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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**STATES GRANTS (NON-GOVERNMENT BUSINESS COLLEGES)  
BILL 1989**

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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 non-government business colleges 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 (Non-Government Business Colleges) Act 1989*.

**Commencement**

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

**Interpretation**

3. 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

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

(a) shorthand; 30

(b) typing; or

(c) shorthand and typing;

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

“instrument”, in relation to the Minister, means a determination, approval, 35  
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; 40

“overseas student”:

(a) in Part 2—means a person (including a person who has not  
attained the age of majority) who is not an Australian citizen 4

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

5 (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;

10 “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;

15 (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;

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

“State TAFE Minister” means:

20 (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

25 (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;

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

30 (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

35 (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;

but does not include:

40 (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;

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

**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. 5

**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. 10

**PART 2—SPECIAL GRANTS FOR NON-GOVERNMENT BUSINESS COLLEGES**

**Grants for approved courses provided by non-government business colleges**

6. (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. 15 20

(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. 25

(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: 30

- (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); 35
- (b) a student who had not begun to receive instruction in such a course on or before 23 August 1988; 40
- (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:

- 5 (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;
- 10 (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:
- 15 (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;
- 20 (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;
- 25 (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
- 30 (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**

7. (1) Where:

- 35 (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 course of instruction in secretarial studies of the college in respect of that year under that section; and
- 40 (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 6 (3) (b);

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.

(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. 5

(3) The sum of the amounts determined by the Minister under subsection (1) in respect of all colleges shall not exceed \$1,500,000. 10

(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; 15

(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: 20

(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; 25

(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; 30

(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 35

(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; 40

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



**PART 3—MISCELLANEOUS**

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

5 **8. (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.

10 **(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.

**(3) Where:**

15 **(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

20 **(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;

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.**

25 **9.** 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:

30 **(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

35 **(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.** The Minister shall not make a determination under section 6 or 7:

40 **(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**

11. A determination made by the Minister under section 6 or 7 is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Time and manner of payments**

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

**Delegation**

13. 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.

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**Advances**

14. 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.

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**Source of certain payments to States**

15. Payments (including an advance under section 14) to a State under this Act may be made out of the Consolidated Revenue Fund.

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**Appropriation**

16. The Consolidated Revenue Fund is appropriated as necessary for the purposes of this Act.











