



Higher Education Funding Amendment Act (No. 1) 1997

No. 125, 1997



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An Act to amend the *Higher Education Funding Act 1988*, and for related purposes

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[Assented to 15 September 1997]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Funding Amendment Act (No. 1) 1997*.

2 Commencement

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Higher Education Funding Act 1988

Part 1—Amendments relating to grants

1 Paragraph 20(3)(j)

Repeal the paragraph, substitute:

(j) in the case of the year 1998—\$103,636,000.

2 Paragraph 22A(5)(f)

Repeal the paragraph, substitute:

(f) for the year 1998—\$218,000.

3 Paragraph 23C(2)(e)

Repeal the paragraph, substitute:

(e) for the year 1998—\$475,220,000.

4 Paragraph 24(3)(j)

Repeal the paragraph, substitute:

(j) in the case of the year 1998—\$4,895,000.

5 Paragraph 27A(6)(e)

Repeal the paragraph substitute:

(e) for the year 1998—\$38,149,000.

Part 2—Amendments relating to restructuring and rationalisation programs

6 After section 18

Insert:

19 Grants for restructuring and rationalisation programs

- (1) The Minister may determine, in respect of a year, an amount of financial assistance for an institution to which section 15 applies if the Minister is satisfied that the assistance will contribute towards restructuring and rationalising activities of the institution.
- (2) The Minister may make a determination under subsection (1) subject to conditions.
- (3) If the Minister determines an amount of financial assistance for an institution in respect of a year under subsection (1), the amount payable under section 15 to the institution in respect of the year is to be increased, from 1 January in that year, by the amount of the determination.
- (4) A determination under subsection (1) must be made in accordance with guidelines issued by the Minister.

7 Paragraph 110(c)

After “section”, insert “19,”.

Part 3—Amendments to extend the circumstances in which students receive a 25% discount on course contributions

8 Subparagraph 18(1)(c)(ii)

Omit “or paragraph 56(b)”, substitute “, paragraph 41(1A)(a) or 56(b)”.

9 Subparagraph 41(1)(b)(i)

Omit “75%”, substitute “\$500 or at least 75%”.

10 Subparagraph 41(1)(b)(i)

After “concerned”, insert “(providing that this amount is less than \$500)”.

11 After paragraph 41(1)(b)

Insert:

; or (c) subsection (1A) applies to the student.

12 After subsection 41(1)

Insert:

(1A) This subsection applies to the student if the student:

- (a) has made a student payment (see subsection (1B)) to the institution in respect of a course of study in a semester; and
- (b) has made the student payment on or before the census date in respect of the course in respect of that semester; and
- (c) has given to the appropriate officer of the institution a document in the approved form, signed by the student:
 - (i) stating that the student asks the Commonwealth, if the student is undertaking the course as a contributing student on the census date for the course for a semester and has made a student payment for the course:
 - (A) to lend to the student an amount (the *formula amount*) worked out using the following formula:

$$\text{Assessed contribution} - \left(\text{Student payment} \times \frac{4}{3} \right)$$

- (B) to apply the money lent in paying to the institution, in discharge of the student's liability to pay the remainder of the assessed contribution (see subsection (1B)), the amount of that assessed contribution outstanding after deducting from that assessed contribution the amount of the student payment; and
- (ii) stating that the student asks the Commonwealth if, having made one or more student payments in respect of the course, the student is undertaking the course in a later semester as a contributing student on the census date for the course without having made a student payment in respect of the course in that semester on or before the census date for the course for that semester:
 - (A) to lend to the student an amount equal to the unpaid part of the assessed contribution; and
 - (B) to apply the amount lent in discharge of the student's liability to pay the unpaid part of the assessed contribution; and
- (iii) acknowledging that, if the Commonwealth complies with a request, the student will be liable to make payments in accordance with Chapter 5A.

Example: If the student's assessed contribution for the course of study is \$2,350 and the student makes a payment of \$1,000, the amount that the Commonwealth will lend to the student is \$1,017, ie:

$$\$2,350 - \left(\$1,000 \times \frac{4}{3} \right)$$

This amount is the *formula amount* (see sub-subparagraph (1A)(c)(i)(A)).

The amount that the Commonwealth will pay to the institution to discharge the student's liability is \$1350, ie:

$$\$2,350 - \$1,000$$

The value to the student of the discount for making the student payment of \$1,000 is \$333 (this amount forms part of the amount the Commonwealth pays to the institution to discharge the student's liability), ie:

\$1,350 – \$1,017

(1B) For the purposes of subsection (1A):

assessed contribution, in relation to a course of study, means the contribution that an institution assesses will be payable by a student in respect of the course at the institution in respect of a semester, if the student is undertaking the course as a contributing student on the census date in respect of that course in respect of that semester.

student payment means an amount of \$500 or more that is less than 75% of the assessed contribution payable by the student in respect of a course of study.

(1C) If an amount worked out by using the formula in subsection (1A) is an amount made up of dollars and cents, then:

- (a) if the amount of cents in the amount is 50—the amount is to be rounded up to the nearest dollar; and
- (b) in any other case—the amount is to be rounded up or down to the nearest dollar.

13 Paragraph 41A(1)(a)

Add at the end “or (1A)(c)”.

14 Paragraph 41B(1)(a)

After “paragraph 41(1)(b)”, insert “or (1A)(c)”.

15 Subparagraph 54(1)(d)(ii)

After “subparagraph 41(1)(a)(i)”, insert “or paragraph 41(1A)(a)”.

16 Section 56

After “subparagraph 41(1)(a)(i)”, insert “or paragraph 41(1A)(a)”.

17 At the end of Division 2 of Part 4.2

Insert:

56A Institution to refund student payment if enrolment cancelled under section 41C

If:

- (a) a student's enrolment in a course of study in respect of a semester has been cancelled under section 41C; and
- (b) the student has made a payment to the institution under subsection 41(1A) in respect of the contribution that the institution assessed would be payable by the student in respect of the course of study in respect of a semester;

the institution must, as soon as practicable, pay to the student an amount equal to the amount of the payment made by the student.

56B Institution to refund student payment if enrolment cancelled under section 42A

If:

- (a) a student's enrolment in a course of study in respect of a semester has been cancelled under section 42A; and
- (b) the student has made a payment to the institution under subsection 41(1A) in respect of the contribution that the institution assessed would be payable by the student in respect of the course of study in respect of the semester in which the student's enrolment in the course of study was cancelled;

the institution must, as soon as practicable, and in any event not later than 14 days after giving notice to the student of the cancellation, pay to the student an amount equal to the amount of the payment made by the student.

18 After subsection 57(3)

Insert:

(3A) If the student has not:

- (a) made a payment in respect of a contribution in accordance with subparagraph 41(1)(a)(i); or
- (b) complied with paragraph 41(1)(b);

but the student has:

- (c) made a payment in respect of the contribution in accordance with paragraph 41(1A)(a) (the *student payment*); and

- (d) complied with section 41B;
 the Commonwealth must, as a benefit to the student:
- (e) lend to the student an amount worked out using the formula in sub-subparagraph 41(1A)(c)(i)(A) (the *formula amount*) and apply the amount so lent in making a payment to the institution in partial discharge of the student's liability to pay the unpaid part of the contribution; and
- (f) pay to the institution, in discharge of the remainder of the student's liability, an amount (the *discount amount*) worked out using the following formula:

$$\text{Contribution payable by student for course} - \left(\text{Student payment} + \text{Formula amount} \right)$$

Example: If the student's contribution for the course of study is \$2,350 and the student makes a payment of \$1,000, the amount that the Commonwealth will lend to the student is \$1,017, ie:

$$\$2,350 - \left(\$1,000 \times \frac{4}{3} \right)$$

This amount is the *formula amount* (see paragraph (3A)(e)).

The amount that the Commonwealth will pay to the institution to discharge the student's liability is \$1,350, ie:

$$\$2,350 - \$1,000$$

The amount that the Commonwealth will pay to the institution comprises the sum of the amount the Commonwealth will lend to the student, ie \$1,017 (the formula amount) and the student discount that the student receives for making the student payment (\$333).

The value of the discount to the student for making the student payment is calculated as follows:

$$\$1,350 - \$1,017$$

This amount is the *discount amount* (see paragraph (3A)(f)).

- (3B) If:
- (a) the student has made a student payment as provided for in subsection (3A); and
- (b) the student continues undertaking the course of study and, in a later semester, does not make a student payment in respect

of the later semester as provided for in subparagraph 41(1A)(c)(ii), the Commonwealth must, as a benefit to the student:

- (i) lend to the student an amount equal to the unpaid part of the contribution; and
 - (ii) 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.
- (3C) If an amount worked out by using the formula in subsection (3A) is an amount made up of dollars and cents, then:
- (a) if the amount of cents in the amount is 50—the amount is to be rounded up to the nearest dollar; and
 - (b) in any other case—the amount is to be rounded up or down to the nearest dollar.

19 Application

The amendments made by this Part apply to a payment made by a student to an institution in respect of a course of study in a semester beginning on or after 1 January 1998.

Part 4—Amendments relating to remission of student debt

20 Subsections 106L(1), (2) and (3)

Repeal the subsections, substitute:

- (1) The Secretary may, in writing, remit the whole or part of a person's HEC semester debt if:
 - (a) the person has not completed the course requirements for his or her course of study in respect of a semester during the semester or during the year in which the semester occurred; and
 - (b) the Secretary is satisfied that special circumstances apply to the person (see subsection (3)); and
 - (c) the person applies in writing to the Secretary for remission of the debt within 12 months after the person's withdrawal day in relation to a unit in the person's course of study for the semester (see subsection (3B)).
- (2) The Secretary may, in writing, remit the whole or part of a person's OL study period debt if:
 - (a) the person has not completed one or more of the units of study for which he or she was enrolled for the study period; and
 - (b) the Secretary is satisfied that special circumstances apply to the person (see subsection (3)); and
 - (c) the person applies in writing to the Secretary for remission of the debt within 12 months after the person's withdrawal day in relation to a unit of study in which the person was enrolled for the study period (see subsection (3B)).
- (3) For the purposes of this section, *special circumstances*, in relation to a person, include circumstances that the Secretary is satisfied:
 - (a) are beyond the person's control; and
 - (b) do not make their full impact on the person until on or after the census date for the course of study for the semester or the study period (as the case requires); and
 - (c) make it impracticable for the person to complete the course requirements for the course of study for the semester during

the semester or during the year in which the semester occurs, or the units of study for which he or she was enrolled for the study period (as the case requires).

Note: For meaning of *census date*, see sections 34 (HECS) and 99 (OLDPS).

- (3A) The Secretary may issue guidelines relating to circumstances in which the Secretary will be satisfied of a matter referred to in paragraph (3)(a), (b) or (c). A decision of the Secretary under subsection (1) or (2) must be in accordance with any such guidelines.
- (3B) For the purposes of this section, a person's *withdrawal day*, in relation to a unit in a course of study for a semester, or a unit of study for a study period, is:
- (a) if the person:
 - (i) has incurred an HEC semester debt for the course of study for the semester; and
 - (ii) withdraws his or her enrolment in respect of the semester for the unit of study; and
 - (iii) the institution at which the person was enrolled gives notice to the person that the withdrawal has taken effect;

the day specified by the institution in the notice as the day the withdrawal takes effect; or

- (b) if:
 - (i) the person has incurred an HEC semester debt for the course of study for the semester; and
 - (ii) paragraph (a) does not apply to the person; and
 - (iii) the person does not complete the course requirements for the course of study for the semester during the semester or during the year in which the semester occurred;
- the last day of the semester; or
- (c) if the person:
 - (i) has incurred an OL study period debt for the unit of study; and
 - (ii) withdraws his or her enrolment for the unit of study for the study period; and

- (iii) the Agency gives notice to the person that the withdrawal has taken effect;
the day specified by the Agency in the notice as the day the withdrawal takes effect; or
- (d) if:
 - (i) the person has incurred an OL study period debt; and
 - (ii) paragraph (c) does not apply to the person; and
 - (iii) the person does not complete the unit of study for which he or she was enrolled for the study period;
the last day of the study period.

21 Paragraph 110(c)

Omit “or section 40A”, substitute “, section 40A or subsection 106L(3A)”.

22 Application

The amendments made by this Part apply to debts:

- (a) if the debt is an HEC semester debt—incurred in respect of a semester that commences on or after 1 January 1998; or
- (b) if the debt is an OL study period debt—incurred in respect of a study period that commences on or after 1 January 1998.

*[Minister's second reading speech made in—
House of Representatives on 28 May 1997
Senate on 18 June 1997]*

(68/97)