



Higher Education Funding Amendment Act (No. 1) 1996

No. 72, 1996

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

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

[Assented to 5 December 1996]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Funding Amendment Act (No. 1) 1996*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (2) Items 20 to 26, 29 to 39, 42 to 50 and 52 of Schedule 1 commence on 1 January 1997.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

1 Section 3 (paragraph (b) of the definition of *qualified accountant*)

Omit “Australian Society of Accountants”, substitute “Australian Society of Certified Practising Accountants”.

2 Subsection 4(1)

Repeal the subsection, substitute:

- (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 tables:

Table A

Australian Catholic University
Charles Sturt University
Southern Cross University
Macquarie University
The University of New England
The University of New South Wales
The University of Newcastle
The University of Sydney
University of Technology, Sydney
University of Western Sydney
University of Wollongong
Deakin University
La Trobe University
Monash University
Royal Melbourne Institute of Technology
Swinburne University of Technology
The University of Melbourne
University of Ballarat
Victoria University of Technology
Central Queensland University

Schedule 1 Amendment of the Higher Education Funding Act 1988

Table A

Griffith University
James Cook University of North Queensland
Queensland University of Technology
The University of Queensland
University of Southern Queensland
Curtin University of Technology
Edith Cowan University
Murdoch University
The University of Western Australia
The Flinders University of South Australia
The University of Adelaide
University of South Australia
University of Tasmania
Batchelor College
Northern Territory University
Australian Maritime College
The Australian National University
University of Canberra

Table B

Avondale College
Marcus Oldham College

3 Paragraphs 17(h), (i) and (j)

Repeal the paragraphs, substitute:

- (h) in the case of the year 1996—\$3,803,406,000; and
- (i) in the case of the year 1997—\$3,855,623,000; and
- (j) in the case of the year 1998—\$3,860,016,000.

4 Paragraph 18(1)(f)

Repeal the paragraph, substitute:

- (f) the institution gives to the Minister, not later than 30 June next following that year, a financial statement in respect of that year, in an approved form, together with a report on the statement by a qualified auditor; and

5 Paragraph 18(2)(a)

Omit "of Farm Management".

6 Section 19

Repeal the section.

7 Paragraphs 20(3)(h), (i) and (j)

Repeal the paragraphs, substitute:

- (h) in the case of the year 1996—\$95,000,000; and
- (i) in the case of the year 1997—\$95,000,000; and
- (j) in the case of the year 1998—\$95,000,000.

8 Section 20A

Repeal the section, substitute:

20A Advances for operating purposes

- (1) There is payable to an institution, as financial assistance in relation to the expenditure of the institution for such operating purposes or limited operating purposes in a year as the Minister determines, such amount (the *advance*) as the Minister determines.
- (2) The total of the advances in a year must not exceed the amount set out in section 17 in respect of the following year.
- (3) If the Minister determines an advance for an institution in respect of a year:
 - (a) the amounts determined to be payable to the institution under section 15 or 16 in respect of the year next following the first-mentioned year are reduced by amounts that equal in total the amount of the advance; or
 - (b) the amounts determined to be payable to the institution under section 15 or 16 in respect of the 2 years or 3 years next following the first-mentioned year are respectively reduced by amounts that equal in total the amount of the advance.
- (4) Determinations under subsection (1) and reductions under subsection (3) must be in accordance with the guidelines issued under section 20B.

20B Guidelines for advances for operating purposes

The Minister may issue guidelines setting out criteria for the advance and recovery of amounts under section 20A.

9 Subsection 21(3)

Repeal the subsection, substitute:

- (3) If the Minister approves a proposal under subsection (1) in respect of a year, then, subject to section 23C:
- (a) the Minister must determine an amount as the estimated total expenditure on the proposal for the year; and
 - (b) the Minister must determine an amount of approved expenditure in relation to the proposal for the year; and
 - (c) the amount of approved expenditure on the proposal for the year must not be greater than the amount of estimated total expenditure on the proposal for the year.

10 Subsection 22A(3)

Repeal the subsection, substitute.

- (3) If the Minister approves a proposal under subsection (1) or (2) in respect of a year, then, subject to subsection (5):
- (a) the Minister must determine an amount as the estimated total expenditure on the proposal for the year; and
 - (b) the Minister must determine an amount of approved expenditure in relation to the proposal for the year; and
 - (c) the amount of approved expenditure on the proposal for the year must not be greater than the amount of estimated total expenditure on the proposal for the year.

11 Paragraph 22A(5)(d)

Repeal the paragraph, substitute:

- (d) for the year 1996—\$12,632,000;

12 Subsection 23(1)

Repeal the subsection, substitute:

- (1) The Minister may, subject to such conditions as the Minister determines, approve a proposal, whether by an institution or otherwise, for expenditure by an institution to which this section applies on:

- (a) a research program; or
 - (b) a program that supports:
 - (i) research training; or
 - (ii) the conduct of research programs;
- as a proposal deserving financial assistance under this section in respect of a year to which this Chapter applies.

13 Subsection 23(1A)

Omit “an institution, for purposes that will assist programs of research undertaken by institutions to which this section applies, as a proposal”, substitute:

an institution, on:

- (a) a research program; or
 - (b) a program that supports:
 - (i) research training; or
 - (ii) the conduct of research programs;
- to be undertaken by the body as a proposal

14 Subsection 23(2)

Repeal the subsection, substitute:

- (2) If the Minister approves a proposal under subsection (1) or (1A) in respect of a year, then, subject to section 23C:
 - (a) the Minister must determine an amount as the estimated total expenditure on the proposal for the year; and
 - (b) the Minister must determine an amount of approved expenditure in relation to the proposal for the year; and
 - (c) the amount of approved expenditure on the proposal for the year must not be greater than the amount of estimated total expenditure on the proposal for the year.

15 Subsection 23A(4)

Repeal the subsection, substitute:

- (4) If the Minister approves a proposal in respect of a year, then, subject to section 23C:
 - (a) the Minister must determine an amount as the estimated total expenditure on the proposal for the year; and
 - (b) the Minister must determine an amount of approved expenditure in relation to the proposal for the year; and

- (c) the amount of approved expenditure on the proposal for the year must not be greater than the amount of estimated total expenditure on the proposal for the year.

16 Paragraphs 23C(2)(b), (c), (d) and (e)

Repeal the paragraphs, substitute:

- (b) for the year 1995—\$432,147,000; and
- (c) for the year 1996—\$496,250,000; and
- (d) for the year 1997—\$477,793,000; and
- (e) for the year 1998—\$451,082,000.

17 Paragraphs 24(3)(h), (i) and (j)

Repeal the paragraphs, substitute:

- (h) in the case of the year 1996—\$4,738,000; and
- (i) in the case of the year 1997—\$4,738,000; and
- (j) in the case of the year 1998—\$4,738,000.

18 Paragraphs 27A(6)(c), (d) and (e)

Repeal the paragraphs, substitute:

- (c) for the year 1996—\$36,927,000; and
- (d) for the year 1997—\$36,927,000; and
- (e) for the year 1998—\$36,927,000.

19 Paragraph 34(4)(a)

Omit “of Farm Management”.

20 Subsection 99(1) (definition of *census date*)

Omit “semester” (wherever occurring), substitute “study period”.

21 Subsection 99(1) (definition of *OL semester debt*)

Repeal the definition, substitute:

OL study period debt has the meaning given by section 106K.

22 Subsection 99(1) (definition of *semester*)

Repeal the definition.

23 Subsection 99(2)

Omit “semester” (wherever occurring), substitute “study period”.

24 Section 101

Omit "semester" (first occurring), substitute "study period".

25 Paragraph 101(1)(a)

Repeal the paragraph, substitute:

- (a) as at the census date for the study period, the client is enrolled to undertake at least 2 units of study for the purposes of an approved course of study in the study period; and

26 Paragraph 101(1)(b)

Omit "semester", substitute "study period".

27 Subparagraph 101(1)(c)(ii)

Omit "at the time of enrolment", substitute, "14 days before the census day for the study period".

28 Transitional

Despite the amendments of section 101 of the *Higher Education Funding Act 1988* made by this Schedule, section 101 of that Act as in force immediately before 1 January 1997 continues to apply to a client:

- (a) who is enrolled to undertake an approved course in the study period that begins in December 1996; and
- (b) for whom, apart from the amendments made by this Schedule, that study period would be the first or second study period in a semester within the meaning of that Act as so in force.

29 Section 103

Repeal the section, substitute:

103 Standard study load

The standard study load of an eligible client of the Agency for a study period for which the client enrolls for the purposes of the course of study he or she is undertaking is the number of units of study that, together with the number of other units of study (if any) for which he or she was enrolled for the purposes of the course in previous study periods having census dates occurring in the same calendar year as the census date for the first-mentioned study period, equals 8.

30 Subsection 104(3)

Repeal the subsection, substitute:

- (3) The Minister must publish in the *Gazette*, before the beginning of December in each year, the amount that constitutes the basic charge in respect of a unit of study undertaken by an eligible client of the Agency in a study period beginning in December of that year or in March, June or September of the next year.

31 Subsection 105(2)

Omit “semester” (wherever occurring), substitute “study period”.

32 Subsection 106(1)

Omit “for the semester in which the study period is included”, substitute “for the study period”.

33 Subsection 106(2)

Omit “semester” (wherever occurring), substitute “study period”.

34 Subsection 106AA(1)

Omit “the Agency must notify the Minister in writing that the client does not appear to have a tax file number”, substitute “the Agency must not permit the client, as an eligible client, to continue to be enrolled in, or to undertake, the unit of study for the study period for which the client is enrolled”.

35 Section 106AB

Omit “Where the Agency notifies the Minister under section 106AA that a client does not appear to have a tax file number”, substitute “If the circumstances mentioned in paragraphs 106AA(1)(a) and (b) apply”.

36 Subsection 106B(1)

Omit “semester” (wherever occurring), substitute “study period”.

37 Subsection 106D(1)

Omit “semester” (first occurring), substitute “study period”.

38 Subsection 106D(1)

Omit “a study period included in the semester”, substitute “the study period”.

39 Section 106E

Omit “any information in its possession relating to clients undertaking units of study in a semester”, substitute “any statistical and other information relating to clients undertaking units of study in a study period”.

40 At the end of Part 5.3

Add:

106FA Annual statement

The Chief Executive Officer of the Agency must give to the Minister, on or before 31 December in each year, a statement:

- (a) as to whether the Agency has complied with the requirements of this Chapter in respect of the year ending on that 31 December; and
- (b) if the Agency has not complied with such a requirement in respect of that year, setting out particulars of the non-compliance.

41 Part 5.4

Repeal the Part.

42 Subsection 106H(1) (definition of *OL semester debt*)

Repeal the definition, substitute:

OL study period debt has the meaning given by section 106K.

43 Subsection 106H(1) (paragraph (b) of the definition of *semester debt*)

Repeal the paragraph, substitute:

- (b) an OL study period debt.

44 Section 106K

Omit “semester” (wherever occurring), substitute “study period”.

Note: The heading to section 106K is altered by omitting “semester” and substituting “study period”.

45 Subsection 106L(2)

Omit “semester” (wherever occurring), substitute “study period”.

Note: The heading to section 106L is altered by omitting “semester”.

46 Paragraph 106M(1)(a)

Omit “a semester debt”, substitute “an HEC semester debt or OL study period debt”.

47 Subsection 106N(1)

Repeal the subsection, substitute:

- (1) If a person incurred an HEC semester debt or debts, or an OL study period debt or debts, or both, before 1 June in a year (the *relevant date*) but after 1 June in the immediately preceding year, the person incurs on the relevant date an accumulated HEC debt to the Commonwealth of an amount equal to:
 - (a) that HEC semester debt or OL study period debt; or
 - (b) the total of those debts;less any amounts paid before the relevant date in reduction of that debt or those debts.

48 Paragraphs 106N(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) an HEC semester debt or debts, or an OL study period debt or debts, incurred before 1 June in the immediately preceding year (the *earlier date*); and
- (b) a debt or debts of that kind incurred after the earlier date;

49 Paragraph 106N(2)(d)

Omit “semester”.

50 Paragraph 106O(1)(b)

Omit “semester debt”, substitute “HEC semester debt or OL study period debt”.

51 Section 106S

Repeal the section.

52 Subparagraph 106Y(2)(e)(i)

Omit “semester debt”, substitute “HEC semester debt or OL study period debt”.

53 Paragraph 110(b)

After “16,”, insert “20A,”.

54 Paragraph 110(c)

After “section”, insert “20B,”.

*[Minister’s second reading speech made in—
House of Representatives on 26 June 1996
Senate on 12 September 1996]*