

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

**STATES GRANTS (TECHNICAL AND FURTHER EDUCATION
ASSISTANCE) BILL 1988**

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1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 3 November 1988

(Minister for Employment, Education and Training)

A BILL

FOR

**An Act relating to the funding of technical and further
education and for matters connected therewith**

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *States Grants (Technical and Further
Education Assistance) Act 1988*.

Commencement

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

Interpretation

3. (1) In this Act, unless the contrary intention appears:

“approved authority”, in relation to a non-government business college, means a person or body declared by the Minister to be an approved authority of that college for the purposes of this Act; 5

“approved form” means a form approved by the Minister;

“business college” means a college or similar institution, whether incorporated or unincorporated, providing courses of instruction in secretarial studies, but does not include a particular college or institution that provides such courses if the Minister: 10

(a) is notified by the State TAFE Minister for the State in which the college or institution is situated that the college or institution is not recognised by that State TAFE Minister as a business college; and

(b) does not approve the college or institution as a business college for the purposes of this Act; 15

“business college census date” means:

(a) in relation to a month of the year 1989—the date in that month declared by the Minister, by notice published in the *Gazette*, to be the business college census date for that month; or 20

(b) in relation to a month of a previous year—the date in that month declared by the Minister, under the previous Assistance Act or any earlier Act that provided financial assistance in respect of courses at non-government business colleges, by notice published in the *Gazette*, to be the business college census date for that month; 25

“capital expenditure” means expenditure in relation to a building or equipment;

“course of instruction in secretarial studies” means a course of instruction in: 30

(a) shorthand;

(b) typing; or

(c) shorthand and typing;

together with other subjects suitable for preparing persons to perform secretarial duties; 35

“fees”, in relation to a body that provides a course of study or instruction, means tuition, examination or other fees payable to the body by a student enrolled at, or applying for enrolment at, the body in connection with such a course, and includes fees payable to the body in respect of the granting of a degree, diploma, associate diploma or other award (including a qualification relating to a trade or a technical or other skilled occupation) but does not include: 40

- (a) fees the payment of which is voluntary;
- (b) fees payable in respect of an organisation of students, or of students and other persons, or in respect of the provision to students of amenities or services that are not of an academic nature;
- (c) fees payable in respect of residential accommodation;
- (d) fees payable in connection with, or in connection with attendance for the purposes of, studies that are not, or are not preparatory to, studies for the purposes of obtaining a qualification relating to a trade or a technical or other skilled occupation; or
- (e) fees of a kind that are incidental to studies that may be undertaken at bodies providing technical and further education and that the Minister has notified each State TAFE Minister to be fees of a kind to which this paragraph applies;

“instrument”, in relation to the Minister, means a determination, approval, declaration, direction, specification or notification made or given by the Minister under, or for the purposes of, this Act;

“non-government business college” means a business college in a State that is not established by the Government of the State or conducted by or on behalf of that Government, but does not include a business college conducted for the profit, direct or indirect, of an individual or individuals;

“overseas student”:

- (a) in Division 2 of Part 2—means a person (including a person who has not attained the age of majority) who is not an Australian citizen and is receiving instruction at a non-government business college, but does not include a person to whom subsection 8 (1) of the *Migration Act 1958* applies or a person who is the holder of a permanent entry permit; and
- (b) otherwise—has the same meaning as in the *Overseas Students Charge Act 1979*;

“permanent entry permit” means an entry permit within the meaning of the *Migration Act 1958* other than a temporary entry permit;

“previous Assistance Act” means the *States Grants (Tertiary Education Assistance) Act 1987*;

“qualified accountant” means:

- (a) a person registered as a company auditor or a public accountant under a law in force in a State or Territory;
- (b) a member of the Institute of Chartered Accountants in Australia or of the Australian Society of Accountants; or

- (c) a person approved by the Minister as a qualified accountant for the purposes of this Act;

“qualified auditor” means:

- (a) the Auditor-General of a State; or
(b) a qualified accountant;

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“recurrent expenditure” means expenditure that is not capital expenditure;

“State” includes the Northern Territory;

“State TAFE Minister” means:

- (a) in relation to a State other than the Northern Territory—the Minister of the Crown for that State who is responsible, or principally responsible, for the administration of matters relating to technical and further education in that State; and
(b) in relation to the Northern Territory—the Minister of that Territory who is responsible, or principally responsible, for the administration of matters relating to technical and further education in that Territory;

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“technical and further education” means education provided by way of:

- (a) a course of instruction or training that is, or is preparatory to, a course of a kind relevant to a trade or a technical or other skilled occupation or that otherwise meets educational needs; or
(b) a course provided in New South Wales or Queensland that is recognised by the relevant authority of that State as a course of advanced education, being a course provided by the authority of that State that is responsible for technical and further education;

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but does not include:

- (c) education provided at a higher education institution, other than education provided by way of a course declared by the Minister to be a course of technical and further education; or
(d) primary or secondary education provided by way of a full-time course in a school;

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“temporary entry permit” has the same meaning as in the *Migration Act 1958*;

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“this Act” does not include Part 5.

(2) In this Act, a reference to expenditure in relation to a building includes a reference to expenditure in relation to any of the following:

- (a) the purchase of land with or without buildings;
(b) the designing, erection, alteration or extension of a building or other facilities;
(c) the development or preparation of land for building or other purposes;

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(d) the installation of water, electricity or other services;
and, in the case of the erection, alteration or extension of a building, includes
a reference to expenditure in relation to:

5 (e) the provision of furnishings and equipment for the building, or for
the altered parts or the extensions of the building, as the case may
be; and

10 (f) without limiting the generality of paragraph (e), if the erection,
alteration or extension is undertaken in connection with the
establishment of a library—the provision of books and other library
materials required for the establishment of the library.

Making of determinations etc.

4. Any determination, approval, declaration, direction, specification or
notification made or given by the Minister under, or for the purposes of,
this Act shall be made or given in writing.

Variation of instruments

15 5. Where a matter specified in an instrument signed by the Minister has
been varied by another such instrument, a reference in this Act to that
matter is a reference to that matter as so varied.

References to Northern Territory

20 6. The express references in this Act to the Northern Territory do not
imply that references in this Act to a State do not include references to that
Territory.

Arrangements with States

25 7. The Minister may make an arrangement with a State TAFE Minister
for the payment of money by the Commonwealth to the State under this
Act for the purposes of financial assistance in connection with the provision
of technical and further education in the State in respect of the year 1989.

Student fees

30 8. (1) On application by a State in respect of which an arrangement is
in force under section 7, the Minister may specify, by notice published in
the *Gazette*, courses of technical and further education for the purposes of
subsection (2).

35 (2) A person who has earned a living at any time may be charged fees
in respect of undertaking, for purposes other than an initial vocational
qualification, a course specified under subsection (1).

PART 2—RECURRENT GRANTS

Division 1—General recurrent grants

Grants for recurrent expenditure

40 9. (1) Subject to subsection (2), the Minister may authorise the payment
under this section to a State in respect of which an arrangement is in force

under section 7, for the purposes of financial assistance to the State in relation to recurrent expenditure in connection with the provision of technical and further education in the State in respect of the year 1989, of such amount as the Minister determines.

(2) The total of the amounts determined by the Minister under subsection (1) shall not exceed \$120,434,000. 5

(3) Financial assistance is granted to a State under subsection (1) on the conditions that:

- (a) the State will ensure that the sum of the amounts spent by the State and by instrumentalities of the State in the year 1989 in relation to recurrent expenditure in connection with the provision of technical and further education in the State is not less than the sum of the amounts of financial assistance paid to the State under subsection (1); 10
- (b) the State will ensure that each body providing technical and further education in the State does not charge any student fees in respect of the year 1989 or any part of that year except as provided by section 8; 15
- (c) the State will give to the Minister, not later than 30 September 1990, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (a); and 20
- (d) the State will cause to be given to the Minister, not later than such date as the Minister specifies, such statistical and other information as the Minister requires in respect of the provision of technical and further education in the State during that year. 25

Grants for adult education

10. (1) In this section:

“relevant body” means a body (including a body established by or on behalf of the Government of a State) that is not conducted for the profit, direct or indirect, of an individual or individuals. 30

(2) For the purposes of this section, the Minister may approve a body, whether incorporated or unincorporated, that is recommended to the Minister by a State TAFE Minister as an approved authority of that State for the purposes of this section.

(3) A body in relation to which an approval was in force under section 22 of the previous Assistance Act immediately before the commencement of this Act shall be taken to have been approved by the Minister under subsection (2) of this section. 35

(4) The Minister may authorise the payment to a State, for the purpose of financial assistance in connection with programs of adult education, including adult literacy programs, to be carried out in the year 1989 in the State, of such amount as the Minister determines. 40

(5) The total of the amounts determined by the Minister under subsection (4) shall not exceed \$2,575,000.

(6) Financial assistance is granted to a State under subsection (4) on the conditions that:

- 5 (a) the State will pay each amount of that financial assistance received by it to an approved authority of the State without undue delay;
- (b) the State will ensure that the sum of the amounts spent by any approved authority of the State in making contributions towards the recurrent expenditure of a relevant body, or of relevant bodies, in
10 connection with the provision, in the year 1989, by that body, or those bodies, of courses of adult education is not less than the sum of the amounts of financial assistance paid to the State under subsection (4); and
- 15 (c) the State will give to the Minister, not later than 30 September 1990, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

Grants for advanced English language courses for migrants

20 11. (1) Subject to subsection (2), the Minister may authorise the payment under this section to a State in respect of which an arrangement is in force under section 7, for the purposes of financial assistance to the State in relation to recurrent expenditure in connection with the provision of advanced English language courses for migrants in the State in respect of the year 1989, of such amount as the Minister determines.

25 (2) The total of the amounts determined by the Minister under subsection (1) shall not exceed \$4,078,000.

(3) Financial assistance is granted to a State under subsection (1) on the conditions that:

- 30 (a) the State will ensure that the sum of the amounts spent by the State and by instrumentalities of the State in the year 1989 in relation to recurrent expenditure in connection with the provision of advanced English language courses for migrants in the State is not less than the sum of the amounts of financial assistance paid to the State under subsection (1);
- 35 (b) the State will ensure that each body in the State receiving financial assistance by virtue of grants made under this section that provides advanced English language courses for migrants does not charge any student fees in respect of the year 1989 or any part of that year except as provided by section 8;
- 40 (c) the State will give to the Minister, not later than 30 September 1990, a statement by a qualified auditor, in the approved form, as to the amounts described in paragraph (a); and
- (d) the State will give to the Minister, not later than such date as the Minister specifies, such statistical and other information as the

Minister requires in respect of the provision of advanced English language courses for migrants in the State during that year.

Division 2—Special grants for non-government business colleges

Grants for approved courses provided by non-government business colleges

12. (1) Subject to subsection (2), the Minister may authorise the payment under this section to a State, by way of financial assistance to the State in respect of recurrent expenditure of a non-government business college in providing in the State, in the year 1989, a course (in this section called an "approved course") that, immediately before the commencement of this Act, was an approved course of instruction in secretarial studies of that college in respect of the year 1988 under the previous Assistance Act, of such amount as the Minister determines. 5 10

(2) The Minister shall not authorise the payment to a State under subsection (1) in relation to an approved course of an amount that exceeds the sum of the amounts (if any) respectively ascertained in respect of each of the months of the year 1989 by multiplying \$114.04 by the number of students receiving instruction in that course on the business college census date for that month. 15

(3) In calculating the number of students receiving instruction in an approved course of a non-government business college on the business college census date for a month of the year 1989, the following students shall be disregarded: 20

- (a) a student receiving instruction in such a course on that date who was receiving instruction in such a course on each of 10 or more previous business college census dates (whether in that year, or in that year and in a previous year or previous years, and whether or not the student was, on that first-mentioned date and those previous dates, receiving instruction in the same approved course of secretarial studies); 25
- (b) a student who had not begun to receive instruction in such a course on or before 23 August 1988; 30
- (c) an overseas student.

(4) Financial assistance is granted to a State under this section in respect of the recurrent expenditure of a non-government business college in the provision, in that State, in the year 1989, of an approved course of that college on the conditions that: 35

- (a) subject to paragraph (b), the State will, without undue delay, pay to the approved authority of the college an amount equal to each amount paid to the State under this section in relation to the college;
- (b) the State will not make a payment to the authority under this section unless the authority, before or at the time of accepting the first payment under this section, has agreed or agrees with the State to be bound by the following conditions: 40

- 5 (i) the authority will ensure that an amount equal to the sum
of the amounts paid to it under this section is applied for
the purpose of meeting recurrent expenditure incurred, in
respect of that year, by the college in the provision in that
year of approved courses of that college;
- 10 (ii) the authority will give to the Minister, not later than
31 December 1989 or such later date (if any) as the Minister
specifies, a certificate, in the approved form, by a qualified
accountant to the effect that the accountant is satisfied that
the condition specified in subparagraph (i) has been fulfilled;
- 15 (iii) if the authority does not fulfil a condition specified in
subparagraph (i) or (ii), it will, if the Minister so directs,
pay to the State such amount (not being an amount greater
than the sum of the amounts paid to it under this section)
as the Minister specifies; and
- 20 (c) if an amount that the authority is liable to pay to the State under
the condition referred to in subparagraph (b) (iii) is paid by the
authority to the State, or is recovered by the State from the
authority, the State will pay to the Commonwealth an amount equal
to that amount.

**Additional grants for approved courses provided by non-government
business colleges**

13. (1) Where:

- 25 (a) a State received financial assistance under section 25 of the previous
Assistance Act in respect of recurrent expenditure of a non-
government business college in providing in the State, in the year
1988, a course (in this section called an "approved course") that,
immediately before the commencement of this Act, was an approved
30 course of instruction in secretarial studies of the college in respect
of that year under that section; and
- (b) the Minister is satisfied that the college had, on or before 23 August
1988, entered into commitments to provide instruction in that course
in the year 1989 to students referred to in paragraph 12 (3) (b);
- 35 the Minister may, subject to this section, authorise the payment under this
section to the State, by way of financial assistance to the State in respect of
recurrent expenditure of the college in that State in the year 1989, of such
amount as the Minister determines.

40 (2) The amount, or the sum of the amounts, determined by the Minister
under subsection (1) in respect of a particular college shall not exceed one-
quarter of the amount paid or payable in respect of that college under
section 25 of the previous Assistance Act.

(3) The sum of the amounts determined by the Minister under subsection
(1) in respect of all colleges shall not exceed \$1,500,000.

(4) Financial assistance is granted to a State under this section in respect of the recurrent expenditure of a non-government business college in the provision, in that State, in the year 1989, of an approved course of that college on the conditions that:

- (a) subject to paragraph (b), the State will, without undue delay, pay to the approved authority of the college an amount equal to each amount paid to the State under this section in relation to the college; 5
- (b) the State will not make a payment to the authority under this section unless the authority, before or at the time of accepting the first payment under this section, has agreed or agrees with the State to be bound by the following conditions: 10
 - (i) the authority will ensure that an amount equal to the sum of the amounts paid to it under this section is applied for the purpose of meeting recurrent expenditure incurred, in respect of that year, by the college; 15
 - (ii) the authority will give to the Minister, not later than 31 December 1989 or such later date (if any) as the Minister specifies, a certificate, in the approved form, by a qualified accountant to the effect that the accountant is satisfied that the condition specified in subparagraph (i) has been fulfilled; 20
 - (iii) if the authority does not fulfil a condition specified in subparagraph (i) or (ii), it will, if the Minister so directs, pay to the State such amount (not being an amount greater than the sum of the amounts paid to it under this section) as the Minister specifies; and 25
- (c) if an amount that the authority is liable to pay to the State under the condition referred to in subparagraph (b) (iii) is paid by the authority to the State, or is recovered by the State from the authority, the State will pay to the Commonwealth an amount equal to that amount; 30

and on such other conditions (if any) as the Minister specifies.

PART 3—BUILDINGS AND EQUIPMENT

Grants for building or equipment expenditure

14. (1) The Minister may approve a proposal for expenditure by a State and instrumentalities of the State in relation to a building or equipment in connection with the provision of technical and further education in the State in respect of the year 1989 subject to such conditions as the Minister specifies. 35

(2) The reference in subsection (1) to a proposal for expenditure in relation to a building or equipment includes a proposal for expenditure in relation to: 40

(a) a building or equipment that is to be used partly in connection with the provision of technical and further education and partly for educational purposes by students enrolled in schools or in institutions of higher education; or

5 (b) child care facilities to which students enrolled in courses of technical and further education will have access.

(3) The Minister shall not approve a proposal for expenditure in relation to a building or equipment unless:

10 (a) a proposal for expenditure in relation to that building or equipment was approved under section 31 of the previous Assistance Act and expenditure was incurred by the relevant State or an instrumentality of that State in respect of the last-mentioned proposal in the year 1988; or

15 (b) an arrangement is in force in respect of the relevant State under section 7.

(4) Where the Minister approves a proposal, the Minister shall determine an amount, not exceeding the estimated expenditure on the proposal in the year 1989, as the amount of the approved expenditure in relation to the proposal.

20 (5) Subject to subsection (6), the Minister may, in relation to each approved proposal under subsection (1), authorise the payment to the relevant State, by way of financial assistance, of an amount equal to the amount of the approved expenditure in relation to the proposal.

25 (6) The total of the amounts determined by the Minister under this section shall not exceed \$186,065,000.

(7) Financial assistance is granted to a State under subsection (5) in relation to an approved proposal at a body providing technical and further education on the conditions that:

(a) the State will without undue delay:

30 (i) pay to the body each amount of that financial assistance received by the State; or

(ii) apply each amount of that financial assistance received by the State;

(b) the State will ensure that the sum of:

35 (i) the amounts spent by the State and by instrumentalities of the State in relation to work carried out before 1 January 1990 in connection with proposals for expenditure approved under subsection (1) in relation to buildings; and

40 (ii) the amounts spent by the State and by instrumentalities of the State in connection with proposals for expenditure approved under subsection (1) in relation to equipment, being amounts spent before 1 January 1990 or spent on or

after that date in respect of commitments entered into before that date;

is not less than the sum of the amounts of financial assistance paid to the State under subsection (5) in relation to the proposals;

- (c) the State will ensure that each body providing technical and further education in the State does not charge any student fees in respect of the year 1989 or any part of that year except as provided by section 8; 5
- (d) the State will give to the Minister, not later than 30 September 1990, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b); and 10
- (e) the State will cause to be given to the Minister, not later than such date as the Minister specifies, such statistical and other information as the Minister requires in respect of the provision of technical and further education in the State during that year. 15

PART 4—MISCELLANEOUS

Benefits of, and opportunities created by, grants to be equally available to male and female students

15. (1) A payment under this Act to a State for the purposes of financial assistance is granted on the condition that the State will ensure that the benefits of, and the opportunities created by, the payment will, as far as practicable, be equally available to male students and female students. 20

(2) Subsection (1) does not apply in relation to a payment made for the purpose of providing a course of instruction at a non-government business college whose students are all of the same sex. 25

(3) Where:

- (a) the benefits of, or the opportunities created by, a particular project or program or particular expenditure would not, but for this subsection, be equally available to male students and female students; and 30
- (b) an object of the project, program or expenditure is to secure the adequate advancement of persons of one sex who require special assistance in order to ensure that persons of that sex have equal opportunities with persons of the other sex in connection with education or training; 35

the benefits of, or the opportunities created by, the project, program or expenditure shall be taken, for the purposes of this Act, to be equally available to male students and female students.

Additional conditions etc.

16. In addition to the conditions specified in any other provision of this Act, financial assistance is granted to a State under this Act in respect of a year on the conditions that: 40

- (a) if the Minister informs the State that the Minister is satisfied that the State has failed to fulfil a condition applicable to that financial assistance, the State will pay to the Commonwealth the amount (if any) specified by the Minister, not exceeding the amount of the financial assistance; and
- (b) if the amount of the financial assistance paid to the State under a provision of this Act exceeds the amount of that financial assistance that is properly payable to the State under that provision, the State will pay an amount equal to the excess to the Commonwealth.

Amendments affecting State entitlements to grants

17. The Minister shall not make a determination under section 9, 10, 11, 12, 13 or 14:

- (a) that would reduce an amount payable to a State under a previous instrument signed by the Minister unless the Minister has consulted the State in relation to the proposed reduction; or
- (b) that could result in a State becoming liable to pay an amount to the Commonwealth.

Disallowable instruments

18. A determination made by the Minister under section 9, 10, 11, 12, 13 or 14 is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Time and manner of payments

19. Financial assistance payable to a State under this Act shall be paid in such amounts, and at such times, as the Minister determines.

Delegation

20. The Minister may, by writing signed by the Minister, delegate to an officer of the Department all or any of the Minister's powers under this Act.

Advances

21. The Minister may make arrangements for the making of advances by the Minister to a State, by way of financial assistance to the State, on account of an amount that is expected to become payable under a provision of this Act to the State, and the conditions that would be applicable to a payment of the amount under that provision are applicable to any such advance.

Source of certain payments to States

22. Payments (including an advance under section 21) to a State under this Act may be made out of:

- (a) in the case of payments under Part 3—the Consolidated Revenue Fund or the Loan Fund; or

(b) in any other case—the Consolidated Revenue Fund.

Authority to borrow

23. The Treasurer may, from time to time, in accordance with the provisions of the *Commonwealth Inscribed Stock Act 1911*, or in accordance with the provisions of an Act authorising the issue of Treasury Bills, borrow money the total amount of which does not exceed the sum of the amounts payable to the States under Part 3.

5

Application of money borrowed

24. Money borrowed under section 23 shall be issued and applied only for the expenses of borrowing, for the purpose of making payments to the States in accordance with Part 3 and for the purpose of making payments to the Consolidated Revenue Fund in accordance with section 25.

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Reimbursements of Consolidated Revenue Fund from Loan Fund

25. (1) Where an amount has been paid out of the Consolidated Revenue Fund in accordance with Part 3, the Minister for Finance may authorise the payment to that Fund, out of the Loan Fund, of an amount not exceeding the amount so paid.

15

(2) In any statement of the receipts and expenditure, or of the expenditure, of the Consolidated Revenue Fund prepared by the Minister for Finance under section 49 or 50 of the *Audit Act 1901*, amounts paid to the Consolidated Revenue Fund under subsection (1) of this section shall not be shown as receipts of that Fund but shall be shown as having reduced the total of the amounts spent from that Fund under this Act.

20

Appropriation

26. The Consolidated Revenue Fund and the Loan Fund are appropriated as necessary for the purposes of this Act.

25

PART 5—AMENDMENTS OF THE STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) ACT 1987

Principal Act

27. In this Part, “Principal Act” means the *States Grants (Tertiary Education Assistance) Act 1987*.

30

Grants for recurrent expenditure in connection with the provision of technical and further education

28. Section 21 of the Principal Act is amended by omitting from subsection (2) “\$104,710,000” and substituting “\$105,100,000”.

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Grants for building or equipment expenditure in connection with the provision of technical and further education

29. Section 31 of the Principal Act is amended by omitting from subsection (4) “\$180,368,000” and substituting “\$180,470,000”.

5 Substitution of Schedule 11

30. Schedule 11 to the Principal Act is repealed and the Schedule set out in the Schedule to this Act is substituted.

SCHEDULE

Section 30

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 11 TO THE STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) ACT 1987

SCHEDULE 11

Section 25

MAXIMUM MONTHLY CAPITATION AMOUNT OF COMMONWEALTH ASSISTANCE TO NON-GOVERNMENT BUSINESS COLLEGES

Column 1	Column 2	10
Name of month	Maximum capitation amount in respect of 1988	
January to March	111.28	
April to June	111.71	15
July to September	111.71	
October to December	114.04	

NOTE

1. No. 123, 1987, as amended. For previous amendments, see Nos. 62 and 80, 1988.
- 20