



Higher Education Funding Amendment Act 2002

No. 87, 2002

**An Act to amend the *Higher Education Funding Act 1988* and the *Australian Research Council Act 2001*,
and for other purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act to amend the *Higher Education Funding Act 1988* and the *Australian Research Council Act 2001*,
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[Assented to 21 October 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Funding Amendment Act 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	21 October 2002
2. Schedule 1, Part 1	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Part 1 of Schedule 1 to the <i>Higher Education Legislation Amendment Act (No. 2) 2002</i>	21 October 2002 (paragraph (a) applies)
3. Schedule 1, Part 2	The day on which this Act receives the Royal Assent	21 October 2002
4. Schedule 1, items 22 and 23	Immediately after the commencement of subsection 23(1C) of the <i>Higher Education Funding Act 1988</i>	1 July 2001
5. Schedule 1, items 24 and 25	The day on which this Act receives the Royal Assent	21 October 2002
6. Schedule 2	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Part 1 of Schedule 2 to the <i>Higher Education Legislation Amendment Act (No. 2) 2002</i>	21 October 2002 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Higher Education Funding Act 1988

Part 1—Variation of financial assistance

1 Paragraphs 17(m), (n), (o) and (p)

Repeal the paragraphs, substitute:

- (m) in the case of the year 2001—\$2,756,161,000; and
- (n) in the case of the year 2002—\$2,798,266,000; and
- (o) in the case of the year 2003—\$2,857,119,000; and
- (p) in the case of the year 2004—\$2,872,293,000.

2 Paragraphs 20(3)(o) and (p)

Repeal the paragraphs, substitute:

- (o) in the case of the year 2003—\$121,259,000; and
- (p) in the case of the year 2004—\$121,259,000.

3 Paragraphs 22A(5)(k) and (l)

Repeal the paragraphs, substitute:

- (k) for the year 2003—\$241,000; and
- (l) for the year 2004—\$241,000.

4 Paragraphs 23C(2)(k) and (l)

Repeal the paragraphs, substitute:

- (k) for the year 2003—\$1,118,032,000; and
- (l) for the year 2004—\$1,137,649,000.

5 Paragraphs 24(3)(o) and (p)

Repeal the paragraphs, substitute:

- (o) in the case of the year 2003—\$5,402,000; and
- (p) in the case of the year 2004—\$5,402,000.

6 Paragraphs 27A(6)(j) and (k)

Repeal the paragraphs, substitute:

- (j) for the year 2003—\$42,101,000; and
- (k) for the year 2004—\$42,101,000.

7 Paragraphs 27D(2)(f) and (g)

Repeal the paragraphs, substitute:

- (f) in the case of the year 2003—\$5,400,000; and
- (g) in the case of the year 2004—\$5,400,000.

Part 2—Post-graduate education loan scheme

8 Subsection 98A(1) (paragraph (b) of the definition of *appropriate officer*)

After “Marcus Oldham College”, insert “or an eligible private institution”.

9 Subsection 98A(1) (paragraph (b) of the definition of *eligible post-graduate course of study*)

Omit “of study.”, substitute “of study; and”.

10 Subsection 98A(1) (at the end of the definition of *eligible post-graduate course of study*)

Add:

- (c) if the institution is a non-self accrediting private institution:
 - (i) is a course that is accredited by a State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications; and
 - (ii) is a course which the Minister is satisfied meets the criteria in place in the National Protocol for the Accreditation of Higher Education Courses to be offered by non-self accrediting providers, based on the advice of the State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications.

For the purposes of paragraph (c), a part of an agency is taken to be an agency in its own right.

11 Subsection 98A(1)

Insert:

eligible private institution has the meaning given by section 98AA.

12 Subsection 98A(1) (definition of *institution*)

Repeal the definition, substitute:

institution means:

- (a) an institution referred to in section 4; or
- (b) an eligible private institution.

12A Subsection 98A(1)

National Protocols means the *National Protocols for Higher Education Approval Processes* (first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000), as in force from time to time.

12B Subsection 98A(1)

non-self accrediting private institution is an eligible private institution which appears in column 2 of the table in subsection 98AA(1).

13 Subsection 98A(1) (definition of *student*)

After “an institution” (wherever occurring), insert “(other than an eligible private institution)”.

14 Subsection 98A(1) (paragraph (b) of the definition of *student*)

Omit “that institution.”, substitute “that institution; and”.

15 Subsection 98A(1) (at the end of the definition of *student*)

Add:

- (c) a person who proposes to undertake on or after 1 January 2003, or is undertaking or has undertaken on or after that date, an eligible post-graduate course of study at an eligible private institution; and
- (d) when used in relation to a particular eligible post-graduate course of study at an eligible private institution—a person who proposes to undertake on or after 1 January 2003, or is undertaking or has undertaken on or after that date, the eligible post-graduate course of study at that institution.

16 After subsection 98A(3)

Insert:

- (3A) For the purposes of this Chapter, the definition of *census date* in subsection 34(1) applies as if the reference in that definition to institution were a reference to institution within the meaning of Chapter 4A.

17 After section 98A

Insert:

98AA Eligible private institution

- (1) For the purposes of this Chapter, an *eligible private institution* is an institution of higher education specified in the following table:

Eligible private institutions	
Column 1	Column 2
self-accrediting private institutions	non-self accrediting private institutions
Bond University	Christian Heritage College
Melbourne College of Divinity	Tabor College (South Australia)

Amendment of table

- (2) The Minister may declare that the table in subsection (1) is amended in the manner specified in the declaration and, if such a declaration is made, the declaration has effect accordingly.
- Note 1: A declaration under this subsection is to be in writing—see subsection 9(1).
- Note 2: A declaration under this subsection is a disallowable instrument—see paragraph 110(a).
- (3) The Minister must not make a declaration under subsection (2) that would result in an institution becoming an eligible private institution.
- (4) For the purposes of section 8 of the *Acts Interpretation Act 1901*, a declaration under subsection (2) that amends the table in subsection (1) by way of repealing part of that table is taken to be an Act that repeals that part of the table.

Minister may have regard to breaches of this Chapter

- (5) In deciding whether to make a declaration under subsection (2) that would result in an institution ceasing to be an eligible private institution, the Minister may have regard to:
- (a) whether the institution has breached a requirement of this Chapter; and
 - (b) such other matters (if any) as the Minister considers relevant.

18 Before paragraph 98E(b)

Insert:

- (aa) any references in those sections to institution were references to institution within the meaning of Chapter 4A; and
- (aaa) any references in those sections to appropriate officer were references to appropriate officer within the meaning of Chapter 4A; and

19 Before paragraph 98F(7)(b)

Insert:

- (aa) any references in that section to institution were references to institution within the meaning of Chapter 4A; and
- (aaa) any references in that section to appropriate officer were references to appropriate officer within the meaning of Chapter 4A; and

20 After section 98J

Insert:

98JA Eligible private institution to report information

- (1) The Minister must, as soon as practicable after 31 December in each year, require each eligible private institution that offers an eligible post-graduate course of study to report to the Minister, in an approved form, information regarding their operations during that year.
- (2) The eligible private institution must comply with a requirement under subsection (1) as soon as practicable.
- (3) The information provided under subsection (1) must include (but is not limited to):

Schedule 1 Amendment of the Higher Education Funding Act 1988

Part 2 Post-graduate education loan scheme

- (a) information consistent with that required of any institution to which similar financial assistance is granted under this Act; and
- (b) further information consistent with that required of any institution under this Act, as determined by the Minister.

Note 1: Section 108 requires any institution to which financial assistance is granted to provide a financial statement, together with an auditor's report.

Note 2: The Minister may require statistical and other information under paragraph 18(1)(g). The Minister may also require further information relating to students in designated courses of study at the institution under section 58.

- (4) The Minister must be satisfied that the eligible private institutions have met these requirements and must table the relevant information in each House of the Parliament as soon as practicable after receipt.

Note: The heading to section 98J is altered by adding at the end "**about post-graduate students**".

21 At the end of paragraph 110(a)

Add "or 98AA(2)".

Part 3—Technical corrections

22 Paragraph 23(1C)(b)

Omit “paragraph (1E)(a)”, substitute “subsection (1E)”.

23 Transitional—paragraph 23(1C)(b) of the *Higher Education Funding Act 1988*

- (1) This item applies to a purported declaration that:
 - (a) was made under paragraph 23(1C)(b) of the *Higher Education Funding Act 1988* before the day on which the *Higher Education Funding Amendment Act 2002* received the Royal Assent; and
 - (b) contained a reference to paragraph 23(1E)(a) of the *Higher Education Funding Act 1988*; and
 - (c) related to a particular plan.
- (2) The declaration is as effective as it would have been if:
 - (a) the Minister had been satisfied that the plan met the requirements in force under subsection 23(1E) of the *Higher Education Funding Act 1988*; and
 - (b) a reference in the declaration to paragraph 23(1E)(a) of that Act were a reference to subsection 23(1E) of that Act.

24 Before paragraph 98Y(b)

Insert:

- (aa) any references in those sections to institution were references to institution within the meaning of Chapter 4B; and

25 Before paragraph 98Z(7)(b)

Insert:

- (aa) any references in that section to institution were references to institution within the meaning of Chapter 4B; and

Schedule 2—Amendment of the Australian Research Council Act 2001

1 Paragraph 48(e)

Omit “2005.”, substitute “2005;”.

2 At the end of section 48

Add:

(f) the year 2006.

3 Paragraphs 49(c), (d) and (e)

Repeal the paragraphs, substitute:

(c) for the year 2003—\$356,063,000; and

(d) for the year 2004—\$403,604,000; and

(e) for the year 2005—\$461,050,000; and

(f) for the year 2006—\$524,090,000.

*[Minister’s second reading speech made in—
House of Representatives on 5 June 2002
Senate on 22 August 2002]*

(125/02)