)” and substituting “to an institution”;

(c) by inserting after subsection (2) the following subsection:

“(2A) If the Commissioner issues a new tax file number to a student in place of a tax file number that has been withdrawn, the Commissioner may give to the institution concerned written notice of the student’s tax file number, and that number is taken to be the number notified by the student.”; 10

(d) by omitting from paragraph (3)(a) “sub-subparagraph 41(1)(b)(ii)(A)” and substituting “to an institution”; 15

(e) by omitting subsection (5) and substituting the following subsection:

“(5) If the Commissioner:

(a) refuses an application by a student for the issue of a tax file number; or 20

(b) cancels a tax file number issued to a student;

the Commissioner may, by written notice given to the institution in which the student is enrolled, inform the institution accordingly.”.

**Insertion of new section**

15. After section 42 of the Principal Act the following section is inserted: 25

**Institution to cancel enrolment of student without tax file number**

“42A.(1) If:

(a) an institution receives notice under subsection 42(3) or (5) to the effect that a student enrolled at the institution does not have, or no longer has, a tax file number; and 30

(b) at the end of 28 days after the institution receives that notice, the institution has not been notified of a number that the institution is satisfied (in accordance with guidelines issued by the Commissioner) is the student’s tax file number;

the institution must cancel the student’s enrolment and must not permit the student to undertake the course for which the student was enrolled. 35

“(2) The regulations may set out procedures for institutions to notify students who may be affected by subsection (1) of the need to obtain a valid tax file number.”.

**Commonwealth to discharge students' liabilities**

16. Section 57 of the Principal Act is amended by inserting in subsection (3) "and section 41B" after "paragraph 41(1)(b)".

**Eligible client may join deferred payment scheme**

5 17. Section 105 of the Principal Act is amended:

(a) by omitting from paragraph (2)(b) "Part 5A.3" and substituting "Chapter 5A";

(b) by omitting paragraph (3)(b) and substituting the following paragraph:

10 "(b) a certificate in a form approved by the Commissioner stating that the client has applied to the Commissioner asking the Commissioner to issue a tax file number to the client.";

(c) by omitting subsection (4).

**Tax file number of eligible client**

15 18. Section 106A of the Principal Act is amended:

(a) by omitting "42 to 53 (inclusive)" and substituting "42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52 and 53";

(b) by omitting from paragraph (a) "sub-subparagraph 41(1)(b)(ii)(B)" and substituting "paragraph 41B(2)(b)";

20 (c) by omitting paragraph (b).

**Insertion of new section**

19. After section 106A of the Principal Act the following sections are inserted:

**Agency to notify Minister where tax file number not provided**

25 "106AA.(1) If:

(a) the Agency receives notice under subsection 42(3) or (5) as applied by section 106A to the effect that a client who has chosen to participate in the deferred payment scheme does not have, or no longer has, a tax file number; and

30 (b) at the end of 28 days after the Agency receives that notice, the Agency has not been notified of a number that the Agency is satisfied (in accordance with guidelines issued by the Commissioner) is the client's tax file number;

35 the Agency must notify the Minister in writing that the client does not appear to have a tax file number.

"(2) The regulations may set out procedures for the Agency to notify clients who may be affected by subsection (1)."

**Commonwealth not liable where client does not have a tax file number**

“106AB. Where the Agency notifies the Minister under section 106AA that a client does not appear to have a tax file number, the Commonwealth is not liable, and is taken never to have been liable: 5

- (a) to lend an amount to the client under paragraph 106D(1)(a); or
- (b) to apply any amount in making a payment to the Agency under paragraph 106D(1)(b) in discharge of any liability of the client.”.

**Agency etc. to provide information to Commissioner**

20. Section 106R of the Principal Act is amended by omitting 10 subsections (2) and (4).

**Disallowable instruments**

21. Section 110 of the Principal Act is amended by adding at the end of paragraph (c) “or subsection 36(3)”.

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**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; and No. 00, 1993.