

1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) BILL 1989

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1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 1 March 1989

(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 1989*.

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 form” means a form approved by the Minister;

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

“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:

(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;

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

“qualified auditor” means:

(a) the Auditor-General of a State; or

(b) a qualified accountant;

“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;

5 “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

- 10 (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;

15 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

- 20 (d) primary or secondary education provided by way of a full-time course in a school;

“this Act” does not include Part 5 or 6.

(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:

- 25 (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;
- 30 (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:

- (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
- 35 (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.

40 **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

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

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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

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.

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Student fees

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).

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(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).

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PART 2—RECURRENT GRANTS

Grants for recurrent expenditure

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.

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

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(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);

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- (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;
- 5 (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
- 10 (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.

Grants for adult education

10. (1) In this section:

15 "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.

20 (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.

25 (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.

30 (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:

- (a) the State will pay each amount of that financial assistance received by it to an approved authority of the State without undue delay;
- 35 (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 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
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- (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

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. 5
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(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:

- (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); 15
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- (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; 25
- (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. 30

PART 3—BUILDINGS AND EQUIPMENT

Grants for building or equipment expenditure

12. (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

13. (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) 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 25
- (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; 30

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. 35

Additional conditions etc.

14. 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:

- (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 40

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

- 5 (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

10 **15.** The Minister shall not make a determination under section 9, 10, 11 or 12:

- (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
15 (b) that could result in a State becoming liable to pay an amount to the Commonwealth.

Disallowable instruments

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

20 **Time and manner of payments**

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

Delegation

25 **18.** 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

30 **19.** 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

35 **20.** Payments (including an advance under section 19) 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

21. The Treasurer may, from time to time, in accordance with the *Commonwealth Inscribed Stock Act 1911*, or 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

22. Money borrowed under section 21 shall be issued and applied only for the expenses of borrowing, for the purpose of making payments to the States under Part 3 and for the purpose of making payments to the Consolidated Revenue Fund under section 23. 10

Reimbursements of Consolidated Revenue Fund from Loan Fund

23. (1) Where an amount has been paid out of the Consolidated Revenue Fund under 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

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

PART 5—AMENDMENTS OF THE STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) ACT 1987 25

Principal Act

25. In this Part, "Principal Act" means the *States Grants (Tertiary Education Assistance) Act 1987*¹.

Grants for recurrent expenditure in connection with the provision of technical and further education 30

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

Grants for building or equipment expenditure in connection with the provision of technical and further education 35

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

Substitution of Schedule 11

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

**PART 6—AMENDMENT OF EMPLOYMENT, EDUCATION AND
TRAINING ACT 1988**

Principal Act

29. In this Part, “Principal Act” means the *Employment, Education and Training Act 1988*².

Functions of the Employment and Skills Formation Council

30. Section 26 of the Principal Act is amended by adding at the end of subsection (1) the following word and paragraph:

“; and (c) to inquire into, and, from time to time, report to the Board with respect to, the operation of arrangements referred to in section 7 of the *States Grants (Technical and Further Education Assistance) Act 1989* and in particular to monitor the application of arrangements and advise on their role in supporting Commonwealth priorities.”.

SCHEDULE

Section 28

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

NOTES

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

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