



Higher Education Funding Act 1988

No. 2 of 1989

TABLE OF PROVISIONS CHAPTER 1—INTRODUCTORY

Section

1. Short title
2. Commencement
3. Definitions
4. Institutions
5. References to payments and acts
6. Proposed institutions
7. Provision for superannuation or long service leave
8. Special fund for equipment and minor building projects
9. Making and variation of determinations etc.
10. References to Northern Territory
11. Securing compliance by prescribed non-government institutions

CHAPTER 2—STATES GRANTS FOR HIGHER EDUCATION ASSISTANCE

PART 2.1—PRELIMINARY

12. Institutions to which provisions apply
13. Student fees
14. Educational profiles

PART 2.2—RECURRENT GRANTS

15. Grants for expenditure for operating purposes
16. Grants for expenditure for limited operating purposes
17. Maximum grants
18. Conditions of grants
19. Grants for Aboriginal participation projects
20. Grants for superannuation expenses
21. Grants for projects of national priority
22. Promotion of equality of opportunity
23. Special research assistance
24. Grants in respect of teaching hospitals
25. Grants in respect of drug and alcohol education in teaching hospitals

TABLE OF PROVISIONS—continued

PART 2.3—CAPITAL GRANTS

- Section
26. Grants for building projects
27. Conditions attaching to capital grants

PART 2.4—TRANSITIONAL

28. Adjustments where estimated 1988 enrolments not equal to actual enrolments

CHAPTER 3—ADDITIONAL STATES GRANTS FOR HIGHER EDUCATION ASSISTANCE

PART 3.1—RECURRENT GRANTS

29. Grants for Aboriginal participation projects
30. Promotion of equality of opportunity

PART 3.2—CAPITAL GRANTS

31. Grants for building projects
32. Grants for renovation projects
33. Conditions attaching to capital grants

CHAPTER 4—HIGHER EDUCATION CONTRIBUTION SCHEME

PART 4.1—PRELIMINARY

34. Interpretation
35. Exempt students
36. Student load not to include work experience in industry
37. Semesters

PART 4.2—CONTRIBUTIONS

Division 1—Additional condition of grant of financial assistance

38. Additional condition

Division 2—Imposition and payment of contributions

39. Requirement to pay contributions
40. Annual course contribution
41. Requirements before enrolment or undertaking course
42. Power of Commissioner to inform institution concerning tax file number
43. Application for issue or notification of tax file number
44. Issuing of tax file numbers
45. Current tax file number
46. Deemed refusal by Commissioner
47. Cancellation of tax file numbers
48. Alteration of tax file numbers
49. Notification of issued tax file numbers
50. Review of decisions
51. Statements to accompany notification of decisions
52. Unauthorised requirement etc. that tax file number be quoted
53. Unauthorised recording etc. of tax file number
54. Notice by institution
55. Requests for correction of notices
56. Overpayment of contribution

Division 3—Discharge by Commonwealth of students' liabilities for contributions

57. Commonwealth to discharge students' liabilities
58. Institutions to provide information to Minister

TABLE OF PROVISIONS—continued

PART 4.3- HIGHER EDUCATION TRUST FUND

Section

- 59. Establishment of Fund
- 60. Payments into Fund
- 61. Application of Fund

PART 4.4—REPAYMENT OF LOANS

Division 1—Nature of indebtedness

- 62. HEC semester debt
- 63. Power of Secretary to remit semester debt in special circumstances
- 64. Review of decision of Secretary
- 65. Calculation of accumulated HEC debt
- 66. Accumulated HEC debt discharges earlier debts

Division 2—Voluntary discharge of indebtedness

- 67. Voluntary payments in respect of HEC debts

Division 3—Requirement to discharge indebtedness

- 68. Compulsory payments in respect of accumulated HEC debt

Division 4—Returns and assessments

- 69. Institutions to provide information to Commissioner
- 70. Annual returns
- 71. Assessment
- 72. Application of Income Tax Assessment Act
- 73. Notification on notices of assessment of tax
- 74. Power of Commissioner to defer assessment or reduce assessment to nil
- 75. Review of decision of Commissioner

Division 5—Miscellaneous

- 76. Application of payments
- 77. Indebtedness discharged by death
- 78. Secrecy

Division 6—Amendments of Income Tax Assessment Act 1936

- 79. Principal Act
- 80. Losses and outgoings
- 81. Deductions for expenses of self-education
- 82. Application of deductions in payment of tax
- 83. Provisional tax to be credited against other tax
- 84. Application of credits
- 85. Insertion of new Division:

Division 7—Higher education contribution assessment debts

- 221ZY. Application of deductions in payment of HEC assessment debts

Division 7—Amendment of Fringe Benefits Tax Assessment Act 1986

- 86. Principal Act
- 87. Insertion of new section:
 - 64A. Reduction of taxable value in relation to expenditure in respect of higher education contribution

TABLE OF PROVISIONS—continued

Division 8—Amendment of Taxation (Interest on Overpayments) Act 1983

Section

- 88. Principal Act
- 89. Interpretation

PART 4.5—ABOLITION OF HIGHER EDUCATION ADMINISTRATION CHARGE

Division 1—The Australian National University

- 90. Principal Act
- 91. Abolition of charge

Division 2—Canberra College of Advanced Education

- 92. Principal Act
- 93. Abolition of charge

Division 3—Australian Maritime College

- 94. Principal Act
- 95. Abolition of charge

Division 4—Canberra Institute of the Arts

- 96. Charges not to be imposed

Division 5—Amount of charge not fixed beyond year 1988

- 97. Principal Act
- 98. Amount of charge

CHAPTER 5—CONTINGENT PROVISIONS

PART 5.1—SUPPLEMENTARY STATES GRANTS FOR HIGHER EDUCATION ASSISTANCE

Division 1—Preliminary

- 99. Institutions to which provisions apply

Division 2—Recurrent grants

- 100. Grants for expenditure for operating purposes
- 101. Grants for expenditure for limited operating purposes
- 102. Maximum grants
- 103. Conditions of grants
- 104. Special assistance for students

PART 5.2—HIGHER EDUCATION ADMINISTRATION CHARGE

- 105. Reimposition of charge
- 106. Additional condition

CHAPTER 6—MISCELLANEOUS

- 107. Benefits of, and opportunities created by, grants to be equally available to female and male students
- 108. Additional conditions
- 109. Amendments affecting State entitlements to grants
- 110. Disallowable instruments
- 111. Time and manner of payments
- 112. Delegation

TABLE OF PROVISIONS—continued

Section	
113.	Advances
114.	Sources of certain payments to States
115.	Authority to borrow
116.	Application of money borrowed
117.	Reimbursement of Consolidated Revenue Fund from Loan Fund
118.	Appropriation
119.	Report by the Minister
120.	Regulations
121.	Amendments of the Australian National University Act
122.	Amendments of the Canberra College of Advanced Education Act
123.	Amendments of the Employment, Education and Training Act
124.	Amendments of the Maritime College Act

**CHAPTER 7—AMENDMENTS OF STATES GRANTS (TERTIARY
EDUCATION ASSISTANCE) ACT 1987**

125.	Principal Act
126.	Promotion of equality of opportunity
127.	Recurrent grants may be increased to assist institutions in promoting greater participation of Aborigines in higher education
128.	Special assistance for students
129.	Special research assistance
130.	Recurrent grants may be increased to assist institutions in meeting certain superannuation expenses
131.	Substitution of Schedules
132.	Payments made before Royal Assent

SCHEDULE TO CHAPTER 7

**NEW SCHEDULES TO THE STATES GRANTS (TERTIARY EDUCATION
ASSISTANCE) ACT 1987**



Higher Education Funding Act 1988

No. 2 of 1989

An Act relating to the funding of certain institutions of higher education, and for matters connected therewith

[Assented to 6 January 1989]

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

CHAPTER 1—INTRODUCTORY

Short title

1. This Act may be cited as the *Higher Education Funding Act 1988*.

Commencement

2. (1) Chapters 1, 2, 3, 4, 6 and 7 commence on the day on which this Act receives the Royal Assent.

(2) The provisions of Chapter 5 commence on such date (if any) as is, or such dates (if any) as respectively are, fixed by Proclamation.

Definitions

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

“Aboriginal” means a member of the Aboriginal race of Australia, and includes a descendant of the indigenous inhabitants of the Torres Strait Islands;

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

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

“building project” means any of the following:

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

and includes:

- (e) in the case of the erection or extension of a building—the provision of furnishings or equipment for the building, or for the extensions of the building, as the case may be; and
- (f) a renovation project;

“capital expenditure” means expenditure on a building project (other than a minor building project);

“course of study”, in relation to an institution, means a course the completion of which leads to the granting of a degree, diploma, associate diploma or other award of the institution and includes a course of instruction provided by the institution for the purpose of enabling persons to undertake a course of study provided by the institution or by another institution but does not include a course of technical and further education;

“educational profile” means an educational profile referred to in section 14;

“fees”, in relation to an institution, means tuition, examination or other fees payable to the institution by a student enrolled at, or applying for enrolment at, the institution in connection with a course of study or attendance at the institution, and includes fees payable to the institution in respect of the granting of a degree, diploma, associate diploma or other award 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 imposed in accordance with guidelines issued by the Minister for the imposition of fees in respect of overseas students;
- (e) fees payable in respect of studies (other than a course of instruction provided by the institution for the purpose of

Higher Education Funding No. 2, 1989

enabling persons to undertake a course of study provided by the institution) that are not required or permitted to be undertaken for the purpose of obtaining a degree, diploma, associate diploma or other award of the institution;

- (f) fees payable, in accordance with guidelines issued by the Minister, by persons who attend or otherwise participate in courses of study but do not enrol for those courses, other than persons whose attendance at, or participation in, those courses is, or is to be, credited towards a degree, diploma, associate diploma or other award of another institution by arrangement between the institutions concerned;
- (g) fees of a kind that are incidental to studies that may be undertaken at institutions and that the Minister has notified each State Higher Education Minister to be fees of a kind to which this paragraph applies; or
- (h) contributions payable under Chapter 4;

“institution”, except in Chapter 4, has the meaning given by section 4;

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

“limited operating purposes”, in relation to an institution, means:

- (a) the general teaching purposes of the institution in connection with courses of study provided by or at the institution, including preparatory work in connection with proposed courses of study to be provided by or at the institution;
- (b) the purchase of equipment for the institution for purposes referred to in paragraph (a); and
- (c) minor building projects of the institution for purposes referred to in paragraph (a);

“minor building project”, in relation to an institution, means a building project of the institution that is determined by the institution to be a minor building project;

“operating purposes”, in relation to an institution, means:

- (a) the general teaching purposes of the institution in connection with courses of study provided by or at the institution, including preparatory work in connection with proposed courses of study to be provided by or at the institution;
- (b) the general research purposes of the institution;
- (c) the provision by the institution of courses of continuing education;
- (d) the purchase of equipment for the institution; and
- (e) minor building projects of the institution;

“prescribed non-government institution” means Avondale College, McAuley College and Marcus Oldham College of Farm Management;

“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;

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

“renovation project” means either of the following:

- (a) the renovation or alteration of a building or other facilities, including the provision of furnishings or equipment for the renovated or altered parts of the building or other facilities;
- (b) the installation of water, electricity or other services;

“Secretary” means Secretary to the Department;

“State” includes the Northern Territory;

“State Higher Education 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 higher 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 higher education in that Territory;

“teaching hospital”, in relation to an institution, includes a hospital in which students enrolled in the Faculty of Medicine, or School of Medicine, of the institution receive clinical instruction;

“technical and further education” has the same meaning as in the *States Grants (Technical and Further Education Assistance) Act 1988*;

“this Act” does not include Chapter 7;

“year” means a calendar year;

“year to which this Chapter applies” means:

- (a) in Chapter 4—the year 1989 or any subsequent year; or
- (b) otherwise—the year 1989, the year 1990 or the year 1991.

Institutions

4. (1) Subject to this section, in this Act, unless the contrary intention appears, “institution” means any of the institutions of higher education specified in the following Table:

NEW SOUTH WALES

Armida College of Advanced Education
Avondale College
Catholic College of Education Sydney Ltd
Chifley University
Cumberland College of Health Sciences
Hawkesbury Agricultural College
Hunter Institute of Higher Education
Kuring-gai College of Advanced Education
Macarthur Institute of Higher Education
Mitchell College of Advanced Education
Nepean College of Advanced Education
New South Wales State Conservatorium of Music
Northern Rivers College of Advanced Education
Orange Agricultural College
Riverina-Murray Institute of Higher Education
Sydney College of Advanced Education
The Macquarie University
The New South Wales Institute of the Arts
The University of New South Wales
The University of Newcastle
The University of Wollongong
University of New England
University of Sydney
University of Technology, Sydney

VICTORIA

Ballarat College of Advanced Education
Bendigo College of Advanced Education
Chisholm Institute of Technology
Deakin University
Footscray Institute of Technology
Gippsland Institute of Advanced Education
Hawthorn Institute of Education
Institute of Catholic Education
La Trobe University
Marcus Oldham College of Farm Management
Melbourne College of Advanced Education
Monash University
Phillip Institute of Technology
Royal Melbourne Institute of Technology Ltd
Swinburne Limited
The Victorian College of the Arts
The Western Institute
The Wodonga Institute of Tertiary Education
University of Melbourne
Victoria College
Victorian College of Agriculture and Horticulture

Higher Education Funding No. 2, 1989

Victorian College of Pharmacy Ltd
Warrnambool Institute of Advanced Education

QUEENSLAND

Brisbane College of Advanced Education
Capricornia Institute of Advanced Education
Darling Downs Institute of Advanced Education
Gold Coast College of Advanced Education
Griffith University
James Cook University of North Queensland
McAuley College
Queensland Agricultural College
Queensland Conservatorium of Music
Queensland Institute of Technology
The University of Queensland

WESTERN AUSTRALIA

Curtin University of Technology
Murdoch University
The University of Western Australia
Western Australian College of Advanced Education

SOUTH AUSTRALIA

Roseworthy Agricultural College
South Australian College of Advanced Education
South Australian Institute of Technology
The Flinders University of South Australia
The University of Adelaide

TASMANIA

Tasmanian State Institute of Technology
University of Tasmania

NORTHERN TERRITORY

Batchelor College
The Northern Territory University.

(2) The Minister may declare that the Table in subsection (1) is amended in the manner specified in the declaration and, where such a declaration is made, the declaration has effect accordingly.

(3) 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 shall be taken to be an Act that repeals that part of that Table.

References to payments and acts

5. For the purposes of this Act:

- (a) a State shall be taken to have paid money to an institution that is not a body corporate if it has paid money to the body administering that institution; and

- (b) an institution that is not a body corporate shall be taken to have done any act or thing that is required or permitted by this Act to be done if the body administering the institution has done that act or thing.

Proposed institutions

6. Where:

- (a) a State proposes to establish an institution;
- (b) the name of the proposed institution is referred to in an instrument signed by the Minister; and
- (c) an institution under that name has not been established or a body has not been established to administer the proposed institution;

then, for the purposes of this Act:

- (d) an institution under that name shall be taken to be in existence;
- (e) the State shall be taken to have paid money to the institution if it has paid the money to a person or body determined by the Minister to be the appropriate authority in relation to the institution for the purposes of this Act; and
- (f) the institution shall be taken to have done any act or thing that is required or permitted by this Act to be done if the appropriate authority in relation to the institution has done that act or thing.

Provision for superannuation or long service leave

7. Where, for operating purposes or for limited operating purposes, an institution makes provision, not inconsistent with actuarial principles, in the accounts (including the journals and ledgers) of the institution for future or contingent liabilities in respect of superannuation payments or long service leave, the institution shall be taken, for the purposes of this Act, to have spent the amount of that provision for operating purposes or for limited operating purposes, as the case requires, in respect of the year in which that provision is made.

Special fund for equipment and minor building projects

8. Where an institution transfers an amount to a special fund in the accounts of the institution to be used only for future expenditure on equipment for the institution, or minor building projects of the institution, or both, the institution shall be taken, for the purposes of this Act, to have spent that amount for operating purposes or for limited operating purposes, as the case requires, in respect of the year in which that amount was transferred.

Making and variation of determinations etc.

9. (1) Any determination, specification, approval, declaration, direction, requirement, guideline or notification made, issued or given by the Minister under, or for the purposes of, this Act shall be made, issued or given in writing and, in the case of a guideline, published in the *Gazette*.

(2) 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

10. 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.

Securing compliance by prescribed non-government institutions

11. (1) For the purposes of this Act, a State shall be taken to have fulfilled a condition contained in a section of this Act (in this section called the "relevant section") that the State will ensure that a prescribed non-government institution does, or that the State will cause such an institution to do, an act or thing in respect of a year if:

- (a) the State has entered into an agreement with an approved authority of the institution that the authority will do the act or thing; and
- (b) the agreement includes a provision that, if the authority commits a breach of the agreement, the authority will, if the Minister so determines, pay to the State such amount (not exceeding the sum of the amounts paid to the authority under the relevant section in respect of the year) as the Minister determines.

(2) Financial assistance is granted to a State under the relevant section in relation to the institution on the condition that, if an amount that the authority is liable to pay to the State under the agreement 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.

CHAPTER 2—STATES GRANTS FOR HIGHER EDUCATION ASSISTANCE

PART 2.1—PRELIMINARY

Institutions to which provisions apply

12. The Minister may specify the institutions to which the several provisions of this Chapter respectively apply.

Student fees

13. (1) The Minister may, for the purposes of subsection (2), issue guidelines in relation to the provision by institutions of post-graduate courses.

(2) A person who possesses educational qualifications and has earned a living at any time may be charged fees in respect of undertaking, for the purpose of acquiring further qualifications, a post-graduate course provided in accordance with guidelines issued under subsection (1).

Educational profiles

14. (1) Each institution shall provide to the Minister an educational profile in an approved form describing activities of the institution and may from time to time provide to the Minister variations of that profile.

(2) An institution that has provided to the Minister an educational profile under this section may at any time provide to the Minister a new educational profile in an approved form in substitution for the previous educational profile or for the previous educational profile as varied, as the case may be.

(3) The approved form of an educational profile to be submitted by an institution under this section shall be determined by the Minister after consultation with the institution.

PART 2.2—RECURRENT GRANTS

Grants for expenditure for operating purposes

15. There is payable to a State in which an institution to which this section applies is situated, for the purpose of financial assistance in relation to the expenditure of the institution for operating purposes in respect of a year to which this Chapter applies, such amount as the Minister determines.

Grants for expenditure for limited operating purposes

16. There is payable to a State in which an institution to which this section applies is situated, for the purpose of financial assistance in relation to the expenditure of the institution for limited operating purposes in respect of a year to which this Chapter applies, such amount as the Minister determines.

Maximum grants

17. The total of the amounts that are payable under sections 15 and 16 in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$2,195,002,000;
- (b) in the case of the year 1990—\$2,228,979,000; and
- (c) in the case of the year 1991—\$2,288,299,000.

Conditions of grants

18. (1) Financial assistance is granted to a State under section 15 or 16 in relation to an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that an amount so paid to the institution is spent only in accordance with the educational profile of the institution provided to the Minister as at the time of the making of the determination under section 15 or 16 that resulted in the payment;

Higher Education Funding No. 2, 1989

- (c) the State will ensure that the sum of the amounts spent by the institution for operating purposes or for limited operating purposes, as the case may be, in respect of that year is not less than the sum of the following amounts:
 - (i) the amount determined by the Minister under the section concerned in relation to the institution in respect of that year;
 - (ii) any amounts paid to the institution by students under subparagraph 41(1) (a) (i) or paragraph 56 (b) in that year less any amounts paid to students by the institution under paragraph 56 (a) in that year;
 - (iii) any amounts paid to the institution by the Commonwealth under subsection 57 (2) or (3) in that year;
 - (d) subject to subsection (2), the State will ensure that each institution situated in the State does not charge any student fees in respect of that year or a part of that year except as provided by section 13;
 - (e) the State will ensure that, if a student at the institution who was liable to pay a charge imposed by the *Overseas Students Charge Act 1979* in respect of a year (in this paragraph called the "relevant year") failed to pay the charge by the date by which it was due for payment, the institution will not permit the student:
 - (i) to undertake any study in the relevant year after a date specified in, or ascertained in accordance with, a determination made by the Minister for the purposes of the relevant year and published in the *Gazette* unless the charge is paid on or before the last-mentioned date; or
 - (ii) to undertake any study in a year subsequent to the relevant year unless the charge imposed in respect of the relevant year has been paid;
 - (f) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the expenditure of the institution for operating purposes or for limited operating purposes, as the case may be, in respect of that year; and
 - (g) the State will ensure that the institution gives to the Minister, not later than such date as the Minister specifies, such statistical and other information as the Minister requires from the institution in respect of the provision of higher education by the institution during that year.
- (2) Paragraph (1) (d) does not apply in relation to:
- (a) the Marcus Oldham College of Farm Management; or
 - (b) a course of study at Avondale College that is not funded in whole or in part by the Commonwealth.
- (3) The Minister may determine that an amount spent by an institution for operating purposes or for limited operating purposes in respect of a year

represents money that was paid to the institution by a State out of money granted by the Commonwealth to the State under section 4 of the *States Grants (Nurse Education Transfer Assistance) Act 1985*.

(4) Where the Minister makes such a determination, the sum of the amounts spent by the institution for operating purposes or for limited operating purposes, as the case requires, in respect of that year shall be taken, for the purposes of this section (other than paragraph (1)(f)), to be reduced by an amount equal to the amount specified in the determination.

Grants for Aboriginal participation projects

19. (1) In this section:

“Aboriginal participation project” means a project designed to promote the participation of Aboriginals in higher education.

(2) The Minister may approve a proposal for expenditure by an institution to which this section applies on an Aboriginal participation project as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

(3) Where the Minister approves a proposal for expenditure by an institution in respect of a year, the Minister shall determine an amount, not exceeding the estimated expenditure on the proposal in that year, as the amount of the approved expenditure in relation to the proposal and, subject to subsection (4), as from 1 January in that year, the amount specified in a determination under section 15 or 16, as the case requires, in relation to the institution in respect of that year shall be taken to be increased by the amount of the approved expenditure.

(4) The total of the amounts determined under subsection (3) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$11,470,000;
- (b) in the case of the year 1990—\$12,769,000; and
- (c) in the case of the year 1991—\$13,310,000.

Grants for superannuation expenses

20. (1) The Minister may determine, for the purposes of this section, that expenditure of a specified kind by institutions to which this section applies, being expenditure in relation to superannuation, is to be relevant superannuation expenditure.

(2) Where the Minister is satisfied that an institution has incurred, or will incur, relevant superannuation expenditure, the Minister may determine an amount of additional financial assistance payable in relation to the institution in respect of a year to which this Chapter applies, and, subject to subsection (3), as from 1 January in that year, the amount determined under section 15 or 16, as the case requires, in relation to the institution in respect of that year shall be taken to be increased by the first-mentioned amount.

(3) The total of the amounts determined under subsection (2) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$108,103,000;
- (b) in the case of the year 1990—\$116,652,000; and
- (c) in the case of the year 1991—\$125,633,000.

Grants for projects of national priority

21. (1) The Minister may approve a proposal for expenditure by an institution to which this section applies upon a project relating to a matter of national educational priority as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

(2) Where the Minister approves a proposal for expenditure by an institution in respect of a year, the Minister shall determine an amount, not exceeding the estimated expenditure on the proposal in that year, as the amount of the approved expenditure in relation to the proposal and, subject to subsection (3), as from 1 January in that year, the amount specified in a determination under section 15 or 16, as the case requires, in relation to the institution in respect of that year shall be taken to be increased by the amount of the approved expenditure.

(3) The total of the amounts determined under subsection (2) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$26,209,000;
- (b) in the case of the year 1990—\$26,805,000; and
- (c) in the case of the year 1991—\$27,643,000.

Promotion of equality of opportunity

22. (1) In this section:

“equal opportunity project” means a project designed to promote equality of opportunity in respect of higher education.

(2) The Minister may approve a proposal for expenditure by an institution to which this section applies on an equal opportunity project as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

(3) Where the Minister approves a proposal for expenditure by an institution in respect of a year, the Minister shall determine an amount, not exceeding the estimated expenditure on the proposal in that year, as the amount of the approved expenditure in relation to the proposal.

(4) Subject to subsection (5), there is payable to a State in which the institution to which an approved proposal relates is situated, for the purpose of financial assistance in respect of expenditure incurred or to be incurred by the institution in connection with the approved proposal in respect of

the year to which the proposal relates, an amount equal to the amount of the approved expenditure in relation to the proposal.

(5) The total of the amounts determined under subsection (3) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$1,299,000;
- (b) in the case of the year 1990—\$1,299,000; and
- (c) in the case of the year 1991—\$1,299,000.

(6) Financial assistance is granted to a State under subsection (4) in relation to an approved proposal by an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent by the institution in connection with the proposal in respect of that year, being amounts spent before the end of that year or spent after that year in respect of commitments entered into before the end of that year, is not less than the sum of the amounts of financial assistance paid to the State under this section in relation to the proposal; and
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

Special research assistance

23. (1) The Minister may approve a proposal for expenditure by an institution to which this section applies upon a special research centre, a key centre of teaching and research, or a program of research, as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

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

(3) Subject to subsection (4), there is payable to a State in which an institution to which an approved proposal relates is situated, for the purpose of financial assistance in respect of expenditure incurred or to be incurred by the institution in connection with the approved proposal in respect of the year to which the proposal relates, an amount equal to the amount of the approved expenditure in relation to the proposal.

(4) The total of the amounts determined under subsection (2) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$15,612,000;
- (b) in the case of the year 1990—\$36,472,000; and
- (c) in the case of the year 1991—\$62,547,000.

Higher Education Funding No. 2, 1989

(5) Financial assistance is granted to a State under subsection (3) in relation to an approved proposal by an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent by the institution in connection with the proposal in respect of that year, being amounts spent before the end of that year or spent after that year in respect of commitments entered into before the end of that year, is not less than the sum of the amounts of financial assistance paid to the State under this section in relation to the proposal; and
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

Grants in respect of teaching hospitals

24. (1) In this section:

“appropriate costs”, in relation to a teaching hospital of an institution, means:

- (a) expenditure (other than expenditure on building projects) incurred by the hospital in relation to:
 - (i) parts of the hospital used exclusively by students enrolled in the Faculty of Medicine, or School of Medicine, of the institution, by students enrolled in the Faculty of Medicine, or School of Medicine, of any other institution in relation to which that hospital is a teaching hospital and by their teachers; and
 - (ii) facilities and equipment so used in connection with those parts of the hospital; and
- (b) expenditure incurred in the purchase of books and periodicals for the medical library of the hospital.

(2) Subject to subsection (3), there is payable to a State in which an institution to which this section applies is situated, for the purpose of financial assistance in respect of contributions by the institution towards the appropriate costs, in respect of a year to which this Chapter applies, of the teaching hospital or teaching hospitals of the institution, such amount as the Minister determines.

(3) The total of the amounts determined under subsection (2) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$3,789,000;
- (b) in the case of the year 1990—\$3,789,000; and
- (c) in the case of the year 1991—\$3,789,000.

(4) Financial assistance is granted to a State under subsection (2) in relation to an institution in respect of a year on the conditions that:

Higher Education Funding No. 2, 1989

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent by the institution in making contributions towards the appropriate costs, in respect of that year, of the teaching hospital or teaching hospitals of the institution is not less than the sum of the amounts of financial assistance paid to the State under subsection (2) in relation to the institution in respect of that year; and
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

Grants in respect of drug and alcohol education in teaching hospitals

25. (1) There is payable to a State in which an institution to which this section applies is situated, for the purpose of financial assistance in relation to the review of, and research in connection with, the undergraduate medical curriculum of the institution in so far as it is concerned with matters relating to the abuse of alcohol and drugs, in respect of the year 1989 or the year 1990, such amount as the Minister determines.

(2) The total of the amounts determined under subsection (1) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$581,000; and
- (b) in the case of the year 1990—\$581,000.

(3) Financial assistance is granted to a State under subsection (1) in relation to an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent by the institution for the purpose of the review and research referred to in subsection (1) in the institution in respect of that year is not less than the sum of the amounts of financial assistance paid to the State under subsection (1) in relation to the institution in respect of that year; and
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

PART 2.3—CAPITAL GRANTS

Grants for building projects

26. (1) The Minister may:

- (a) approve a building project as an approved building project of an institution to which this section applies in respect of a year to which this Chapter applies; and

Higher Education Funding No. 2, 1989

- (b) direct that specified information be given to the Minister in respect of specified building projects at such times and in such manner as are specified in the direction.
- (2) Where the Minister approves a building project under subsection (1) in respect of a year, the Minister shall determine:
- (a) an amount as the estimated maximum Commonwealth contribution towards the project, being so much of the amount estimated by the Minister to be the cost of the project as the Minister considers to be the appropriate Commonwealth contribution towards the project; and
 - (b) an amount of expenditure, not exceeding the estimated expenditure on the project in respect of that year, as the amount of the approved expenditure on the project in respect of that year.
- (3) Subject to subsections (4) and (5), where the Minister approves a building project of an institution under subsection (1) in respect of a year, there is payable to the State in which the institution is situated, for the purpose of financial assistance in relation to the project in respect of that year, an amount equal to the approved expenditure on the project in respect of that year.
- (4) If an amount has been determined under subsection (2) as the estimated maximum Commonwealth contribution towards a building project of an institution, the total of the amounts payable to a State in relation to that building project under this Act or any previous Act that granted financial assistance to the States in relation to institutions of that kind shall not exceed the estimated maximum Commonwealth contribution towards the project as determined, or last determined, under subsection (2).
- (5) The total of the amounts payable under this section in relation to building projects in respect of a year shall not exceed:
- (a) in the case of the year 1989—\$81,684,000;
 - (b) in the case of the year 1990—\$81,684,000; and
 - (c) in the case of the year 1991—\$81,684,000.
- (6) For the purposes of this Chapter, where information is given to the Minister in accordance with a direction under paragraph (1) (b) with respect to a building project of an institution, the Minister may, after consideration of that information, give directions to the institution or to the State in which the institution is situated, as the case may be, with respect to the manner in which the project is to be carried out.

Conditions attaching to capital grants

27. Financial assistance is granted to a State under section 26 in relation to a building project of an institution in respect of a year on the conditions that:

- (a) the State will pay each amount paid to it under that section to the institution without undue delay;

- (b) the State will ensure that the sum of the amounts spent in relation to work carried out before the end of that year in connection with the project will be not less than the sum of the amounts paid to the State in relation to the project under this Chapter or under any previous Act that granted financial assistance to the States in relation to institutions of that kind;
- (c) the State will ensure that information in respect of the project is given to the Minister in accordance with any relevant direction under paragraph 26 (1) (b);
- (d) the State will ensure that the project is carried out in accordance with any relevant direction under subsection 26 (6);
- (e) the State will ensure that, if the Minister so requests, there will be given to the Minister, by such date as the Minister specifies, such particulars as are specified by the Minister concerning the progress or expected progress of the work or matter constituting the project; and
- (f) the State will give to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent in respect of work carried out before the end of that year in connection with the project.

PART 2.4—TRANSITIONAL

Adjustments where estimated 1988 enrolments not equal to actual enrolments

28. (1) In this section:

“actual enrolment number”, in relation to a relevant higher education institution in respect of the year 1988, means the actual number of relevant enrolments at the institution in respect of that year;

“estimated enrolment number”, in relation to a relevant higher education institution in respect of the year 1988, means the number of relevant enrolments at the institution estimated by the Minister under section 5 of the previous Assistance Act.

(2) In this section, “relevant enrolment” and “relevant higher education institution” have the same meanings as in section 3 of the previous Assistance Act.

(3) If the actual enrolment number in relation to a relevant higher education institution in a State in respect of the year 1988 is less than the estimated enrolment number in relation to the institution in respect of that year, there is payable to the State in relation to the institution the amount ascertained in accordance with the formula $\frac{90(E-A)C}{100}$.

100

(4) Payment of an amount to a State under Part 2.2 in relation to a relevant higher education institution in respect of the year 1989 is subject to the additional condition that, if the estimated enrolment number in

relation to the institution in respect of the year 1988 is less than the actual enrolment number in relation to the institution in respect of that year, the State will pay to the Commonwealth the amount ascertained in accordance with the formula $\frac{90(A-E)C}{100}$.

100

(5) For the purposes of the formulae in subsections (3) and (4):

A is the actual enrolment number in relation to the institution in respect of the year 1988;

E is the estimated enrolment number in relation to the institution in respect of that year; and

C is the amount of charge applicable to that year under section 4D of the *States Grants (Tertiary Education Assistance) Act 1984*.

(6) An amount payable to a State under subsection (3) in relation to a relevant higher education institution may be added to a grant to the State in relation to that institution in respect of the year 1989.

(7) An amount payable by a State to the Commonwealth in accordance with the condition referred to in subsection (4) may be deducted from a grant to the State in respect of the year 1989 in relation to the institution in relation to which the amount became payable.

(8) Where the Minister is satisfied that:

(a) 2 or more relevant higher education institutions that existed as separate institutions in the year 1988 have amalgamated before or during the year 1989 so as to form a new relevant higher education institution; or

(b) a relevant higher education institution that existed as a separate institution in the year 1988 has been incorporated in another relevant higher education institution before or during the year 1989;

the Minister may give a direction in accordance with subsection (9) or (10), as the case requires.

(9) The Minister may direct that an amount that would have been payable to a State under subsection (3) in relation to either or any of the institutions first referred to in paragraph (8) (a) or the institution first referred to in paragraph (8) (b), if the institution concerned had continued to exist as a separate institution, continues to be payable to the State and may be added to a grant to the State in relation to the new institution referred to in paragraph (8) (a) or the other institution referred to in paragraph (8) (b), as the case may be, in respect of the year 1989.

(10) The Minister may direct that an amount that would have been payable by a State to the Commonwealth in accordance with the condition referred to in subsection (4) in relation to either or any of the institutions first referred to in paragraph (8) (a) or the institution first referred to in paragraph (8) (b), if the institution concerned had continued to exist as a separate institution, continues to be payable and may be deducted from a grant to the State in relation to the new institution referred to in paragraph

(8) (a) or the other institution referred to in paragraph (8) (b), as the case may be, in respect of the year 1989.

CHAPTER 3—ADDITIONAL STATES GRANTS FOR HIGHER EDUCATION ASSISTANCE

PART 3.1—RECURRENT GRANTS

Grants for Aboriginal participation projects

29. (1) In this section:

“Aboriginal participation project” means a project designed to promote the participation of Aboriginals in higher education.

(2) The Minister may approve a proposal for expenditure by an institution to which section 19 applies on an Aboriginal participation project as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

(3) Where the Minister approves a proposal for expenditure by an institution in respect of a year, the Minister shall determine an amount, not exceeding the estimated expenditure on the proposal in that year, as the amount of the approved expenditure in relation to the proposal and, subject to subsection (4), as from 1 January in that year, the amount specified in a determination under section 15 or 16, as the case requires, in relation to the institution in respect of that year shall be taken to be increased by the amount of the approved expenditure.

(4) The total of the amounts determined under subsection (3) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$1,669,000;
- (b) in the case of the year 1990—\$4,589,000; and
- (c) in the case of the year 1991—\$8,448,000.

Promotion of equality of opportunity

30. (1) In this section:

“equal opportunity project” means a project designed to promote equality of opportunity in respect of higher education.

(2) The Minister may approve a proposal for expenditure by an institution to which section 22 applies on an equal opportunity project as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies subject to such conditions as the Minister determines.

(3) Where the Minister approves a proposal for expenditure by an institution in respect of a year, the Minister may determine an amount, not exceeding the estimated expenditure on the proposal in that year, as the amount of the approved expenditure in relation to the proposal.

Higher Education Funding No. 2, 1989

(4) Subject to subsection (5), there is payable to a State in which an institution to which an approved proposal relates is situated, for the purpose of financial assistance in respect of expenditure incurred or to be incurred by the institution in connection with the approved proposal in respect of the year to which the proposal relates, an amount equal to the amount of the approved expenditure in relation to the proposal.

(5) The total of the amounts determined under subsection (3) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$2,086,000;
- (b) in the case of the year 1990—\$2,086,000; and
- (c) in the case of the year 1991—\$2,086,000.

(6) Financial assistance is granted to a State under subsection (4) in relation to an approved proposal by an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent by the institution in connection with the proposal in respect of that year, being amounts spent before the end of that year or spent after that year in respect of commitments entered into before the end of that year, is not less than the sum of the amounts of financial assistance paid to the State under this section in relation to the proposal; and
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b).

PART 3.2—CAPITAL GRANTS

Grants for building projects

31. (1) The Minister may:

- (a) approve a building project as an approved building project of an institution to which section 26 applies in respect of a year to which this Chapter applies; and
- (b) direct that specified information be given to the Minister in respect of specified building projects at such times and in such manner as are specified in the direction.

(2) Where the Minister approves a building project under subsection (1) in respect of a year, the Minister shall:

- (a) unless an amount has been determined as the estimated maximum Commonwealth contribution towards the project under paragraph 26 (2) (a) in respect of that year, determine an amount as the estimated maximum Commonwealth contribution towards the project, being so much of the amount estimated by the Minister to

Higher Education Funding No. 2, 1989

be the cost of the project as the Minister considers to be the appropriate Commonwealth contribution towards the project; and

- (b) determine an amount of expenditure, not exceeding the estimated expenditure on the project in respect of that year, as the amount of the approved expenditure on the project in respect of that year.

(3) Subject to subsections (4) and (5), where the Minister approves a building project of an institution under subsection (1) in respect of a year, there is payable to the State in which the institution is situated, for the purpose of financial assistance in relation to the project in respect of that year, an amount equal to the approved expenditure on the project in respect of that year.

(4) If an amount has been determined under paragraph (2) (a) as the estimated maximum Commonwealth contribution towards a building project, the total of the amounts payable to a State under subsection (3) in relation to the project shall not exceed the amount so determined.

(5) The total of the amounts payable under this section in relation to building projects in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$30,316,000;
- (b) in the case of the year 1990—\$69,524,000; and
- (c) in the case of the year 1991—\$102,596,000.

(6) For the purposes of this Chapter, where information is given to the Minister in accordance with a direction under paragraph (1) (b) with respect to a building project of an institution, the Minister may, after consideration of that information, give directions to the institution or to the State in which the institution is situated, as the case may be, with respect to the manner in which the project is to be carried out.

Grants for renovation projects

32. (1) The Minister may specify the institutions to which this section applies.

(2) The Minister may approve a renovation project by an institution to which this section applies as an approved renovation project of the institution in respect of the year 1989.

(3) Where the Minister approves a renovation project under subsection (2), the Minister may:

- (a) determine an amount as the approved cost of the project, being the amount estimated by the Minister to be the cost of the project; and
- (b) determine an amount of expenditure, not exceeding the approved cost of the project, as the amount of the approved expenditure on the project in respect of that year.

(4) Subject to subsection (5), where the Minister approves a renovation project of an institution under subsection (2), there is payable to the State in which the institution is situated, for the purpose of financial assistance in

relation to the project in respect of that year, an amount equal to the approved expenditure on the project in respect of that year.

(5) The total of the amounts that may be paid under this section shall not exceed \$19,760,000.

Conditions attaching to capital grants

33. Financial assistance is granted to a State under section 31 or 32 in relation to a building project or a renovation project, as the case may be, of an institution in respect of a year on the conditions that:

- (a) the State will pay each amount paid to it under the section concerned to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent in relation to work carried out before the end of that year in connection with the project will be not less than the sum of the amounts paid to the State in relation to the project under this Chapter or under any previous Act that granted financial assistance to the States in relation to institutions of that kind;
- (c) in the case of financial assistance granted under section 31—the State will ensure that information in respect of the project is given to the Minister in accordance with any relevant direction under paragraph 31 (1) (b);
- (d) in the case of financial assistance granted under section 31—the State will ensure that the project is carried out in accordance with any relevant direction under subsection 31 (6);
- (e) the State will ensure that, if the Minister so requests, there will be given to the Minister, by such date as the Minister specifies, such particulars as are specified by the Minister concerning the progress or expected progress of the work or matter constituting the project; and
- (f) the State will give to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent in respect of work carried out before the end of that year in connection with the project.

CHAPTER 4—HIGHER EDUCATION CONTRIBUTION SCHEME

PART 4.1—PRELIMINARY

Interpretation

34. (1) In this Chapter, unless the contrary intention appears:
- “accumulated HEC debt” has the meaning given by section 65;
 - “annual course contribution” has the meaning given by section 40;
 - “appropriate officer”, in relation to an institution, means a person, or a person included in a class of persons, appointed by, or by a delegate of, the chief executive officer of the institution to be an appropriate officer of the institution for the purposes of this Chapter;

“census date”, in relation to a course of study undertaken by a student at an institution in a semester, means:

- (a) in the case of a course undertaken in a period that is to be taken to be a semester by virtue of subsection 37 (2)—the date on which the student starts to undertake the course of study; or
- (b) in any other case—such date as is specified for the purposes of this definition by the Minister, by notice published in the *Gazette*, in relation to courses of study undertaken in that semester;

“Commissioner” means the Commissioner of Taxation;

“contributing student”, in relation to a designated course of study at an institution, means a student, other than an exempt student, in relation to that course of study;

“contribution” means a contribution payable under this Chapter;

“designated course of study”, in relation to an institution, means a course of study at that institution other than:

- (a) a course leading to the award of an undergraduate diploma that provides an initial qualification in relation to nursing;
- (b) a post-graduate course of study provided in accordance with guidelines issued by the Minister under:
 - (i) subsection 13 (1);
 - (ii) subsection 29 (2) of the *Australian National University Act 1946*;
 - (iii) subsection 25 (3) of the *Canberra College of Advanced Education Act 1967*; or
 - (iv) subsection 32 (5) of the *Maritime College Act 1978*;
- (c) a course of instruction provided to persons for the purpose of enabling them to undertake a course of study; or
- (d) a course provided at Avondale College, McAuley College or Signadou College of Education, being a course that is not funded in whole or in part by the Commonwealth;

“exempt student” has the meaning given by section 35;

“Fund” means the Higher Education Trust Fund established by subsection 59 (1);

“HEC assessment debt” means an amount that is required to be paid in respect of an accumulated HEC debt under section 68 and is included in a notice of an assessment made under section 71;

“HEC semester debt” has the meaning given by section 62;

“overseas student” has the same meaning as in the *Overseas Students Charge Act 1979* but does not include a student to whom paragraph 4 (1) (a) of the Overseas Students Charge Collection Regulations applies;

Higher Education Funding No. 2, 1989

- “overseas student charge” means the charge imposed by the *Overseas Students Charge Act 1979*;
- “post-graduate scholarship student”, in relation to a post-graduate course of study at an institution in respect of a year, means a student who holds a scholarship awarded, in accordance with guidelines issued by the Minister for the purposes of this definition, in respect of that course of study in respect of that year;
- “semester” means a semester in a year to which this Chapter applies;
- “standard student load” has a meaning affected by subsection 39 (2);
- “student” means a person who proposes to undertake on or after 1 January 1989, or is undertaking or has undertaken on or after that date, a course of study at an institution and, when used in relation to a particular course of study at an institution, means a person who proposes to undertake on or after 1 January 1989, or is undertaking or has undertaken on or after that date, that course of study at that institution;
- “student load”, in relation to a course of study undertaken by a student, has a meaning affected by section 36;
- “tax file number”, in relation to a person, means a number issued to the person by the Commissioner, being a number that is either:
- (a) a number issued to the person under section 44 or under any provisions of another Act that correspond to that section; or
 - (b) a number notified by the Commissioner to the person as the person’s income tax file number.

(2) Expressions used in this Chapter that are defined in the *Income Tax Assessment Act 1936* have in this Chapter, unless the contrary intention appears, the same meanings as in that Act.

(3) For the purposes of this Chapter, the payment of an amount to an institution by a person other than a student in respect of a contribution payable by the student to the institution shall be taken to constitute payment of that amount to the institution by the student.

(4) In this Chapter, “institution” means any of the following institutions of higher education:

- (a) the institutions referred to in section 4 other than Marcus Oldham College of Farm Management;
- (b) Australian Defence Force Academy;
- (c) Australian Maritime College;
- (d) Canberra College of Advanced Education;
- (e) Canberra Institute of the Arts;
- (f) National Institute of Dramatic Art;
- (g) Signadou College of Education;
- (h) The Australian Film, Television and Radio School;
- (j) The Australian National University.

Exempt students

35. (1) This section has effect for the purposes of this Chapter.

(2) A post-graduate scholarship student in relation to a post-graduate course of study at an institution in respect of a year is an exempt student in relation to that course of study in respect of that year.

(3) A person who proposes to attend or participate in but not to enrol for, is attending or participating in but is not enrolled for, or has attended or participated in but was not enrolled for, a course of study is, and shall be taken to have been at all times, an exempt student in relation to that course of study.

(4) An overseas student in relation to a course of study at an institution in respect of a year is an exempt student in relation to that course of study in respect of that year.

Student load not to include work experience in industry

36. For the purposes of this Chapter, the student load undertaken by a student in respect of a course of study at an institution shall be regarded as not including any work undertaken by the student outside the institution as part of, or in connection with, that course of study for the purpose of obtaining work experience in industry even though such work may form part of the standard student load in respect of that course of study.

Semesters

37. (1) If a year to which this Chapter applies in which an institution provides a course of study is not divided into semesters for the purposes of the institution, the Minister may, after consulting the institution, determine that, subject to subsection (2), that year is, in relation to that course of study at that institution, to be taken for the purposes of this Chapter to be divided into 2 semesters and specify the dates on which those semesters respectively start and end.

(2) Where an institution provides a course or courses of study during a period that starts during or after the period that would, but for this subsection, be the second semester at the institution in a year to which this Chapter applies and ends before the period that would, but for this subsection, be the first semester at the institution in the next following year, the first-mentioned period shall be taken for the purposes of this Chapter to be a separate semester for the purposes of the institution and to occur in that last-mentioned year.

PART 4.2—CONTRIBUTIONS

Division 1—Additional condition of grant of financial assistance

Additional condition

38. (1) In addition to the conditions specified in any other provision of this Act, financial assistance is granted to a State under Chapter 2 or 3 in

relation to an institution referred to in section 4 on the condition that the State will ensure that the institution complies with the requirements of this Chapter.

(2) Without limiting the operation of subsection (1), the following provisions of this Chapter do not of their own force require an institution to do any act or thing.

Division 2—Imposition and payment of contributions

Requirement to pay contributions

39. (1) An institution shall, in respect of each semester, require each contributing student who is undertaking a designated course of study at the institution on the census date in respect of that course of study in respect of that semester to pay to the institution in respect of that semester a contribution, ascertained in accordance with this section, towards the cost of the provision of that course of study.

(2) Each institution shall determine, in accordance with guidelines issued by the Minister, in respect of each designated course of study that may be undertaken at the institution in a year to which this Chapter applies, a standard student load that represents an equivalent full time student unit.

(3) The contribution that a contributing student who is undertaking a designated course of study at an institution on the census date in respect of that course of study in respect of a semester is to be required by the institution to pay is the amount ascertained in accordance with the formula $ACC \times SL$, where:

ACC is the annual course contribution in respect of the year in which the semester occurs; and

SL is the student's student load in respect of that course of study in that semester, expressed as a proportion of the standard student load in respect of that course of study in the year in which that semester occurs.

(4) If an amount ascertained under subsection (3) is an amount consisting of a number of whole dollars and a number of cents, the number of cents shall be disregarded.

Annual course contribution

40. (1) The annual course contribution for the purposes of this Chapter in respect of the year 1989 is \$1,800.

(2) The annual course contribution for the purposes of this Chapter in respect of a year (in this subsection called the "relevant year") subsequent to the year 1989 is:

(a) subject to paragraph (b), the amount ascertained by multiplying the annual course contribution in respect of the year immediately preceding the relevant year by the factor ascertained in accordance with subsection (3) in relation to the relevant year; or

Higher Education Funding No. 2, 1989

- (b) if an amount calculated under paragraph (a) consists of a number of whole dollars and a number of cents—the amount so calculated disregarding the cents.
- (3) The factor to be ascertained for the purposes of subsection (2) in relation to a year is:
- (a) the number, calculated to 3 decimal places, ascertained by dividing the index number for the September quarter in the immediately preceding year by the index number for the September quarter in the year that next preceded that preceding year; or
- (b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so ascertained increased by 0.001.
- (4) Subject to subsection (6), the index number for the September quarter in the year 1988 is 100.00.
- (5) The Minister shall, before the end of the year 1989 and before the end of each subsequent year:
- (a) determine the index number for the September quarter in the year concerned; and
- (b) cause to be published in the *Gazette* a notice specifying the index number so determined and specifying the amount of the annual course contribution for the purposes of this Part in respect of the next following year.
- (6) If at any time, whether before or after the commencement of this section, the Minister has changed or changes the reference base for the Higher Education Operating Grants Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.
- (7) In this section:
- “index number”, in relation to the September quarter in a year being the year 1989 or a subsequent year, means the Higher Education Operating Grants Index number for that quarter published by the Minister in the *Gazette*, being a number that takes into account changes in costs incurred by institutions since the September quarter in the immediately preceding year.

Requirements before enrolment or undertaking course

41. (1) An institution shall not permit a contributing student to enrol for, or undertake, a designated course of study in a semester unless:

- (a) the student:
- (i) has paid to the institution 85% (or such greater percentage as the student chooses) of the contribution that the institution assesses will be payable by the student in respect of the course of study in respect of that semester if the student is

Higher Education Funding No. 2, 1989

undertaking the course of study as a contributing student on the census date in respect of the course of study in respect of that semester; and

- (ii) has given to the appropriate officer of the institution a document in the approved form, signed by the student, stating that the student requests the Commonwealth, in the event of the student undertaking the course of study as a contributing student on the census date in respect of the course of study in respect of any semester and paying at least 85% of the contribution payable by the student in respect of the course of study in respect of the semester concerned, to pay to the institution the remainder (if any) of that contribution in discharge of the student's liability to pay that remainder of that contribution; or

(b) the student:

- (i) has given to the appropriate officer of the institution a document in the approved form, signed by the student:

- (A) stating that the student requests the Commonwealth, in the event of the student undertaking the course of study as a contributing student on the census date in respect of the course of study in respect of any semester without having paid at least 85% of the contribution payable by the student in respect of the course of study in respect of the semester concerned, to lend to the student an amount equal to the unpaid part of that contribution and apply the amount so lent in discharge of the student's liability to pay the unpaid part of that contribution; and
- (B) acknowledging that, if the Commonwealth complies with the request, the student will be liable to make payments in accordance with Part 4.4; and

(ii) has:

- (A) notified 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 tax file number issued by the Commissioner to the student; or
- (B) if the student is unable for any reason to notify that officer of the tax file number so issued or a tax file number has not been so issued—given to that officer a written application, in a form approved by the Commissioner, requesting the notification or issue of a tax file number.

(2) An institution shall send to the Commissioner an application referred to in sub-subparagraph (1) (b) (ii) (B) within 7 days after it is received by the institution.

Power of Commissioner to inform institution concerning tax file number

42. (1) Where:

- (a) the Commissioner receives an application referred to in sub-subparagraph 41 (1) (b) (ii) (B) requesting the notification or issue of a tax file number; and
- (b) the Commissioner has issued or issues a tax file number to the student;

the Commissioner may give to the institution concerned written notice of the tax file number.

(2) If the Commissioner is satisfied:

- (a) that the tax file number notified by a student under sub-subparagraph 41(1) (b) (ii) (A):
 - (i) has been cancelled or withdrawn since the notification was given; or
 - (ii) is otherwise wrong; and
- (b) that the student has a tax file number;

the Commissioner may give to the institution concerned written notice of the incorrect notification and of the student's tax file number, and that number shall be taken to be the number notified by the student.

(3) If:

- (a) the Commissioner is satisfied that the tax file number notified by a student under sub-subparagraph 41 (1) (b) (ii) (A):
 - (i) has been cancelled since the notification was given; or
 - (ii) is for any other reason not the student's tax file number; and
- (b) the Commissioner is not satisfied that the student has a tax file number;

the Commissioner may, by written notice given to the institution, inform the institution accordingly.

(4) The Commissioner shall give a copy of any notice under subsection (3) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

(5) If the Commissioner:

- (a) refuses an application by a student for the issue of a tax file number;
- (b) cancels a tax file number issued to a student; or
- (c) issues a new tax file number to a student in place of a tax file number that has been withdrawn;

the Commissioner may, by written notice given to the institution at which the student is enrolled, inform the institution of the refusal, the cancellation or the new tax file number, as the case may be.

Application for issue or notification of tax file number

43. (1) A student may apply to the Commissioner for the issue or notification of a tax file number.

(2) The application shall be in a form approved by the Commissioner.

(3) The application may be lodged at, or posted to, the office of a Deputy Commissioner of Taxation or may be lodged with the appropriate officer of the institution.

Issuing of tax file numbers

44. (1) Subject to section 49, if, on an application for the issue of a tax file number made by a student, the Commissioner is satisfied that the applicant's identity has been established, the Commissioner shall issue a tax file number to the applicant.

(2) If, on such an application, the Commissioner is not satisfied as to the applicant's true identity, the Commissioner may refuse the application.

(3) The Commissioner shall issue a tax file number to a student by giving to the student a written notice of the number.

(4) The Commissioner shall refuse an application by a student for a tax file number by giving to the student a written notice of the refusal and of the reasons for the refusal.

Current tax file number

45. On the issue under section 44 of a tax file number to a student, any tax file number previously issued to the student and not already cancelled or withdrawn ceases to have effect.

Deemed refusal by Commissioner

46. (1) If the Commissioner has not decided an application by a student for a tax file number within 28 days after the application was made, the student may, at any time, give to the Commissioner written notice that the student wishes to treat the application as having been refused.

(2) Where a student gives notice under subsection (1), the Commissioner shall be taken, for the purposes of sections 50 and 51, to have refused the application for a tax file number on the day on which the notice was given.

Cancellation of tax file numbers

47. (1) Where the Commissioner concludes that a tax file number was issued to a student under an identity that is not the student's true identity, the Commissioner may, by written notice given to the student, cancel the tax file number.

(2) The Commissioner shall set out in the notice the reasons for the Commissioner's conclusion.

Alteration of tax file numbers

48. The Commissioner may, at any time, by written notice given to a student who has a tax file number:

- (a) withdraw that number; and
- (b) issue to the student a new tax file number in place of the withdrawn number.

Notification of issued tax file numbers

49. If, on an application for the issue or notification of a tax file number made by a student, the Commissioner is satisfied that the student already has a tax file number, the Commissioner shall give to the student a written notice of the number.

Review of decisions

50. (1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the Commissioner:

- (a) to give a notice under subsection 42 (3);
- (b) refusing an application for the issue of a tax file number under section 44 (including a decision that is to be taken to have been made by virtue of section 46); or
- (c) to cancel a tax file number under section 47.

(2) Where an application has been made to the Tribunal for review of a decision referred to in paragraph (1) (b), the orders that may be made under subsection 41 (2) of the *Administrative Appeals Tribunal Act 1975* include an order that the Commissioner issue a tax file number to the applicant pending the determination of the application for review.

(3) A tax file number issued in accordance with an order referred to in subsection (2) ceases to have effect when the application is finally disposed of.

(4) When a tax file number ceases to have effect under subsection (3), this Chapter (other than this section) applies as if the number had been cancelled.

Statements to accompany notification of decisions

51. (1) Where notice in writing of a decision of a kind referred to in section 50 is given to a person whose interests are affected by the decision, that notice shall include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

(2) A failure to comply with subsection (1) does not affect the validity of the decision.

Unauthorised requirement etc. that tax file number be quoted

52. (1) A person shall not require or request a student to quote the student's tax file number, whether for the purpose of establishing the student's identity or for any other purpose, unless:

- (a) provision is made by or under this Chapter or another law of the Commonwealth for the student to quote the number to the person; or
- (b) the person requires or requests the number to be quoted in connection with the person acting on the student's behalf in the conduct of the student's affairs.

Penalty: \$10,000 or imprisonment for 2 years, or both.

(2) Nothing in subsection (1) prohibits a person from requesting the production of a document, or a copy of a document, on which a student's tax file number is recorded if the student is not prevented from removing the tax file number from the document.

(3) For the purposes of this section, a person who makes to a student a statement that the student could reasonably understand to mean that the student is required or requested to quote the student's tax file number shall be taken to require or request the student to quote the number.

(4) Nothing in this section shall be taken to impose on a person an obligation to require or request a student to quote a tax file number.

Unauthorised recording etc. of tax file number

53. (1) A person shall not:

- (a) record a student's tax file number or maintain such a record;
- (b) use a student's tax file number in a manner connecting it with the student's identity; or
- (c) divulge or communicate a student's tax file number to another person;

otherwise than:

- (d) to the extent required or permitted by, or reasonably necessary in order to comply with an obligation imposed by, this Chapter or another law of the Commonwealth; or
- (e) in connection with the person acting on the student's behalf in the conduct of the student's affairs.

Penalty: \$10,000 or imprisonment for 2 years, or both.

(2) Without affecting any obligation imposed by or under a law of the Commonwealth other than this section, nothing in subsection (1) shall be taken to impose on a person an obligation to do an act referred to in paragraph (1) (a), (b) or (c).

Notice by institution

54. (1) An institution shall give to each student who is undertaking a designated course of study at the institution on the census date in respect of that course of study in respect of a semester a written notice:

- (a) setting out particulars of so much of that course of study as is being undertaken by the student in that semester;
- (b) stating whether the student is a contributing student or an exempt student in relation to that course of study in respect of that semester;
- (c) setting out the student's student load in respect of that course of study in that semester expressed as a proportion of the standard student load in respect of that course of study in the year in which that semester occurs; and
- (d) if the student is a contributing student in relation to that course of study in respect of that semester, specifying:
 - (i) the amount of the contribution payable by the student in respect of that course of study in respect of that semester under subsection 39 (3); and
 - (ii) if the student has made a payment in respect of the contribution in accordance with subparagraph 41 (1) (a) (i):
 - (A) the amount of that payment; and
 - (B) if any amount is payable to the student under paragraph 56 (a) or, if the student requests, under paragraph 56 (b)—that amount.

(2) A notice to a student under subsection (1) in relation to a semester shall be given not later than a date specified by the Minister by notice published in the *Gazette* in relation to that semester for the purposes of this section.

(3) If, after giving a notice to a student under subsection (1) or this subsection, an institution is satisfied that a material particular in the notice was not, or has ceased to be, correct, the institution shall give a further written notice to the student setting out the correct particular.

(4) A notice to a student under this section is given for the purpose only of providing information to the student, and the liability of a student to pay a contribution to an institution is not affected by a failure of the institution to give such a notice or to give such a notice by the specified date or by any incorrect statement in such a notice.

(5) A notice given to a student under this section shall set out the effect of subsections 55 (1) and (2).

Requests for correction of notices

55. (1) If a student who receives a notice from an institution under section 54 considers that the notice was not, or has ceased to be, correct in a material particular, the student may, within 14 days after the date on which the notice is sent, or within such further period as the appropriate

officer of the institution allows, give to that officer a written request for the notice to be corrected in respect of that particular.

(2) A request shall specify the particular that is considered to be incorrect and shall set out the grounds on which the student considers that particular to be incorrect.

(3) The making of a request does not affect the liability of the student to pay the contribution.

(4) Where a request is received by an institution, the institution shall, as soon as practicable, consider the matter to which the request relates and notify the student of its decision on the request and, if it is satisfied that a material particular in the notice under section 54 was not, or has ceased to be, correct, give a further notice under subsection 54 (3).

Overpayment of contribution

56. Where a student has made a payment to an institution in accordance with subparagraph 41 (1) (a) (i) in respect of the contribution that the institution assessed would be payable by the student in respect of a course of study in respect of a semester under subsection 39 (3):

- (a) if no contribution is payable by the student, the institution shall, as soon as practicable and in any event not later than 14 days after giving notice to the student under section 54 in respect of the course of study in respect of the semester, pay to the student an amount equal to the amount paid by the student; or
- (b) if the amount of the payment exceeds 85% of the amount of the contribution payable by the student and the student requests the repayment of the whole or a part of the excess, the institution shall, as soon as practicable after receiving the request, pay to the student an amount equal to the excess or that part of the excess, as the case may be.

Division 3—Discharge by Commonwealth of students' liabilities for contributions

Commonwealth to discharge students' liabilities

57. (1) Where a student in relation to a course of study at an institution is liable to pay a contribution to the institution in respect of that course of study in respect of a semester, the following provisions of this section apply.

(2) If the student has made a payment in respect of the contribution in accordance with subparagraph 41 (1) (a) (i) and has complied with subparagraph 41 (1) (a) (ii), the Commonwealth shall, as a benefit to the student, pay to the institution an amount equal to the remainder (if any) of the contribution in discharge of the student's liability to pay that remainder of the contribution.

(3) If the student has not made a payment in respect of the contribution in accordance with subparagraph 41 (1) (a) (i) but has complied with

paragraph 41 (1) (b), the Commonwealth shall, as a benefit to the student, lend to the student an amount equal to the unpaid part of the contribution and apply the amount so lent in making a payment to the institution in discharge of the student's liability to pay the unpaid part of the contribution.

(4) The Commonwealth may make advances to an institution on account of an amount that is expected to become payable by the Commonwealth to the institution under this section.

Institutions to provide information to Minister

58. An institution shall give to the Minister, if and when required by the Minister to do so, such information in its possession relating to students in relation to designated courses of study at the institution in a semester (not being information as to the name or address of a student) as the Minister reasonably requires for the purposes of this Part.

PART 4.3—HIGHER EDUCATION TRUST FUND

Establishment of Fund

59. (1) A fund by the name of the Higher Education Trust Fund is established by this subsection for the purpose of making payments under section 61.

(2) The Fund is a trust account for the purposes of section 62A of the *Audit Act 1901*.

Payments into Fund

60. (1) There shall be paid into the Fund:

- (a) money paid to the Commonwealth under this Chapter otherwise than:
 - (i) in discharge of an HEC assessment debt; or
 - (ii) by virtue of the operation of section 72;
- (b) amounts equal to amounts payable in respect of HEC assessment debts;
- (c) amounts necessary to enable payments to be made out of the Fund under section 61;
- (d) money paid by any person to the Commonwealth for the purposes of the Fund; and
- (e) interest from the investment of money in the Fund.

(2) Payments to the Fund under paragraphs (1) (b) and (c) shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Application of Fund

61. Money in the Fund may be applied for the purposes of:

- (a) the making by the Commonwealth of, or of advances on account of, payments under Division 3 of Part 4.2 other than payments to

- the Australian Defence Force Academy, the National Institute of Dramatic Art or The Australian Film, Television and Radio School;
- (b) the repayment of amounts that were not required to be paid to the Commonwealth under this Chapter or that are otherwise required under this Chapter to be refunded; and
 - (c) if the Minister so determines, the making by the Commonwealth of payments to a State of amounts equal to amounts paid by students in discharge or reduction of their indebtedness to the Commonwealth under this Chapter in respect of courses of study funded by the State.

PART 4.4—REPAYMENT OF LOANS

Division 1—Nature of indebtedness

HEC semester debt

62. (1) Where the Commonwealth is required under subsection 57 (3) to make a loan to a person and apply the amount lent in making a payment to an institution in discharge of the person's liability to pay a contribution in respect of a course of study in respect of a semester, the person incurs an HEC semester debt to the Commonwealth equal to the amount of the loan.

(2) The HEC semester debt shall be taken to have been incurred immediately after the census date in respect of the course of study in respect of the semester, whether or not the Commonwealth has made a payment to the institution in respect of the contribution.

Power of Secretary to remit semester debt in special circumstances

63. (1) Where a student has incurred an HEC semester debt, the Secretary may, on written application made by the student within 3 months after the debt was incurred, if the Secretary is satisfied that there are special circumstances that justify so doing, by writing signed by the Secretary remit the whole, or such part as the Secretary thinks fit, of the debt.

(2) Where an application referred to in subsection (1) is made, the Secretary shall as soon as practicable consider the matter to which the application relates and notify the student of the decision on the application.

(3) Where the Secretary remits the whole or a part of an HEC semester debt, the Secretary shall give to the Commissioner written notice setting out the name of the student, the amount that has been remitted and such other particulars as the Commissioner reasonably requires.

Review of decision of Secretary

64. (1) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary on an application under section 63.

(2) A notification under subsection 63 (2) shall include a statement to the effect that, if the student is dissatisfied with the decision of the Secretary

on the application under section 63, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except when subsection 28 (4) of that Act applies, also include a statement to the effect that the student may request a statement under section 28 of that Act.

(3) A failure to comply with subsection (2) in relation to a notification does not affect the validity of the notification or of the decision to which the notification relates.

Calculation of accumulated HEC debt

65. (1) Where an HEC semester debt or HEC semester debts incurred by a person before 1 June in a year (in this subsection called the “relevant date”) is not, or do not include, an HEC semester debt incurred before 1 June in the immediately preceding year, the person incurs on the relevant date an accumulated HEC debt to the Commonwealth comprising that HEC semester debt or the total of those HEC semester debts, as the case may be, less any amounts paid before the relevant date in reduction of that HEC semester debt or those HEC semester debts.

(2) Where an HEC semester debt or HEC semester debts incurred by a person before 1 June in a year (in this subsection and subsection (3) called the “later date”) is, or include, an HEC semester debt or HEC semester debts incurred before 1 June in the immediately preceding year (in this subsection and subsection (3) called the “earlier date”), the person incurs on the later date an accumulated HEC debt to the Commonwealth comprising the sum of:

- (a) the adjusted accumulated HEC debt of the person at the earlier date multiplied by the factor ascertained in accordance with subsection (5); and
- (b) any HEC semester debt or the total of any HEC semester debts incurred by the person on or after the earlier date and before the later date (less any amounts paid in reduction of that debt or those debts).

(3) The reference in subsection (2) to the adjusted accumulated HEC debt of a person at the earlier date is a reference to the amount ascertained in accordance with the formula $A - (B + C + D - E)$ where:

A is the accumulated HEC debt of the person as at the earlier date;

B is the sum of:

- (a) any HEC assessment debt or HEC assessment debts of the person assessed on or after the earlier date and before the later date excluding any such HEC assessment debt of the person assessed as a result of a return furnished before the earlier date; and
- (b) any HEC assessment debt or HEC assessment debts of the person assessed on or after the later date as a result of a return furnished before the later date;

Higher Education Funding No. 2, 1989

- C** is any amount, or the sum of any amounts, paid, otherwise than in discharge of an HEC assessment debt, on or after the earlier date and before the later date in reduction of the accumulated HEC debt of the person at the earlier date;
- D** is any amount, or the sum of any amounts, by which any HEC assessment debt of the person is increased by an amendment of the relevant assessment (whether as a result of an increase in the person's taxable income of a year of income or otherwise), being an amendment made on or after the earlier date and before the later date; and
- E** is any amount, or the sum of any amounts, by which any HEC assessment debt of the person is reduced by an amendment of the relevant assessment (whether as a result of a reduction in the person's taxable income of a year of income or otherwise), being an amendment made on or after the earlier date and before the later date.

(4) For the purposes of subsection (3), an assessment or an amendment of an assessment shall be taken to have been made on the date specified in the notice of assessment or notice of amended assessment, as the case may be, as the date of that notice.

(5) The factor to be ascertained for the purposes of subsection (2) in calculating the accumulated HEC debt of a person at 1 June in a year is the number (calculated to 3 decimal places) ascertained, as at the date on which the index number in respect of the March quarter immediately preceding that 1 June was first published, by dividing the sum of:

- (a) the index number in respect of that March quarter; and
- (b) the index numbers in respect of the 3 quarters that immediately preceded that quarter;

by the sum of:

- (c) the index number in respect of the March quarter immediately preceding 1 June in the year that next preceded that year; and
- (d) the index numbers in respect of the 3 quarters that immediately preceded that last-mentioned quarter.

(6) Subject to subsection (7), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

(7) If, at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

(8) Where the factor ascertained in accordance with subsection (5) in calculating the accumulated HEC debt of a person at 1 June in a year

would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor ascertained in accordance with that subsection in making that calculation shall be taken to be the factor calculated to 3 decimal places in accordance with that subsection and increased by 0.001.

(9) The Commissioner shall cause to be published before 1 June in each year the factor ascertained in accordance with subsection (5) (as affected by subsection (8)) in relation to the calculation of the accumulated HEC debt of a person at that date.

(10) If, but for this subsection, the accumulated HEC debt of a person at 1 June in a year would be an amount consisting of a number of whole dollars and a number of cents, the number of cents shall be disregarded.

(11) In this section:

“index number”, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

Accumulated HEC debt discharges earlier debts

66. (1) An accumulated HEC debt that a person incurs on 1 June in a year discharges, or discharges the unpaid part of:

- (a) any accumulated HEC debt of the person that the person incurred on the preceding 1 June; and
- (b) any HEC semester debt that was incurred by the person on or after the date mentioned in paragraph (a) and before the first-mentioned date.

(2) For the purpose of applying section 63 or 65, this section shall be disregarded.

Division 2—Voluntary discharge of indebtedness

Voluntary payments in respect of HEC debts

67. (1) Where a person is indebted to the Commonwealth under this Chapter, the person may at any time make a payment in respect of that indebtedness.

(2) A payment under subsection (1) shall be made to the Commissioner.

Division 3—Requirement to discharge indebtedness

Compulsory payments in respect of accumulated HEC debt

68. (1) Where:

- (a) the taxable income of a person in respect of a year of income exceeds the minimum prescribed amount; and
- (b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that year of income the person had an accumulated HEC debt;

Higher Education Funding No. 2, 1989

the person is liable to pay in accordance with this Chapter to the Commonwealth in reduction of the relevant debt an amount equal to so much of the relevant debt as does not exceed:

- (c) if that taxable income does not exceed the intermediate prescribed amount:
 - (i) in the case of the year of income ending on 30 June 1989—0.5% of that taxable income; or
 - (ii) in the case of a subsequent year of income—1% of that taxable income;
- (d) if that taxable income exceeds the intermediate prescribed amount but does not exceed the maximum prescribed amount:
 - (i) in the case of the year of income ending on 30 June 1989—1% of that taxable income; or
 - (ii) in the case of a subsequent year of income—2% of that taxable income; or
- (e) if that taxable income exceeds the maximum prescribed amount:
 - (i) in the case of the year of income ending on 30 June 1989—1.5% of that taxable income; or
 - (ii) in the case of a subsequent year of income—3% of that taxable income.

(2) In subsection (1), “relevant debt” means:

- (a) subject to paragraph (b) of this subsection, the person’s accumulated HEC debt referred to in paragraph (1) (b); or
- (b) if an amount has or amounts have been paid in reduction of that debt or an amount has or amounts have been assessed under section 71 to be payable in respect of that debt—the amount (if any) remaining after deducting from that debt the amount or the sum of the amounts so paid or assessed to be payable.

(3) A reference in paragraph (2) (b) to an amount assessed under section 71 to be payable in respect of a person’s accumulated HEC debt shall, if the amount has been increased or reduced by an amendment of the relevant assessment, be taken to be a reference to the increased or reduced amount, as the case may be.

(4) For the purposes of subsection (1):

- (a) the minimum prescribed amount is:
 - (i) in the case of the year of income ending on 30 June 1989—\$21,999; or
 - (ii) in the case of a subsequent year of income—the minimum prescribed amount in relation to the immediately preceding year of income multiplied by the factor ascertained in accordance with subsection (5) in relation to that subsequent year of income;

Higher Education Funding No. 2, 1989

- (b) the intermediate prescribed amount is:
 - (i) in the case of the year of income ending on 30 June 1989—\$24,999; or
 - (ii) in the case of a subsequent year of income—the intermediate prescribed amount in relation to the immediately preceding year of income multiplied by the factor ascertained in accordance with subsection (5) in relation to that subsequent year of income; and
- (c) the maximum prescribed amount is:
 - (i) in the case of the year of income ending on 30 June 1989—\$34,999; or
 - (ii) in the case of a subsequent year of income—the maximum prescribed amount in relation to the immediately preceding year of income multiplied by the factor ascertained in accordance with subsection (5) in relation to that subsequent year of income.

(5) The factor to be ascertained for the purposes of subsection (4) in relation to a year of income is the number (calculated to 3 decimal places) ascertained, as at the date on which the index number in respect of the March quarter immediately preceding that year of income was first published, by dividing the sum of:

- (a) the index number in respect of that March quarter; and
- (b) the index numbers in respect of the 3 quarters that immediately preceded that quarter;

by the sum of:

- (c) the index number in respect of the March quarter immediately preceding the year of income that next preceded that year of income; and
- (d) the index numbers in respect of the 3 quarters that immediately preceded that last-mentioned quarter.

(6) Subject to subsection (7), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

(7) If, at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

(8) Where the factor ascertained in accordance with subsection (5) in relation to a year of income would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor ascertained in accordance with that subsection in relation to that year of income shall be taken to be the

Higher Education Funding No. 2, 1989

factor calculated to 3 decimal places in accordance with that subsection and increased by 0.001.

(9) The Minister shall cause to be published in the *Gazette* before the year of income starting on 1 July 1989 and before each subsequent year of income the factor ascertained in accordance with subsection (5) (as affected by subsection (8)) in relation to the year of income concerned.

(10) If, but for this subsection, the minimum prescribed amount, the intermediate prescribed amount or the maximum prescribed amount in relation to a year of income would be an amount consisting of a number of whole dollars and a number of cents, the number of cents shall be disregarded.

(11) In this section:

“index number”, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

Division 4—Returns and assessments

Institutions to provide information to Commissioner

69. (1) Without limiting the operation of subsection 41 (2), an institution shall give to the Commissioner, if and when required by the Commissioner to do so, such information in its possession relating to students in relation to designated courses of study at the institution as the Commissioner reasonably requires for the purposes of this Part.

(2) Subsection (1) does not apply in relation to a student in relation to a course of study in respect of a semester if the student has made a payment in respect of that course in respect of that semester in accordance with subparagraph 41 (1) (a) (i).

Annual returns

70. Where a person is required under section 161 of the *Income Tax Assessment Act 1936* to furnish to the Commissioner of Taxation a return in respect of income of the year of income ending on 30 June 1989 or in respect of income of a subsequent year of income, the person shall, if the person had an accumulated HEC debt at 1 June immediately preceding the furnishing of the return, set out in the return the amount of that debt and any payments made since that date in respect of the person's indebtedness to the Commonwealth under this Chapter.

Assessment

71. The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

- (a) the amount of the accumulated HEC debt of a person at 1 June immediately preceding the making of the assessment; and
- (b) the amount required to be paid in respect of that accumulated HEC debt under section 68.

Application of Income Tax Assessment Act

72. (1) Subject to this Part, Parts IV and V, and Division 1 of Part VI, of the *Income Tax Assessment Act 1936* apply, so far as they are capable of application, in relation to an HEC assessment debt of a person as if it were income tax assessed to be payable by a taxpayer by an assessment made under Part IV of that Act.

(2) Sections 222 and 223 of the *Income Tax Assessment Act 1936* have effect as if any HEC assessment debt of a person were income tax payable by the person in respect of the year of income in respect of which the assessment of that debt was made.

Notification on notices of assessment of tax

73. Where:

- (a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of a year of income under section 174 of the *Income Tax Assessment Act 1936*; and
- (b) an assessment has been made in respect of the person of the amounts referred to in section 71 of this Act but notice of that last-mentioned assessment has not been served on the person;

notice of the last-mentioned assessment may be served by specifying the amounts concerned in the notice referred to in paragraph (a).

Power of Commissioner to defer assessment or reduce assessment to nil

74. (1) The Commissioner may, on written application by a person, defer, for such period as the Commissioner considers appropriate, the making of an assessment in relation to the person under section 71 if the Commissioner considers that, were the assessment to be made, payment of the assessed amount would cause serious hardship to the person or considers that there are other special reasons that make it fair and reasonable to defer the making of the assessment.

(2) The Commissioner may, on written application by a person, amend an assessment made in relation to the person under section 71 so that no amount is payable under the assessment if the Commissioner considers that payment of the assessed amount has caused or would cause serious hardship to the person or considers that there are other special reasons that make it fair and reasonable to make the amendment.

(3) Where an application referred to in subsection (1) or (2) is made, the Commissioner shall as soon as practicable consider the matter to which the application relates and notify the applicant of the Commissioner's decision on the application.

Review of decision of Commissioner

75. (1) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Commissioner on an application referred to in subsection 74 (1) or a decision by the Commissioner refusing to amend an assessment pursuant to an application referred to in subsection 74 (2).

Higher Education Funding No. 2, 1989

(2) A notification under subsection 74 (3) shall include a statement to the effect that, if the person is dissatisfied with the decision of the Commissioner on the application under section 74, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except when subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

(3) A failure to comply with subsection (2) in relation to a notification does not affect the validity of the notification or of the decision to which the notification relates.

Division 5—Miscellaneous

Application of payments

76. An amount paid by a person in respect of the person's indebtedness to the Commonwealth under this Chapter shall be applied in accordance with the direction of the person or, in the absence of such a direction or to the extent that the direction does not adequately deal with the matter:

- (a) first, in discharge or reduction of any HEC assessment debts of the person;
- (b) secondly, in discharge or reduction of any accumulated HEC debt of the person; and
- (c) thirdly, in discharge or reduction of:
 - (i) any HEC semester debt of the person; or
 - (ii) if there is more than one such debt, those debts in the order in which they were incurred.

Indebtedness discharged by death

77. Upon the death of a person who has an indebtedness to the Commonwealth under this Chapter, other than an indebtedness in respect of an HEC assessment debt, the indebtedness is discharged.

Secrecy

78. (1) In this section:

“Commissioner” includes a Second Commissioner of Taxation and a Deputy Commissioner of Taxation;

“officer” means a person:

- (a) who is or has been appointed or employed by the Commonwealth and who, because of the appointment or employment or in the course of the performance of the duties of the appointment or in the course of the employment, may acquire or has acquired confidential information;
- (b) to whom powers or functions have been delegated by the Commissioner and who, because of, or in the course of the exercise of powers or the performance of functions under,

Higher Education Funding No. 2, 1989

the delegation, may acquire or has acquired confidential information; or

- (c) who is or has been an officer of, or employed by, an institution and who, because of the office or employment or in the course of the performance of the duties of the office or in the course of the employment, may acquire or has acquired confidential information.

(2) A reference in this section to the acquisition by a person of confidential information is a reference to the acquisition of information in relation to the affairs of another person disclosed or obtained under or for the purposes of this Chapter.

(3) For the purposes of this section, a person who, although not appointed or employed by the Commonwealth, performs services for the Commonwealth shall be taken to be employed by the Commonwealth.

(4) An officer who, either directly or indirectly, except for the purposes of this Chapter, or otherwise than in the performance of the person's duties as an officer, and either while the person is, or after the person ceases to be, an officer:

- (a) makes a record of any information in relation to the affairs of a second person; or
- (b) divulges or communicates to a second person any information in relation to the affairs of a third person;

being information disclosed or obtained under or for the purposes of this Chapter and acquired by the person:

- (c) because of the person's appointment or employment by the Commonwealth or in the course of such employment;
- (d) because of the delegation to the person of powers or functions by the Commissioner or in the course of the exercise of such powers or performance of such functions; or
- (e) because of the person's office in or employment by an institution or in the course of the performance of the duties of such an office or in the course of such employment;

as the case may be, is guilty of an offence punishable on conviction by a fine not exceeding \$10,000 or imprisonment for a period not exceeding 2 years, or both.

(5) Except when it is necessary to do so for the purpose of carrying into effect the provisions of this Chapter, an officer shall not be required:

- (a) to produce in court any document made or given under or for the purposes of this Chapter; or
- (b) to divulge or communicate to a court a matter or thing in relation to information disclosed or obtained under or for the purposes of this Chapter;

Higher Education Funding No. 2, 1989

being a document or information acquired by the person:

- (c) because of the person's appointment or employment by the Commonwealth or in the course of such employment;
- (d) because of the delegation to the person of powers or functions by the Commissioner or in the course of the exercise of such powers or the performance of such functions; or
- (e) because of the person's office in or employment by an institution or in the course of the performance of the duties of such an office or in the course of such employment;

as the case may be.

(6) Nothing in subsection (4) shall be taken to prohibit the Commissioner, or a person authorised by the Commissioner, from communicating any information to the Administrative Appeals Tribunal in connection with proceedings under this Act or any Act of which the Commissioner of Taxation has the general administration.

(7) Nothing in an Act of which the Commissioner of Taxation has the general administration shall be taken to prohibit the Commissioner, or a person authorised by the Commissioner, from communicating any information to a person performing, as an officer, duties arising under this Chapter for the purpose of enabling the person to perform those duties.

(8) Nothing in subsection (4) shall be taken to prohibit a person referred to in paragraph (a) or (b) of the definition of "officer" in subsection (1) from communicating any information to an officer of the Department of Employment, Education and Training for the purpose of the provision by that officer of assistance to the person in the performance of duties arising under this Chapter.

(9) For the purposes of subsection (4), an officer shall be taken to have communicated information to another person in contravention of that subsection if the officer communicates the information to any Minister.

(10) An officer shall, if and when required by the Commissioner to do so, make an oath or declaration, in a manner and form specified by the Commissioner in writing, to maintain secrecy in accordance with the provisions of this section.

Division 6—Amendments of Income Tax Assessment Act 1936

Principal Act

79. In this Division, "Principal Act" means the *Income Tax Assessment Act 1936*.¹

Losses and outgoings

80. Section 51 of the Principal Act is amended by adding at the end the following subsection:

- “(6) A deduction is not allowable under subsection (1) in respect of:
- (a) a contribution imposed under Chapter 4 of the *Higher Education Funding Act 1988*; or
 - (b) a payment made in respect of, or in respect of the reduction or discharge of, any indebtedness to the Commonwealth under that Chapter.”.

Deductions for expenses of self-education

81. Section 82A of the Principal Act is amended by omitting from subsection (2) the definition of “expenses of self-education” and substituting the following definition:

“‘expenses of self-education’ means expenses necessarily incurred by the taxpayer for or in connection with a prescribed course of education but does not include:

- (a) a payment made to an institution of higher education to which Chapter 4 of the *Higher Education Funding Act 1988* applies in respect of a contribution payable under that Chapter; or
- (b) a payment made in respect of, or in respect of the reduction or discharge of, any indebtedness to the Commonwealth under that Chapter.”.

Application of deductions in payment of tax

82. Section 221H of the Principal Act is amended by adding at the end the following subsection:

“(10) This section has effect subject to section 221ZY.”.

Provisional tax to be credited against other tax

83. Section 221YE of the Principal Act is amended by omitting from subsection (1) “Where” and substituting “Subject to section 221ZY, where”.

Application of credits

84. Section 221YHG of the Principal Act is amended by inserting after subsection (6) the following subsection:

“(6A) This section has effect subject to section 221ZY.”.

85. Part VI of the Principal Act is amended by adding at the end the following Division:

“Division 7—Higher education contribution assessment debts

Application of deductions in payment of HEC assessment debts

“221ZY. (1) In this section:

‘HEC assessment debt’ has the same meaning as in Chapter 4 of the *Higher Education Funding Act 1988*;

‘relevant provision’ means section 221H, 221YE or 221YHG.

“(2) Where:

- (a) the Commissioner would, but for this section, be required by a relevant provision to credit, apply, pay or refund an amount or sum for the benefit of a person in a manner specified in that provision; and
- (b) the person has an HEC assessment debt;

the Commissioner shall, despite that provision, first apply that amount or sum in payment or part payment of that debt and, if that amount or sum exceeds the debt, then credit, apply, pay or refund the excess in accordance with that provision.”.

Division 7—Amendment of Fringe Benefits Tax Assessment Act 1986

Principal Act

86. In this Division, “Principal Act” means the *Fringe Benefits Tax Assessment Act 1986*.²

87. After section 64 of the Principal Act the following section is inserted:

Reduction of taxable value in relation to expenditure in respect of higher education contribution

“64A. Where:

- (a) the provider of a fringe benefit in relation to a year of tax incurs expenditure in respect of the provision of the fringe benefit;
- (b) but for subsection 51 (6) of the *Income Tax Assessment Act 1936*, a deduction would be allowable to the provider under that Act in respect of the whole or a part of that expenditure; and
- (c) a deduction is not so allowable to the provider;

the amount that, but for this section and section 62, would be the taxable value of the fringe benefit in relation to the year of tax shall be reduced by that expenditure or that part of that expenditure, as the case may be.”.

Division 8—Amendment of Taxation (Interest on Overpayments) Act 1983

Principal Act

88. In this Division, “Principal Act” means the *Taxation (Interest on Overpayments) Act 1983*.³

Interpretation

89. Section 3 of the Principal Act is amended:

- (a) by inserting after subparagraph (a)(i) of the definition of “objection” in subsection (1) the following subparagraph:
 - “(ia) section 72 of the *Higher Education Funding Act 1988*.”;
- (b) by adding at the end of paragraph (a) of the definition of “relevant tax” in subsection (1) “(including an amount to which, by virtue of subsection 72 (1) of the *Higher Education Funding Act 1988*, that first-mentioned subsection applies as if the amount were income tax

Higher Education Funding No. 2, 1989

assessed to be payable by a taxpayer by an assessment made under Part IV of the *Income Tax Assessment Act 1936*”.

**PART 4.5—ABOLITION OF HIGHER EDUCATION
ADMINISTRATION CHARGE**

Division 1—The Australian National University

Principal Act

90. In this Division, “Principal Act” means the *Australian National University Act 1946*.⁴

Abolition of charge

91. Section 29A of the Principal Act is repealed.

Division 2—Canberra College of Advanced Education

Principal Act

92. In this Division, “Principal Act” means the *Canberra College of Advanced Education Act 1967*.⁵

Abolition of charge

93. Section 25A of the Principal Act is repealed.

Division 3—Australian Maritime College

Principal Act

94. In this Division, “Principal Act” means the *Maritime College Act 1978*.⁶

Abolition of charge

95. Section 32A of the Principal Act is repealed.

Division 4—Canberra Institute of the Arts

Charges not to be imposed

96. The Canberra Institute of the Arts shall not impose a higher education administration charge or any similar charge in respect of the year starting on 1 January 1989 or any subsequent year.

Division 5—Amount of charge not fixed beyond year 1988

Principal Act

97. In this Division, “Principal Act” means the *States Grants (Tertiary Education Assistance) Act 1984*.⁷

Amount of charge

98. Section 4D of the Principal Act is amended:

- (a) by omitting “or any subsequent year” from the definition of “year to which this section applies” in subsection (1);
- (b) by omitting from subsection (3) “in each subsequent year” and substituting “in the year 1987”.

CHAPTER 5—CONTINGENT PROVISIONS

**PART 5.1—SUPPLEMENTARY STATES GRANTS FOR HIGHER
EDUCATION ASSISTANCE**

Division 1—Preliminary

Institutions to which provisions apply

99. The Minister may specify the institutions to which the several provisions of this Chapter respectively apply.

Division 2—Recurrent grants

Grants for expenditure for operating purposes

100. The Minister may authorise the payment to a State in which an institution to which this section applies is situated, for the purposes of financial assistance in relation to the expenditure of the institution for operating purposes in respect of a year to which this Chapter applies, of such amount as the Minister determines.

Grants for expenditure for limited operating purposes

101. The Minister may authorise the payment to a State in which an institution to which this section applies is situated, for the purposes of financial assistance in relation to the expenditure of the institution for limited operating purposes in respect of a year to which this Chapter applies, of such amount as the Minister determines.

Maximum grants

102. The total of the amounts that may be paid under sections 100 and 101 in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$353,703,000;
- (b) in the case of the year 1990—\$292,951,000; and
- (c) in the case of the year 1991—\$216,203,000.

Conditions of grants

103. Section 18 has effect as if references in that section to sections 15 and 16 included references to sections 100 and 101, respectively.

Special assistance for students

104. (1) In this section:

“financial assistance”, in relation to students, includes financial assistance provided to those students by way of:

- (a) loan (whether with or without interest); or
- (b) grant (whether subject to conditions or not);

“student”, in relation to an institution, means a person undertaking a course of study at the institution.

(2) Subject to subsection (3), the Minister may authorise the payment to a State, in respect of a year to which this Chapter applies, of such amount as the Minister determines for the purposes of financial assistance in relation to expenditure by an institution to which this section applies that is situated in the State, being expenditure in providing in that year financial assistance to students at the institution.

(3) The total of the amounts that may be paid under subsection (2) in respect of a year shall not exceed:

- (a) in the case of the year 1989—\$4,328,000;
- (b) in the case of the year 1990—\$4,328,000; and
- (c) in the case of the year 1991—\$4,328,000.

(4) Financial assistance is granted to a State under subsection (2) in relation to an institution in respect of a year on the conditions that:

- (a) the State will pay each amount of that financial assistance received by it to the institution without undue delay;
- (b) the State will ensure that the sum of the amounts spent in that year by the institution in connection with the provision, out of money paid to the institution under this section, of financial assistance to its students is not less than the sum of the amounts of financial assistance paid to the State under this section in relation to the institution in respect of that year;
- (c) the State will ensure that the institution gives to the Minister, not later than 30 September next following that year, a statement by a qualified auditor, in the approved form, as to the amounts spent as described in paragraph (b);
- (d) the State will ensure that the institution, in providing, out of money paid to it under this section, financial assistance to its students complies with any guidelines issued by the Minister for the purposes of this section; and
- (e) the State will ensure that the institution gives 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 by the institution of financial assistance to its students in that year.

(5) Where:

- (a) an institution in a State provides financial assistance for a student out of moneys paid to it under section 13 of the previous Assistance Act or this section; and
- (b) the student repays to it, in a year to which this Chapter applies, an amount (including any amount by way of interest) in respect of that financial assistance;

then, for the purposes of this Act:

- (c) an amount equal to the amount referred to in paragraph (b) shall be taken to have been paid to the State under this section as financial assistance in relation to the institution in respect of that year; and
- (d) the State shall be taken to have paid the amount referred to in paragraph (c) to the institution in respect of that year.

(6) Where:

- (a) the sum of the amounts of financial assistance paid to a State under section 13 of the previous Assistance Act or this section in relation to an institution in respect of the year 1988, 1989 or 1990 (in this subsection called the "year concerned") exceeds the sum of the amounts spent in the year concerned by the institution in connection with the provision, out of money paid to it under that section, of financial assistance to its students; and
- (b) the Minister directs that an amount, not exceeding the amount of the excess, is a transferred amount in relation to the institution in respect of the year concerned for the purposes of this subsection;

then, for the purposes of this Act:

- (c) an amount equal to the transferred amount shall be taken to have been paid to the State under this section as financial assistance in relation to the institution in respect of the next following year;
- (d) the State shall be taken to have paid the amount referred to in paragraph (c) to the institution in respect of the next following year; and
- (e) the sum of the amounts paid to the State under section 13 of the previous Assistance Act or this section in relation to the institution in respect of the year concerned shall be taken to have been reduced by an amount equal to the transferred amount.

PART 5.2—HIGHER EDUCATION ADMINISTRATION CHARGE

Reimposition of charge

105. Upon the commencement of this Part:

- (a) section 18 is amended by omitting subparagraphs (1)(c)(ii) and (iii) and substituting the following subparagraph:
 - “(ii) 90% of the total of the amounts received by the institution in that year in respect of higher education administration charges imposed by the institution;”;

Higher Education Funding No. 2, 1989

- (b) Part 4.5 is repealed;
- (c) the provisions repealed by sections 91, 93 and 95 are revived; and
- (d) the amendments made by section 98 shall be taken not to have been made.

Additional condition

106. In addition to the conditions specified in any other provision of this Act, financial assistance is granted to a State under Chapter 2 or this Chapter in relation to an institution in respect of a year on the condition that the State will ensure that the institution imposes in respect of that year an amount of higher education administration charge in respect of each student as provided by section 8 of the *States Grants (Tertiary Education Assistance) Act 1987* as that section would have effect if the charge were required by that Act to be imposed and the reference in that section to the year 1988 were a reference to the first-mentioned year.

CHAPTER 6—MISCELLANEOUS

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

107. (1) A payment under this Act to a State for the purpose 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 female students and male students.

(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 female students and male students; and
- (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 female students and male students.

Additional conditions

108. 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 assistance, the State will pay to the Commonwealth the amount (if

Higher Education Funding No. 2, 1989

any) specified by the Minister, not exceeding the amount of the financial assistance;

- (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; and
- (c) despite paragraph (a), if:
 - (i) the State fails to spend any of that financial assistance in accordance with this Act in respect of that year; and
 - (ii) the Minister determines that this paragraph is to apply in relation to the State in respect of that year;

so much of the unspent amount as the Minister specifies will be taken to have been granted to the State under this Act in respect of the next following year under similar conditions to the conditions of the original grant or under other conditions determined by the Minister.

Amendments affecting State entitlements to grants

109. The Minister shall not make a determination under section 15, 16, 24, 25, 26, 31, 32, 100 or 101:

- (a) that would reduce an amount payable to a State in respect of an institution or institutions under a previous determination made 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

110. A declaration made by the Minister under subsection 4 (2) or a determination made by the Minister under section 15, 16, 24, 25, 26, 31, 32, 100 or 101 is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Time and manner of payments

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

Delegation

112. (1) 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.

(2) The Secretary may, by writing signed by the Secretary, delegate to an officer of the Department all or any of the Secretary's powers under this Act.

(3) Chapter 4 shall be taken to be a taxation law for the purposes of the *Taxation Administration Act 1953*.

Advances

113. 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.

Sources of certain payments to States

114. Payments (including an advance under section 113) to a State under this Act may be made out of:

- (a) in the case of payments under Part 2.3—the Consolidated Revenue Fund or the Loan Fund;
- (b) in the case of payments under Parts 2.2 and 2.4 and payments under Chapter 5—the Consolidated Revenue Fund; or
- (c) in the case of payments under Chapter 3—money appropriated by the Parliament for the purposes of the payments.

Authority to borrow

115. 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 2.3.

Application of money borrowed

116. Money borrowed under section 115 shall be issued and applied only for the expenses of borrowing, for the purpose of making payments to the States in accordance with Part 2.3 and for the purpose of making payments to the Consolidated Revenue Fund in accordance with section 117.

Reimbursement of Consolidated Revenue Fund from Loan Fund

117. (1) Where an amount has been paid out of the Consolidated Revenue Fund in accordance with Part 2.3, 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.

(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.

Appropriation

118. (1) The Consolidated Revenue Fund and the Loan Fund are, by force of this subsection, appropriated as necessary for the purposes of this Act other than Chapters 3 and 4.

(2) Subsection (1) shall not be taken to exclude by implication the application in relation to Chapter 4 of any existing appropriation.

Report by the Minister

119. The Minister shall, as soon as practicable after the end of each year to which this Chapter applies, cause a report setting out particulars of amounts determined by the Minister under sections 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 100, 101 and 104 to be laid before each House of the Parliament.

Regulations

120. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Amendments of the Australian National University Act

121. (1) In this section, "Principal Act" means the *Australian National University Act 1946*.⁴

(2) Section 27 of the Principal Act is amended by omitting subparagraphs (1) (o) (v), (vi) and (vii) and substituting the following subparagraphs:

- "(v) fees imposed in accordance with guidelines issued by the Minister for the imposition of fees in respect of overseas students;
- (vi) fees payable in respect of studies (other than a course of instruction provided by the University for the purpose of enabling persons to undertake a course of study provided by the University) that are not required or permitted to be undertaken for the purpose of obtaining a degree, diploma, associate diploma or other award of the University;
- (vii) fees payable, in accordance with guidelines issued by the Minister, by persons who attend or otherwise participate in courses of study but do not enrol for those courses, other than persons whose attendance at, or participation in, those courses is, or is to be, credited towards a degree, diploma, associate diploma or other award of another institution of higher education by arrangement between the University and the other institution;
- (viii) fees of a kind that are incidental to studies that may be undertaken at the University and that the Minister has notified the University are fees of a kind to which this subparagraph applies;

Higher Education Funding No. 2, 1989

- (ix) fees payable, by a person who possesses educational qualifications and has earned a living at any time, in respect of undertaking, for the purpose of acquiring further qualifications, a post-graduate course provided in accordance with guidelines issued under subsection 29 (2); or
 - (x) contributions payable under Chapter 4 of the *Higher Education Funding Act 1988*;
- (3) Section 29 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) The Minister for Employment, Education and Training may, by notice published in the *Gazette*, issue guidelines in relation to the provision by the University of post-graduate courses for the purposes of subparagraph 27 (1) (o) (ix).”.

Amendments of the Canberra College of Advanced Education Act

122. (1) In this section, “Principal Act” means the *Canberra College of Advanced Education Act 1967*.⁵

(2) Section 25 of the Principal Act is amended:

(a) by omitting paragraphs (2) (d), (e) and (f) and substituting the following paragraphs:

“(d) fees imposed in accordance with guidelines issued by the Minister for the imposition of fees in respect of overseas students;

(e) fees payable in respect of studies (other than a course of instruction provided by the College for the purpose of enabling persons to undertake a course of study provided by the College) that are not required or permitted to be undertaken for the purpose of obtaining a degree, diploma, associate diploma or other award of the College;

(f) fees payable, in accordance with guidelines issued by the Minister, by persons who attend or otherwise participate in courses of study but do not enrol for those courses, other than persons whose attendance at, or participation in, those courses is, or is to be, credited towards a degree, diploma, associate diploma or other award of another institution of higher education by arrangement between the College and the other institution;

(g) fees of a kind that are incidental to studies that may be undertaken at the College and that the Minister has notified the College are fees of a kind to which this paragraph applies;

(h) fees payable, by a person who possesses educational qualifications and has earned a living at any time, in respect of undertaking, for the purpose of acquiring further qualifications, a post-graduate course provided in accordance with guidelines issued under subsection (3); or

Higher Education Funding No. 2, 1989

- (j) contributions payable under Chapter 4 of the *Higher Education Funding Act 1988*;
- (b) by omitting subsection (3) and substituting the following subsection:
 - “(3) The Minister for Employment, Education and Training may, by notice published in the *Gazette*, issue guidelines in relation to the provision by the College of post-graduate courses for the purposes of paragraph (2) (h).”.

Amendments of the Employment, Education and Training Act

123. (1) In this section, “Principal Act” means the *Employment, Education and Training Act 1988*.⁸

- (2) Section 25 of the Principal Act is amended:
 - (a) by adding after paragraph (1) (b) the following paragraphs:
 - “(c) to inquire into, and provide regular reports, in February and August each year, to the Board with respect to the operation of:
 - (i) section 14 of the *Higher Education Funding Act 1988*, including the role of educational profiles in supporting Commonwealth priorities in higher education; and
 - (ii) the Higher Education Contribution Scheme established by the *Higher Education Funding Act 1988*, including its effects on access to higher education, and the level and quality of post-graduate research;
 - (d) to consult with institutions with regard to the preparation of educational profiles and variations of such profiles for the purposes of section 14 of the *Higher Education Funding Act 1988*.”; and
 - (b) by adding at the end the following subsection:
 - “(3) The Board shall transmit any report referred to in paragraph (1) (c) to the Minister who shall cause copies of it to be laid before each House of the Parliament within 15 sitting days of that House after the Minister has received the report.”.

Amendments of the Maritime College Act

124. (1) In this section, “Principal Act” means the *Maritime College Act 1978*.⁶

- (2) Section 32 of the Principal Act is amended:
 - (a) by omitting subsection (5) and substituting the following subsection:
 - “(5) The Minister may, by notice published in the *Gazette*, issue guidelines in relation to the provision by the College of:
 - (a) post-graduate courses for the purposes of subsection (6); or

- (b) courses of technical and further education for the purposes of subsection (7).”;
- (b) by omitting from subsections (6) and (7) “specified” and substituting “provided in accordance with guidelines issued”.

CHAPTER 7—AMENDMENTS OF STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) ACT 1987

Principal Act

125. In this Chapter, “Principal Act” means the *States Grants (Tertiary Education Assistance Act) 1987*.⁹

Promotion of equality of opportunity

126. Section 11 of the Principal Act is amended by omitting from subsection (5) “\$1,255,000” and substituting “\$1,259,000”.

Recurrent grants may be increased to assist institutions in promoting greater participation of Aborigines in higher education

127. Section 12 of the Principal Act is amended by omitting from subsection (5) “\$358,000” and substituting “\$359,000”.

Special assistance for students

128. Section 13 of the Principal Act is amended by omitting from subsection (4) “\$4,063,500” and substituting “\$4,075,500”.

Special research assistance

129. Section 14 of the Principal Act is amended by omitting from subsection (4) “\$12,531,000” and substituting “\$12,568,000”.

Recurrent grants may be increased to assist institutions in meeting certain superannuation expenses

130. Section 15 of the Principal Act is amended:

- (a) by omitting from subsection (1) “or colleges of advanced education” and substituting “, colleges of advanced education, institutes of tertiary education or non-government teachers colleges”;
- (b) by inserting after subsection (2) the following subsection:
 - “(2A) Where the Minister is satisfied that an institute of tertiary education or non-government teachers college has incurred, or will incur, relevant superannuation expenditure, the Minister may, during the year 1988, determine an amount of additional financial assistance payable in relation to the institute or college in respect of that year, and, subject to subsection (3), as from 1 July 1988, the amount specified in Schedule 5 in relation to the institute or Schedule 7 in relation to the college, as the case requires, shall be deemed to be increased by the amount so determined.”;

Higher Education Funding No. 2, 1989

(c) by omitting subsection (3) and substituting the following subsection:

“(3) The aggregate of the amounts determined under subsections (2) and (2A) shall not exceed \$69,759,000.”.

Substitution of Schedules

131. Schedules 1, 2, 3, 4, 5, 6 and 7 to the Principal Act are repealed and the Schedules set out in the Schedule to this Chapter are substituted.

Payments made before Royal Assent

132. Payments (including advances) by way of financial assistance made to a State or to the Northern Territory under the Principal Act shall be taken to have been made also for the purposes of the Principal Act as amended by this Chapter.

SCHEDULE TO CHAPTER 7

Section 131

NEW SCHEDULES TO THE STATES GRANTS
(TERTIARY EDUCATION ASSISTANCE) ACT 1987

SCHEDULE 1

Section 10

GRANTS AVAILABLE FOR EXPENDITURE BY UNIVERSITIES FOR
UNIVERSITY PURPOSES

Column 1	Column 2
University	Amount of grant in respect of 1988
	\$
NEW SOUTH WALES	
The Macquarie University	57,704,000
The University of New South Wales	144,361,000
The University of Newcastle	42,328,000
The University of Wollongong	41,889,000
University of New England	45,867,000
University of Sydney	150,890,000
Total	483,039,000
VICTORIA	
Deakin University	32,410,000
La Trobe University	76,319,000
Monash University	106,652,000
University of Melbourne	133,329,000
Total	348,710,000
QUEENSLAND	
Griffith University	29,061,000
James Cook University of North Queensland	31,587,000
The University of Queensland	126,826,000
Total	187,474,000
WESTERN AUSTRALIA	
Murdoch University	31,107,000
The University of Western Australia	75,091,000
Total	106,198,000
SOUTH AUSTRALIA	
The Flinders University of South Australia	38,693,000

Higher Education Funding No. 2, 1989

SCHEDULE 1—continued

Column 1	Column 2
University	Amount of grant in respect of 1988
	\$
The University of Adelaide	77,920,000
Total	116,613,000
TASMANIA	
University of Tasmania	44,861,000
TOTAL—ALL STATES	1,286,895,000

SCHEDULE 2

Section 10

**GRANTS AVAILABLE FOR EXPENDITURE BY COLLEGES OF
ADVANCED EDUCATION ON COLLEGE PURPOSES**

Column 1	Column 2
College of Advanced Education	Amount of grant in respect of 1988
	\$
NEW SOUTH WALES	
Armidale College of Advanced Education	6,942,000
Catholic College of Education Sydney Ltd	9,228,000
Cumberland College of Health Sciences	14,243,000
Hawkesbury Agricultural College	11,498,000
Hunter Institute of Higher Education	16,414,000
Kuring-gai College of Advanced Education	14,154,000
Macarthur Institute of Higher Education	13,865,000
Mitchell College of Advanced Education	16,884,000
Nepean College of Advanced Education	15,925,000
New South Wales State Conservatorium of Music	4,115,000
Northern Rivers College of Advanced Education	9,464,000
Orange Agricultural College	3,474,000
Riverina-Murray Institute of Higher Education	25,645,000
Sydney College of Advanced Education	25,107,000

SCHEDULE 2—continued

Column 1	Column 2
	Amount of grant in respect of 1988
	\$
College of Advanced Education	
Sydney College of the Arts	376,999
University of Technology, Sydney	48,137,000
Total	235,471,999
VICTORIA	
Ballarat College of Advanced Education	14,630,000
Bendigo College of Advanced Education	13,467,000
Chisholm Institute of Technology	34,349,000
Footscray Institute of Technology	23,737,000
Gippsland Institute of Advanced Education	12,569,000
Hawthorn Institute of Education	7,957,000
Institute of Catholic Education	8,199,000
Melbourne College of Advanced Education	25,115,000
Phillip Institute of Technology	26,300,000
Royal Melbourne Institute of Technology Ltd	62,260,000
Swinburne Limited	31,101,000
The Victorian College of the Arts	5,463,000
Victoria College	35,910,000
Victorian College of Pharmacy Ltd	3,736,000
Warrnambool Institute of Advanced Education	7,737,000
Total	312,530,000
QUEENSLAND	
Brisbane College of Advanced Education	45,597,000
Capricornia Institute of Advanced Education	15,927,000
Darling Downs Institute of Advanced Education	23,280,000
Gold Coast College of Advanced Education	2,250,000
Queensland Agricultural College	11,495,000
Queensland Conservatorium of Music	2,983,000
Queensland Institute of Technology	45,799,000
Total	147,331,000
WESTERN AUSTRALIA	
Curtin University of Technology	66,304,000
Western Australian College of Advanced Education	45,363,000
Total	111,667,000

Higher Education Funding No. 2, 1989

SCHEDULE 2—continued

Column 1	Column 2
	Amount of grant in respect of 1988
College of Advanced Education	\$
SOUTH AUSTRALIA	
Roseworthy Agricultural College	5,162,000
South Australian College of Advanced Education	50,213,000
South Australian Institute of Technology	36,428,000
Total	91,803,000
TASMANIA	
Tasmanian State Institute of Technology	14,275,000
Total—All States	913,077,999

SCHEDULE 3

Section 16

SPECIAL RESEARCH GRANTS FOR UNIVERSITIES

Column 1	Column 2
	Amount of grant in respect of 1988
University	\$
NEW SOUTH WALES	
The Macquarie University	755,000
The University of New South Wales	2,439,000
The University of Newcastle	525,000
The University of Wollongong	441,000
University of New England	876,000
University of Sydney	2,407,000
Total	7,443,000
VICTORIA	
Deakin University	367,000
La Trobe University	944,000
Monash University	1,657,000
University of Melbourne	2,187,000
Total	5,155,000
QUEENSLAND	
Griffith University	451,000

SCHEDULE 3—continued

Column 1	Column 2
University	Amount of grant in respect of 1988
	\$
James Cook University of North Queensland	425,000
The University of Queensland	1,935,000
Total	2,811,000
WESTERN AUSTRALIA	
Murdoch University	441,000
The University of Western Australia	1,311,000
Total	1,752,000
SOUTH AUSTRALIA	
The Flinders University of South Australia	498,000
The University of Adelaide	1,222,000
Total	1,720,000
TASMANIA	
University of Tasmania	525,000
TOTAL—ALL STATES	19,406,000

SCHEDULE 4

Section 17

**GRANTS FOR RECURRENT EXPENDITURE OF TEACHING
HOSPITALS OF UNIVERSITIES**

Column 1	Column 2
University	Amount of grant in respect of 1988
	\$
NEW SOUTH WALES	
The University of New South Wales	545,000
The University of Newcastle	126,000
University of Sydney	629,000
Total	1,300,000

SCHEDULE 4—continued

Column 1	Column 2
University	Amount of grant in respect of 1988
	\$
VICTORIA	
Monash University	388,000
University of Melbourne	661,000
Total	1,049,000
QUEENSLAND	
The University of Queensland	509,000
WESTERN AUSTRALIA	
The University of Western Australia	220,000
SOUTH AUSTRALIA	
The Flinders University of South Australia	126,000
The University of Adelaide	367,000
Total	493,000
TASMANIA	
University of Tasmania	100,000
TOTAL—ALL STATES	3,671,000

SCHEDULE 5

Section 18

**GRANTS AVAILABLE FOR RECURRENT EXPENDITURE BY
INSTITUTES OF TERTIARY EDUCATION**

Column 1	Column 2
Institute of Tertiary Education	Amount of grant in respect of 1988
	\$
NEW SOUTH WALES	
The New South Wales Institute of the Arts	9,071,000

Higher Education Funding No. 2, 1989

SCHEDULE 5—continued

Column 1	Column 2
	Amount of grant in respect of 1988
Institute of Tertiary Education	\$
VICTORIA	
The Western Institute	3,609,000
The Wodonga Institute of Tertiary Education	133,000
Victorian College of Agriculture and Horticulture	2,170,000
Total	5,912,000
NORTHERN TERRITORY	
Darwin Institute of Technology	9,752,000
TOTAL—ALL STATES	24,735,000

SCHEDULE 6

Section 19

**GRANTS FOR EXPENDITURE BY STATES ON PROVISION OF
COURSES OF ADVANCED EDUCATION IN TECHNICAL AND
FURTHER EDUCATION INSTITUTIONS**

Column 1	Column 2
	Amount of grant in respect of 1988
Technical and Further Education Institution	\$
NEW SOUTH WALES	
Argyle College of Technical and Further Education	89,000
Bathurst College of Technical and Further Education	68,000
Hamilton College of Technical and Further Education	157,000
Kurri Kurri College of Technical and Further Education	47,000
Ryde College of Technical and Further Education	1,453,000
Sydney Technical College	2,502,000
Wollongong College of Technical and Further Education	47,000
Total	4,363,000
QUEENSLAND	
Kangaroo Point College of Technical and Further Education	152,000
Mackay College of Technical and Further Education	100,000

Higher Education Funding No. 2, 1989

SCHEDULE 6—continued

Column 1	Column 2
Technical and Further Education Institution	Amount of grant in respect of 1988
	\$
Queensland College of Art	2,502,000
Technical Correspondence School	199,000
Townsville College of Technical and Further Education . .	1,054,000
Total	4,007,000
TOTAL—ALL STATES	8,370,000

SCHEDULE 7

Section 20

**MAXIMUM GRANTS AVAILABLE FOR EXPENDITURE
BY NON-GOVERNMENT TEACHERS COLLEGES**

Column 1	Column 2
Non-government Teachers College	Amount of grant in respect of 1988
	\$
Avondale College	1,216,000
McAuley College	2,219,000
TOTAL	3,435,000

NOTES

1. No. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 48, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58,

Higher Education Funding No. 2, 1989

NOTES—continued

- 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by No. 11, 1988); and Nos. 8, 11, 59, 75, 78, 80, 87, 95, 97, 127 and 153, 1988.
2. No. 39, 1986, as amended. For previous amendments, see Nos. 48 and 112, 1986; Nos. 23 and 145, 1987; No. 139, 1987 (as amended by Nos. 11 and 78, 1988); and Nos. 6, 78, 95 and 97, 1988.
 3. No. 12, 1983, as amended. For previous amendments, see No. 123, 1984; Nos. 4, 47, 49 and 123, 1985; Nos. 41, 46, 48 and 154, 1986; and Nos. 58, 61, 62 and 145, 1987.
 4. No. 22, 1946, as amended. For previous amendments, see Nos. 21 and 56, 1947; No. 3, 1960; No. 9, 1963; No. 108, 1965; No. 93, 1966; No. 65, 1967; No. 1, 1971; Nos. 96 and 216, 1973; No. 94, 1975; No. 37, 1976; No. 36, 1978; No. 190, 1979; Nos. 61, 106 and 166, 1981; Nos. 76 and 95, 1984; Nos. 65 and 161, 1985; No. 135, 1986; No. 128, 1987; and No. 38, 1988.
 5. No. 104, 1967 as amended. For previous amendments, see No. 114, 1970; No. 216, 1973; No. 95, 1975; No. 37, 1976; No. 36, 1978; No. 191, 1979; No. 96 1984; Nos. 65 and 161, 1985; No. 136, 1986; and No. 127, 1987.
 6. No. 54, 1978, as amended. For previous amendments, see No. 80, 1982; No. 72, 1984; No. 65, 1985; No. 137, 1986; No. 126, 1987; and No. 38, 1988.
 7. No. 127, 1984, as amended. For previous amendments, see Nos. 61, 160 and 165, 1985; Nos. 67, 134 and 165, 1986; No. 36, 1987; and No. 124, 1987 (as amended by No. 62, 1988).
 8. No. 80, 1988.
 9. No. 123, 1987, as amended. For previous amendments, see Nos. 62 and 80, 1988.

[*Minister's second reading speech made in—
House of Representatives on 3 November 1988
Senate on 25 November 1988*]