2016–2017

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HIGHER EDUCATION SUPPORT LEGISLATION AMENDMENT
(A MORE SUSTAINABLE, RESPONSIVE AND TRANSPARENT
HIGHER EDUCATION SYSTEM)
BILL 2017

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Education and Training,
Senator the Honourable Simon Birmingham)
The purpose of this Bill is to introduce reforms to the funding, provision and administration of higher education in Australia.

The Bill contains measures that will rebalance the costs of higher education between taxpayers and students, expand student choice and opportunity, increase quality and transparency, and improve the sustainability of the Higher Education Loan Program.

Schedule 1 of the Bill recalibrates the costs of higher education between taxpayers, higher education providers and students.

Maximum student contributions will rise by 1.8 per cent for four years from 2018, resulting in a total 7.5 per cent increase from 2021. The first increase will take effect from 1 January 2018 and will apply to all students including those who are currently enrolled.

To achieve the recalibration, Commonwealth contribution amounts will be similarly adjusted in each of 2018, 2019, 2020 and 2021 to reflect the increased student contribution amounts in those years.

An efficiency dividend of 2.5 per cent per annum will apply to grants made under the Commonwealth Grant Scheme (CGS) in 2018 and 2019. The efficiency dividend is a contribution from the revenue benefits of the demand driven funding system.

Medical student loading will be extended to include veterinary science and dentistry units of study from 2018 to improve the funding arrangements for these courses.

Schedule 2 of the Bill contains reforms to the CGS that will expand opportunities for students, increase student choice and introduce a performance component to CGS funding.

Enabling courses will now be allocated to providers on a cyclical basis through a three year competitive tender process to ensure their distribution reflects student need and provider quality. Enabling loading will be removed and higher education providers will be able to levy a fixed, low maximum student contribution amount. Eligible students will be able to borrow the full amount of their contribution under the Higher Education Loan Program (HELP).

The demand driven funding system will be expanded to include Commonwealth supported places (CSPs) in approved sub-bachelor courses (diplomas, advanced diplomas and associate degrees).
Non-research non-medical postgraduate CSPs will now be allocated directly to students, with the associated taxpayer funding and eligibility for a fee-free student loan. Students may use their awarded scholarship place at their chosen higher education provider. Student contribution amounts will be the same as for other Commonwealth supported students.

The Bill introduces performance-contingent funding under the CGS. From January 2018, a maximum of 7.5 per cent of a provider’s CGS funding will be contingent on that provider meeting certain performance requirements. In the first year this will include participation in data collection and reporting. In subsequent years measures of student attrition, completion and satisfaction will be added to performance metrics.

There will be a Commonwealth contribution amount payable for work experience in industry units, provided that the units meet specified criteria related to course relevance and provider involvement in the unit.

**Schedule 3** of the Bill makes changes to HELP eligibility and repayment arrangements. It replaces the current repayment threshold and repayment rates with new ones, including a new minimum repayment threshold and repayment rate plus additional repayment thresholds and rates. From 1 July 2019, repayment thresholds including the minimum repayment income will be indexed using the Consumer Price Index rather than Average Weekly Earnings.

Eligibility for student loans will be extended to most Australian permanent residents and most New Zealand citizens, while these students will no longer have access to Commonwealth subsidies. It preserves eligibility for the special cohort of New Zealand special category visa holders who arrived in Australia as children and have been long term residents. It also enables Australian permanent residents and New Zealand citizens to remain in a CSP for the remainder of their course if they have already commenced a course of study on that basis. It retains eligibility for a CSP and a HELP loan for Australian permanent humanitarian visa holders on an ongoing basis. It preserves eligibility for the remainder of their course for Australian permanent humanitarian visa holders and for the cohort of long-term New Zealand Special Category Visa holders who become non-humanitarian permanent visa holders if they have already commenced a course of study.

**Schedule 4** of the Bill makes changes to how other grants in the Higher Education Support Act 2003 operate to give effect to the Higher Education Participation and Partnerships Program (HEPPP) reforms.

The HEPPP will be restructured and its funding secured in legislation. Annual funding amounts and a new student loading for students from low socioeconomic backgrounds will be guaranteed into the future and there will be increased flexibility for providers to work with.

**Schedule 5** of the Bill makes a minor amendment to the definition of higher education award to more precisely reflect the intention of the legislation by clarifying that vocational awards are not higher education awards.
It also updates the names of two higher education providers (University of Technology Sydney and University of Divinity) so that the Act reflects their correct names.
FINANCIAL IMPACT STATEMENT

2017-18 Budget Higher Education reform package

This Bill implements the Government’s revised higher education package announced in May 2017.

As part of the revised higher education reform package, unlegislated measures from the previous reform package were reversed at the cost of $1.8 billion in fiscal balance terms over the forward estimates (from 2016-17 to 2020-21).

The measures announced by the Government in ‘The Higher Education Reform Package: May 2017’ deliver savings of $3.8 billion in fiscal balance terms over the forward estimates (from 2016-17 to 2020-21).

In underlying cash balance terms, the reversal of all unlegislated measures from the 2014-15 Budget and the 2014-15 Mid-Year Economic and Fiscal Outlook comes at a cost of around $3.5 billion over 2016-17 to 2020-21. The overall financial impact of this Bill is a saving to the Budget of $2.8 billion in underlying cash terms over 2017-18 to 2020-21.
The Office of Best Practice Regulation (OBPR) considered short form Regulation Impact Statements that were prepared for the measures in the 2017-18 Budget higher education reforms and agreed that the measures in the Bill have no or minor regulatory impact (OBPR ref no 21960).
STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

HIGHER EDUCATION SUPPORT LEGISLATION AMENDMENT (A MORE SUSTAINABLE, RESPONSIVE AND TRANSPARENT HIGHER EDUCATION SYSTEM) BILL 2017

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Bill

The Higher Education Support Act 2003 (HESA) is the main piece of legislation providing funding for higher education in Australia, providing for Government subsidies and tuition support for students.

The 2017-18 Budget provides for significant reforms in higher education that will enhance sustainability in the higher education sector, improve the responsiveness of providers, and create greater transparency around funding and admissions practices. The key components are:

- **Ensuring funding sustainability for the higher education sector**: The current Commonwealth and student contribution amounts will be recalibrated to increase the share of funding contributed by students. The current Higher Education Loan Program (HELP) repayment thresholds and rates will be restructured, and indexation to these thresholds will be applied at the Consumer Price Index (CPI).

- **Improving responsiveness of higher education providers to student and market needs**: Demand driven funding will be introduced for sub-bachelor courses that meet certain requirements and Government subsidies for non-research postgraduate places will be restructured to enhance student choice. Commonwealth Grant Scheme (CGS) subsidies will be extended to work experience in industry (WEI) units of study where the provider is engaged in delivery and assessment. The Higher Education Participation and Partnerships Program (HEPPP) will be reformed to deliver a loading for each eligible low socio-economic status (SES) student and a National Priorities Pool.

- **Creating greater transparency in the higher education sector**: Performance funding will be introduced for universities, contingent on participation in transparency measures to clarify the admissions process and provide expenditure data, among other key performance indicators to be introduced at a later stage.

There are also a series of minor and technical amendments that do not have human rights implications contained in Schedule 5.
Analysis of human rights implications

The Bill has implications for the following human rights:

- the right to an adequate standard of living – Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the right to education – Article 13 of the ICESCR
- the right to privacy and reputation – Article 17 of the International Covenant on Civil and Political Rights (ICCPR)
- the right to equality and non-discrimination – Article 26 of the ICCPR

Right to an adequate standard of living

This Bill engages with Article 11(1) of the ICESCR which recognises “the right of everyone to an adequate standard of living…including adequate food, clothing and housing, and to the continuous improvement of living conditions”.

There are elements within the reform package that may be perceived as relevant to Article 11.

The recalibration of student contribution amounts for Commonwealth supported places in Schedule 1 results in an increased cost for students. However, this change will not necessarily result in increased costs and lower living standards for students while they study, as they will continue to be able to defer all tuition costs through the HELP scheme, which retains its income contingent nature to protect low income earners.

Schedule 3 requires individuals with HELP debts to commence repayments at a lower income level than previously. The proposed minimum repayment threshold is still above the minimum wage ($35,000 for full time workers) and relevant welfare thresholds. The changes to the indexation arrangements contained in this schedule will ensure that the thresholds are adjusted annually to account for inflation. Additionally, at the new minimum repayment threshold individuals will only pay one per cent of their annual taxable income, minimising any impacts on individuals’ standards of living.

Due to their ability to access higher education on the basis of their academic potential rather than ability to pay for study upfront, individuals will have a basis for increased earnings and therefore a higher standard of living.

To the degree that this measure may limit the right to an adequate standard of living, these measures are reasonable, necessary, and proportionate to the policy objective of ensuring access to tertiary education for those who cannot afford to pay their tuition upfront.

Right to education

This Bill engages with Article 13(2)(c) of the ICESCR which states that “higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education”.
Recalibration of Commonwealth contribution and student contribution amounts in Schedule 1 will result in decreased Government funding and an increase in student contributions. This measure is counter to the goal of progressive introduction of free education however the savings measure is proportionate to the policy objective of ensuring long-term financial sustainability necessary to support opportunities in higher education. It also sits within student loan arrangements that ensure no domestic student need pay upfront fees for access to higher education. The savings as a result of this measure will be an important contribution towards Budget repair.

Access to higher education will be maintained through the continued availability of HELP loans. As individuals will commence repayment sooner, it may create the belief that costs are increasing for students, thereby reducing access to higher education. By lowering the repayment threshold, and altering the indexation of the threshold to grow in line with the CPI, this measure makes the overall scheme more affordable for Government in the long-term, and does not result in an overall increase in costs for students.

Some of the measures in Schedule 2 may be seen as limiting the right to education by introducing greater costs for students in enabling courses. The measure replaces the current enabling loading amount with an equivalent maximum student contribution rate. This should not result in an upfront cost barrier to education, as the contribution is deferrable through a HELP loan. However, the increase in costs to students is necessary and proportionate to the objective of ensuring Government funding for the higher education sector is sustainable.

Several measures will expand access to education, by making the higher education sector more responsive to market needs, encouraging retention of students and better course delivery methods, or providing additional support for low SES or Indigenous Australians while they enrol and study.

Schedule 2 also contains more beneficial implications for the right to education. It introduces a student-focused model for postgraduate coursework places, to ensure that the right to access higher education can be exercised at the institutions at which students wish to study.

Schedule 2 also contains measures making demand driven funding available for approved sub-bachelor level courses, thereby expanding access to education by providing greater opportunities for students who may not be academically prepared to enter, or may not need to pursue, a bachelor level course of study. By enhancing the ability of universities to deliver more appropriate pathways to higher degrees, the right to higher education is being expanded.

Tying funding to performance measures, as under other measures in Schedule 2, will also ensure that access to higher education will be expanded. The performance-contingent funding through the CGS will ensure universities have incentives to improve transparency of admissions, simplifying the system for first in family entrants to higher education. Access to higher education is not limited to the ability to enrol in a course, but also to complete and gain the benefits of the course of study. By making some funds under the CGS contingent upon performance, the right to higher education is being expanded.
A final measure contained in Schedule 2 also has implications for the right to education. This measure provides for CGS funding for work experience in industry units of study where the provider is engaged in the delivery and assessment of these units. This will encourage innovation in course delivery, and greater engagement with industry for both providers and students. This will enhance the right to education by creating higher quality courses for students and increasing the funding for education available to providers, potentially leading to a reduction in cost for students.

The measures in Schedule 3 also expand access to tertiary education for New Zealand citizens and permanent residents of Australia by providing access to HELP loans. Currently these students must pay for their education upfront, which may be a significant limitation on their right to access higher education. This measure removes Government subsidies. While this may increase the cost of higher education for this group, the measure provides them with the ability to defer payment via a HELP loan. This expands access to tertiary education for those New Zealand citizens and permanent residents unable to afford upfront payment.

The measures in Schedule 4 maintain the right to higher education, particularly for low SES students. HEPPP will be reformed to deliver two components. The Access and Participation Fund provides a loading for each eligible low-SES student, allowing a provider to dedicate more resources towards retaining that student and improving the quality of their education. This should allow greater access to education, including the attainment of a qualification, by low SES students. The second component is a National Priorities Pool that will also expand access to higher education by encouraging outreach, and effective collaboration between universities to improve low SES access.

**Right to privacy and reputation**

This Bill engages with Article 17(1) and 17(2) of the ICCPR which states that “no one shall be subject to arbitrary or unlawful interference with his privacy…nor to unlawful attacks on his honour and reputation” and that “everyone has the right to the protection of the law against such interference or attacks”.

Implementing a scholarship based model for Commonwealth supported postgraduate places, as provided for in Schedule 2, will enhance student choice. However, in order to assess applications for these scholarship places, students will need to apply to a third party. Requiring applicants to submit personal information to a third party could be considered an interference with their privacy.

However, any third party contracted by the Department of Education and Training for the purposes of administering the scholarship assessment process would be bound by the privacy provisions in HESA. Under HESA, the use and disclosure of personal information is strictly limited, and contractors would be bound by these provisions when undertaking work for the purposes of administering HESA.

Any perceived interference with a person’s right to privacy is proportionate to the objective of enhancing student choice, and strictly limited.
Right to equality and non-discrimination

This Bill engages with Article 26 of the ICCPR which states that “the law shall prohibit any discrimination and guarantee to all persons equal protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

The measure contained in Schedule 3, the introduction of new HELP repayment thresholds, may be seen as limiting the right to non-discrimination due to disproportionate impacts on women and other low income groups.

The Government currently carries a higher deferral subsidy from demographic groups that tend to have lower incomes. This includes women, individuals in part-time work or individuals in low paid professions. As a result, many of these individuals, including many women, will be making repayments for the first time as a result of the introduction of the new, lower thresholds. Addressing this income inequality, however, is not the role of the higher education loans system.

This measure also introduces additional repayment thresholds for high income earners, who will be required to repay their HELP debts at higher rates. As men are disproportionately represented among high income earners, this aspect of the measure is more likely to affect men.

The new minimum repayment thresholds remain significantly above the minimum wage, ensuring that even with the introduction of lower thresholds, individuals should not fall below a liveable income as a result of their repayment obligations. However, measures have been taken to ensure that the impacts of these changes on lower income earners are minimal. The lower rate of repayment ensures that the requirements on individuals facing repayment obligations for the first time are minimal.

Additionally, women will not face any limitations on their right to access a HELP loan, and therefore higher education courses, as a result of the changed thresholds.

The introduction of these new repayment thresholds is necessary to ensure the sustainability of HELP. The introduction of these new thresholds will reduce the time it will take for individuals to repay their HELP debts, thereby reducing the deferral costs of providing HELP loans to students at no real rate of interest. The objective of ensuring the sustainability of the HELP scheme is reasonable, and the measure is proportionate and necessary.

The measure in Schedule 3 also interacts with the right to non-discrimination. The Bill provides for permanent residents and all New Zealand citizens to access HELP loans. Non-citizens of Australia are currently required to pay their higher education costs upfront. Access to HELP loans for these groups will remove the barrier to education posed by upfront tuition costs, and removes discrimination based on national origin or birth.

Conclusion

The Bill is compatible with human rights because, to the extent that it may limit human rights, the limitations are reasonable, necessary and proportionate.
NOTES ON CLAUSES

Clause 1 - Short title


Clause 2 - Commencement

Subclause 2(1) inserts a three column table setting out commencement information for various provisions in the Bill. Each provision of the Bill specified in column 1 of the table commences (or is taken to have commenced) in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.

The table has the effect of providing for the following commencement times:

Matters to commence on the day the Act receives the Royal Assent:
  • sections 1 to 3 and anything else in the Act not otherwise covered by the table; Schedule 1; Parts 1 and 3 of Schedule 2; Parts 1 and 3 of Schedule 3; and Schedule 5.

Matters to commence on 1 January 2018:
  • Schedule 4.

Matters to commence on a day or day to be fixed by proclamation – but if any provisions do not commence within 12 months from when this Bill, once enacted, receives the Royal Assent, to commence on the day after the end of that 12 month period:
  • Part 2 of Schedule 2.

Matters to commence immediately after the commencement of Schedule 1 to the Budget Savings (Omnibus) Act 2016:
  • Part 2 of Schedule 3.

Clause 3 - Schedule(s)

Subclause 3(1) provides that any legislation that is specified in a schedule is amended or repealed as set out in the applicable items in the schedule and that any other item in a schedule has effect according to its terms.
## LIST OF ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AQF</td>
<td>Australian Qualifications Framework</td>
</tr>
<tr>
<td>CGS</td>
<td>Commonwealth Grant Scheme</td>
</tr>
<tr>
<td>CSP</td>
<td>Commonwealth supported places</td>
</tr>
<tr>
<td>HELP</td>
<td>Higher Education Loan Program</td>
</tr>
<tr>
<td>HESA</td>
<td><em>Higher Education Support Act 2003</em></td>
</tr>
<tr>
<td>HEPPP</td>
<td>Higher Education Participation and Partnerships Program</td>
</tr>
<tr>
<td>SES</td>
<td>socio-economic status</td>
</tr>
<tr>
<td>Omnibus Act</td>
<td><em>Budget Savings (Omnibus) Act 2016</em></td>
</tr>
<tr>
<td>TEQSA</td>
<td>Tertiary Education Quality and Standards Agency</td>
</tr>
<tr>
<td>TEQSA Act</td>
<td><em>Tertiary Education Quality and Standards Agency Act 2011</em></td>
</tr>
<tr>
<td>VET</td>
<td>Vocational education and training</td>
</tr>
<tr>
<td>VSL Act</td>
<td><em>VET Student Loans Act 2016</em></td>
</tr>
<tr>
<td>WEI</td>
<td>Work experience in industry</td>
</tr>
</tbody>
</table>
Schedule 1  Costs of higher education

Summary

Schedule 1 rebalances the costs of higher education between taxpayers and students by adjusting the relative shares of Commonwealth contribution amounts and student contribution amounts for courses.

From 1 January 2018, a 2.5 per cent efficiency dividend will be applied to Commonwealth contribution amounts provided through the Commonwealth Grant Scheme (CGS) in each of 2018 and 2019.

Student contribution amounts for Commonwealth supported students will increase by 1.8 per cent per year from 2018 to 2021 or 7.5 per cent in total with an offsetting reduction in taxpayer funding.

The new student contribution amounts will apply to all units of study with census dates on or after 1 January 2018, including for units of study undertaken by pre-2010 teaching and nursing students which were grandfathered under the Higher Education Support Amendment (2009 Budget Measures) Act 2009.

Medical student loading of $1394 per EFTSL in 2017 will be extended to include veterinary science and dentistry units of study from 2018 to improve the funding arrangements for these courses.

Efficiency dividend on the Commonwealth Grant Scheme

The Commonwealth contribution amounts paid to universities through the CGS for Commonwealth supported places are set out in section 33-10 the Act. These figures are indexed annually. The Government funds providers on the basis of eight funding clusters which are organised according to discipline.

Universities have benefited significantly from the introduction of the demand driven system. Between 2009 and 2016, CGS expenditure grew by 71 per cent, from $4.1 billion to $7.1 billion. Further, over the last five years university revenues have increased faster than costs.

Independent analysis by Deloitte Access Economics shows that the average costs per equivalent full-time student have increased by 9.5 per cent between 2010 and 2015. Over the same period, funding has increased by around 15 per cent.

This indicates that universities have benefited from the economies of scale brought about by enrolment growth over the last five years and can return an efficiency dividend to assist with Budget repair. As such the Government will impose an efficiency dividend of 2.5 per cent in each of 2018 and 2019 on Commonwealth contribution amounts under the CGS.
**Increased student share of higher education funding**

The Government specifies the maximum student contribution amount that a higher education provider can charge a Commonwealth supported student for a unit of study in a particular funding cluster in section 93-10 of HESA.

Since 1989, student contribution amounts have only changed across the board three times (with the exception of annual indexation), and these rates have not had any substantive increases in the past 10 years.

The Government will lift the maximum student contributions that universities can charge by 1.8 per cent per year for four years from 2018. This equates to a total increase of 7.5 per cent and will result in students contributing, on average, around 46 per cent of the cost of their course.

**Medical, dental and veterinary science loading**

Analysis by Deloitte Access Economics on the cost of delivery showed that veterinary science and dentistry were significantly underfunded with costs as much as double the actual funding received in some universities. While some universities would continue to spend more on these disciplines than they receive through base funding, expanding medical loading to veterinary science and dentistry will alleviate the severity of this underfunding, while still encouraging institutions to look for efficiencies in their delivery of these courses.

**Detailed explanation**

**Part 1 – Amendments**

**Higher Education Support Act 2003**

**Item 1 – Paragraph 30-25(3)(c)**

Section 30-25 sets out the requirements in regard to the three year funding agreements the Minister may enter into with higher education providers. Subsection 30-25(3) lists the matters that the agreements may specify. Paragraph 30-25(3)(c) provides that the agreement may specify the maximum number of Commonwealth supported places provided by the provider which can have a medical student loading in the grant years.

This item amends paragraphs 30-25(3)(c) by removing reference to ‘medical student loading’ and substituting ‘medical, dental and veterinary science loading’.

This reflects the extension of the existing medical loading to veterinary science and dentistry to provide additional funding for these disciplines.
**Item 2 – Subparagraph 33-1(1)(b)(ii)**

Section 33-1 provides that a grant payable to a higher education provider for a year is the basic grant amount worked out under subdivision 33-B plus any regional, medical, enabling and transitional loading and any performance funding payable to the provider for that year.

This item amends subparagraph 33-1(1)(b)(ii) by removing reference to ‘medical student loading’ and substituting 'medical, dental and veterinary science loading'.

This reflects the extension of the existing medical loading to veterinary science and dentistry to provide additional funding for these disciplines.

**Item 3 – Section 33-10**

Section 33-10 contains a table setting out the **Commonwealth contribution amount** for a place in eight funding clusters.

This item repeals and substitutes section 33-10. A new table sets out Commonwealth contribution amounts for a place in the eight funding clusters.

The table is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Funding cluster</th>
<th>Commonwealth contribution amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Law, Accounting, Administration, Economics, Commerce</td>
<td>$959</td>
</tr>
<tr>
<td>2</td>
<td>Humanities</td>
<td>$5,074</td>
</tr>
<tr>
<td>3</td>
<td>Mathematics, Statistics, Behavioural Science, Social Studies, Computing, Built Environment, Other Health</td>
<td>$9,343</td>
</tr>
<tr>
<td>4</td>
<td>Education</td>
<td>$9,896</td>
</tr>
<tr>
<td>5</td>
<td>Clinical Psychology, Allied Health, Foreign Languages, Visual and Performing Arts</td>
<td>$11,752</td>
</tr>
<tr>
<td>6</td>
<td>Nursing</td>
<td>$13,269</td>
</tr>
<tr>
<td>7</td>
<td>Engineering, Science, Surveying</td>
<td>$16,795</td>
</tr>
<tr>
<td>8</td>
<td>Dentistry, Medicine, Veterinary Science, Agriculture</td>
<td>$21,452</td>
</tr>
</tbody>
</table>

Note 1 explains that the Commonwealth contribution amounts for 2018, 2019 and 2020 are as set out in item 12 of the **Higher Education Support Legislation Amendment (A More Sustainable, Responsive and Transparent Higher Education System) Act 2017** (once enacted).
Note 2 explains that the Commonwealth contribution amount for 2021 and later years is the amount as specified in the table and indexed under Part 5-6.

The figures in the new table implement an efficiency dividend of 2.5 per cent in 2018 and 2019.

**Item 4 – Subsection 93-10(1)**

Subsection 93-10(1) contains a table specifying the maximum student contribution that a higher education provider can charge a Commonwealth supported student for a unit of study in a particular funding cluster.

This item repeals and substitutes subsection 93-10(1). New subsection 93-10(1) provides that the maximum student contribution amount for a place (which is defined in the Dictionary at Schedule 1 as carrying the meaning given by subsection 93-10(1)) for a unit of study (excluding units in enabling courses) for 2018 is as per the following table.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1 For a place in a unit in this funding cluster:</th>
<th>Column 2 The maximum student contribution amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Law, Accounting, Administration, Economics, Commerce</td>
<td>$10,951.</td>
</tr>
<tr>
<td>2</td>
<td>Humanities</td>
<td>$6,561.</td>
</tr>
<tr>
<td>3</td>
<td>Mathematics, Statistics, Behavioural Science, Social Studies, Computing, Built Environment, Other Health</td>
<td>(a) for a place in a unit in Mathematics, Statistics, Computing, Built Environment or Other Health—$9,353; or (b) for a place in a unit in Behavioural Science or Social Studies—$6,561.</td>
</tr>
<tr>
<td>4</td>
<td>Education</td>
<td>$6,561.</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>5</td>
<td>Clinical Psychology, Allied Health, Foreign Languages, Visual and Performing Arts</td>
<td>(a) for a place in a unit in Clinical Psychology, Foreign Languages or Visual and Performing Arts—$6,561; or (b) for a place in a unit in Allied Health—$9,353.</td>
</tr>
<tr>
<td>6</td>
<td>Nursing</td>
<td>$6,561.</td>
</tr>
<tr>
<td>7</td>
<td>Engineering, Science, Surveying</td>
<td>$9,353.</td>
</tr>
<tr>
<td>8</td>
<td>Dentistry, Medicine, Veterinary Science, Agriculture</td>
<td>(a) for a place in a unit in Dentistry, Medicine or Veterinary Science—$10,951; or (b) for a place in a unit in Agriculture—$9,353.</td>
</tr>
</tbody>
</table>

Item 13 of Schedule 2 repeals and substitutes the definition of *enabling course* in the Dictionary at Schedule 1. The new definition defines *enabling course* as a course of instruction that meets all of the following requirements:

- it is intended to only develop the skills and knowledge required to gain entry into, or to succeed in, an initial undergraduate course of study
- it is not a secondary school qualification
- it is not a course that the Minister, by legislative instrument, has determined is not an enabling course.

A note draws attention to the Commonwealth Grant Scheme Guidelines (made for the purposes of section 33-35) which deal with funding clusters and whether particular units fall within particular funding clusters.

To assist in Budget repair and to improve the fairness and sustainability of higher education, the share of funding contributed by students is being increased by adjusting the maximum student contribution amounts for places in the table at section 93–10.
Item 5 – At the end of section 93-10

This item adds new subsections 93-10(3) to (6).

New subsection 93-10(3) provides that the maximum student contribution amount for a place in a unit of study that forms part of an enabling course for the 2018 year is $3,271.

This will enable higher education providers to charge student contributions for enabling courses (from 1 January 2018) meaning that Commonwealth supported students in enabling courses will need to contribute to their course costs just as other Commonwealth supported students are required to do. See also item 7 of Part 1 of Schedule 2 which repeals subsection 93-5(3) that states a student contribution for a unit of study is nil if it is part of an enabling course.

New subsection 93-10(4) sets out how to calculate the maximum student contribution amount for a place in a unit of study (except units of study in enabling courses) for the 2019, 2020 and 2021 years. It is to be worked out by taking the relevant maximum student contribution amount (see subsection 93-10(6)) for the unit for the previous year as indexed under Part 5-6 and then multiplying that figure by 1.01824.

This gradually adjusts the maximum student contribution amounts for places by 7.5 per cent over 4 years.

New subsection 93-10(5) provides that the maximum student contribution amount for a place in a unit of study is to be the relevant maximum student contribution amount (see subsection 93-10(6)) for the previous year as indexed under Part 5-6. This applies to units of study that are part of an enabling course for 2019 and later years and, for other units of study (i.e. those that do not form part of an enabling course) for 2022 and later years.

New subsection 93-10(6) provides that the maximum student contribution amount for a place in a unit of study is as follows:

- either the maximum student contribution amount for a place for the year in relation to the funding cluster for the unit; or
- if the unit is part of an enabling course – then it is the maximum student contribution amount for a place for the year for the enabling course.

Item 6 – Subsection 198-5(1) (table item 3)

The table at subsection 198-5(1) sets out those amounts under the Act that are to be indexed. Table item 3 currently provides that the maximum student contribution amounts for places (section 93-10) are to be indexed.

This item repeals and substitutes table item 3. The new table item 3 provides that the relevant maximum student contribution amounts for places are to be indexed (subsections 93-10(4) and (5)).
Item 7 – Subsection 198-5(2)

This item makes a minor change to the wording of subsection 198-5(2) by replacing the words ‘the section’ with ‘the provision’.

Item 8 – Subclause 1(1) of Schedule 1 (definition of Commonwealth contribution amount)

This item repeals and substitutes the definition of Commonwealth contribution amount in the Dictionary at Schedule 1. The current definition provides that Commonwealth contribution amount is that set out in section 33-10. The new definition is as follows:

- for the 2018, 2019 and 2020 years it is the amount as specified in the table in subitem 12(2) of this Schedule
- for 2021 and later years it is an amount as specified in section 33-10.

Item 9 – Subclause 1(1) of Schedule 1 (definition of maximum student contribution amount for a place)

This item amends the definition of maximum student contribution amount for a place in the Dictionary at Schedule 1. Currently the definition provides that the term has the meaning given by subsection 93-10(1). The new definition broadens the term so that maximum student contribution amount for a place carries the meaning given by the whole of section 93-10 (i.e. so that it also encompasses the new subsections added by item 5 of this Schedule).

Item 10 - Subclause 1(1) of Schedule 1

This item inserts a definition of relevant maximum student contribution amount for a place in the Dictionary at Schedule 1 – to carry the meaning given by subsection 93-10(6) (see item 5 of this Schedule).
Part 2 – Application and transitional provisions

Item 11 – Medical, dental and veterinary science loading

This item provides that the amendments made by Part 1 of this Schedule to sections 30-25 and 33-1 (see items 1 and 2) apply to grants payable in relation to 2018 and later years and also in relation to funding agreements made in relation to 2018 and later years.

Item 12 – Commonwealth contribution amounts

Subitem (1) provides that the amendments made by this Schedule to section 33-10 (see item 3) apply to units of study that have a census date which is on or after 1 January 2021 (whether or not the unit is part of a course that commenced before or after 1 January 2021).

Subitem (2) provides that the Commonwealth contribution amount for a place in a funding cluster for 2018, 2019 and 2020 is as per the following table:

<table>
<thead>
<tr>
<th>Commonwealth contribution amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Item</strong></td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td>8</td>
</tr>
</tbody>
</table>

Subitem (3) provides that the Commonwealth contribution amounts as set out in this item for a place in a funding cluster for the 2019 and 2020 years are to be indexed under Part 5-6 of HESA as if those Commonwealth contribution amounts were referred to in the table in section 198-5 (amounts that are to be indexed).

Note 1 clarifies that the Commonwealth contribution amounts specified in subitem (2) of the table for the 2018 year are not indexed.

Note 2 explains that the amount for 2020 is indexed under Part 5-6 in 2019 and 2020.

Subitem (4) provides that, despite section 198-5, Part 5-6 of HESA does not apply in relation to section 33-10 (as inserted by item 3 of this Schedule) for the 2018 calendar year. A note explains that the amounts specified in the table in section 33-10 are indexed in 2019 and later calendar years.
Item 13 - Maximum student contribution amounts for places

Subitem (1) provides that the amendments made by this Schedule to section 93-10 (see items 4 and 5) apply to units of study that have a census date which is on or after 1 January 2018 (whether or not the unit is part of a course that commenced before or after 1 January 2018).

Subitem (2) provides that the amendments made by this Schedule to section 93-10 (see items 4 and 5) apply despite item 3 of Schedule 5 to the Higher Education Support Amendment (2009 Budget Measures) Act 2009 – which was a savings provision with respect to maximum student contribution amounts for old funding clusters.

Item 14 – Indexation

This item provides that the amendments made to section 198-5 by this Schedule (items 6 and 7) apply in relation to the 2019 calendar year and to later years.
Schedule 2 Commonwealth Grant Scheme

Summary

Schedule 2 expands the demand driven funding system to include approved sub-bachelor (diploma, advanced diploma, and associate degree) courses at public universities from 1 January 2018.

From 1 January 2018, Commonwealth subsidies will be expanded to work experience in industry units that are credited towards a Commonwealth supported qualification.

Students undertaking an enabling course will be asked to contribute to the cost of their course by paying a student contribution amount for any units of study with census dates on or after 1 January 2018. In addition, the Government will allocate a fixed number of enabling places on a cyclical basis through a three year competitive tender process from 1 January 2019.

From 1 January 2019, Commonwealth supported postgraduate places will be distributed via a ‘student-centred’ model, allowing students to use the places at the institution at which the student wishes to study.

This schedule introduces a performance-contingent element to the CGS worth up to 7.5 per cent of total CGS cluster funding from 1 January 2018.

New arrangements for sub-bachelor courses

Currently sub-bachelor courses are designated courses for the purposes of the Act. This means that the Minister decides how many places to allocate to each higher education provider for these courses. Place allocations are listed in a provider’s funding agreement by funding cluster.

In 2016, universities only drew down funding for 19,046 Commonwealth supported places (CSP), even though universities were allocated 21,795 places. This is inefficient because some universities are over-enrolled and some are under-enrolled.

Expanding the demand driven funding system to approved sub-bachelor courses from 1 January 2018 will provide better support for under prepared students which should lead to improved retention and completion rates.

New arrangements for enabling courses

Currently, students undertaking enabling courses cannot be required to pay a student contribution amount to their higher education institution, despite the benefits they obtain from these courses. Institutions receive a loading from the Government in lieu of the student contribution amount.
Given Australian taxpayers are asked to commit to funding for enabling students, it is not unreasonable that enabling students are also asked to make a financial contribution. Enabling students who make a contribution to the cost of their course are also more likely to continue their study. The amount of the contribution will be fixed at a modest rate of $3,271 for a full time study load in 2018. Students in enabling courses will be able to borrow their contribution amount through the Higher Education Loan Program and will continue to face no up-front fees.

From 1 January 2019, enabling places will be allocated on a cyclical basis through a three year competitive tender process.

The process will be designed to identify those higher education providers, universities or non-university providers, which achieve high standards of academic preparation and deliver high quality student outcomes, for example, measured by student completion rates or student success in further study.

**Scholarship system for postgraduate coursework places**

Like sub-bachelor courses, postgraduate courses are currently designated courses for the purposes of the Act and the Minister decides how many CSPs to allocate to each provider.

In the past, the allocation of postgraduate places has been piecemeal with different criteria applying at different times. This has resulted in uneven access to CSPs for particular courses across the sector.

It is important that support continue for the delivery of postgraduate qualifications where these are necessary for professional entry, to support rapid retraining in areas of workforce shortage or meet other national priorities. However, it is not in the interests of students or the public to see an unjustifiable increase in initial entry requirements, because it increases forgone income and requires taxpayers to fund longer periods of study.

In line with feedback received in response to the Government’s policy options paper, *Driving Innovation, Fairness and Excellence in Australian Higher Education*, the Government has decided to introduce a system for allocating Commonwealth supported postgraduate places directly to students for use at the university of their choice.

The creation of a student-centred approach with a clearer set of priorities will enable the Government to focus places where they are needed. This reform will provide a mechanism to target national priorities through the prioritisation of scholarship applicants.

**Expansion of support for work experience in industry units**

WEI units are currently ineligible for CGS funding under the *Higher Education Support Act 2003* although they are a feature in many higher education courses. Some students can be charged a student contribution amount by their provider if the provider is engaged in the delivery and assessment of the placement.
Providing work-integrated learning opportunities for students has significant benefits for the job readiness of graduates, but there is currently little incentive for institutions to offer these opportunities. This reform will remove the disincentive that currently exists for institutions to offer degrees that include such work experience components. Providing funding to support WEI units will ensure that students are better supported to access high quality educational opportunities that have strong links with industry.

Commonwealth contributions will be provided for WEI units that are credited towards a Commonwealth supported qualification up to one-sixth of a student’s total load. For example, if a student’s total load comprises 24 units, a maximum of four units could be counted as WEI units.

**Performance contingent funding for universities**

The Government will make 7.5 per cent of a university’s CGS cluster funding contingent on the university meeting performance requirements.

This offers opportunities to encourage universities to not only participate in activities, such as the transparency and accountability of teaching and research costs project, but also to improve the quality of the education they deliver. The final performance assessment and distribution mechanism will be developed with the sector in 2017.

In 2018, universities will be required to participate in the reform of admissions information and cost of teaching and research transparency initiatives outlined in further detail in following sections. Ensuring prospective students are able to easily access transparent information about university entry requirements is essential to ensuring they can make an informed decision about their higher education.

From 2019, the funding will be additionally linked to institutional performance metrics, according to a formula developed in consultation with the sector in 2017-18. Any unused funds will be redistributed among the remaining recipients, meaning funding to the sector will not be reduced.
Detailed explanation

Part 1 – Enabling and sub-bachelor courses and work experience in industry

*Higher Education Support Act 2003*

**Item 1 – Paragraphs 30-25(3)(ca) and (da)**

Section 30-25 sets out the requirements in regard to the three year funding agreements the Minister may enter into with higher education providers. Subsection 30-25(3) lists the matters that the agreements may specify.

This item repeals paragraphs 30-25(3)(ca) and (da) to remove references to the funding agreements specifying the following:

- the maximum number of Commonwealth supported places provided by the provider which can have an enabling loading in the grant years
- the maximum amount of enabling loading that will be payable to the provider, under the Commonwealth Grant Scheme Guidelines, in the grant years.

The Government is removing enabling loading provided through the Commonwealth Grant Scheme and allowing higher education provider to charge students a student contribution amount.

**Item 2 – Subparagraph 33-1(1)(b)(iii)**

Section 33-1 provides that a grant payable to a higher education provider for a year is the basic grant amount worked out under subdivision 33-B plus any regional loading, medical student loading, enabling loading and transitional loading and any performance funding payable to the provider for that year.

This item repeals subparagraph 33-1(1)(b)(iii) thereby removing enabling loading from the matters to be added to the basic grant amount.

**Item 3 – Subsection 33-30(1) (method statement, step 1)**

Subsection 33-30(1) contains a method statement explaining how to work out the number of Commonwealth supported places that a higher education provider has provided during a year. For the purposes of the method statement, this is calculated by taking each unit of study (other than a unit of study that consists wholly of work experience in industry) that the provider provided that had its census date during the year and multiplying that by the EFTSL value of the unit and by the number of persons enrolled in the unit as a Commonwealth supported student.
This item amends the method statement by omitting reference to “a unit of study that wholly consists of work experience in industry” and substituting “any unit that is an “ineligible work experience unit for a student”.

**Item 4 – After subsection 36-10(4)**

Section 36-10 deals with advice on whether a person is a Commonwealth supported student.

This item inserts a new subsection 36-10(4A) with a heading ‘Persons enrolled in approved sub bachelor courses who have previously obtained certain higher education awards’. New subsection 36-10(4A) provides that a higher education provider must not advise a person they are a Commonwealth supported student in relation to a unit of study in an approved sub-bachelor course if they have previously obtained a higher education award (unless the award was obtained by completing an enabling course).

**Items 5 and 6 – Section 36-15**

Section 36-15 sets out the circumstances when a person must not be advised that they are Commonwealth supported.

Subsection 36-15(1A) provides that a higher education provider must not advise a person they are a Commonwealth supported student in relation to a unit of study if the unit contributes to a course of study undertaken primarily at an overseas campus. Item 5 inserts a heading before subsection 36-15(1A) which reads ‘Overseas courses’. This is a consequential amendment to item 6 which inserts a new subsection 36-15(1B) with a heading reading ‘Sub-bachelor courses’.

New subsection 36-15(1B) provides that a higher education provider must not advise a person they are a Commonwealth supported student in relation to a unit of study that forms part of a sub-bachelor course, unless that sub-bachelor course is an approved sub-bachelor course. A note explains that generally a person must not have previously obtained a higher education award (as per new subsection 36-10(4A) as inserted by item 4 of this Schedule).

Item 6 also inserts a subheading ‘Other courses’ immediately after new subsection 36-16(1B).

**Item 7 – Subsection 93-5(3)**

Subsection 93-5(3) provides that a person’s student contribution amount for a unit of study is nil if the person undertakes the unit as part of an enabling courses. This item repeals subsection 93-5(3).
Items 8, 9 and 10 – Subsection 238-10(1)

Section 238-10 concerns the various Guidelines the Minister may make under HESA.

These items make minor grammatical changes:

- to paragraph 238-10(1)(b) and to the table at subsection 238-10(1) to change references to ‘Chapter, Part or section’ to ‘provision’
- to paragraph 238-10(1)(a) to change the reference to ‘Chapter, Part or section’ to ‘provision (or a definition in Schedule 1 required for the purposes of the provision)’.

Item 11 – Subsection 238-10(1) (table item 1)

This item amends table item 1 of the table in subsection 238-10(1) to insert reference to section 33-30.

Item 12 – Subclause 1(1) of Schedule 1

This item inserts a definition of approved sub-bachelor course into the Dictionary at Schedule 1 to mean a sub-bachelor course that meets the requirements specified in the Commonwealth Grant Scheme Guidelines and is determined as an approved sub-bachelor course by the Minister by legislative instrument.

Item 13 – Subclause 1(1) of Schedule 1 (definition of enabling course)

This item repeals and substitutes the definition of enabling course in the Dictionary at Schedule 1. The new definition defines enabling course as a course of instruction that meets all of the following requirements:

- it is intended to only develop the skills and knowledge required to gain entry into, or to succeed in, a student’s first undergraduate course of study
- it is not a secondary school qualification
- it is not a course that the Minister, by legislative instrument, has determined is not an enabling course.

Item 14 – Subclause 1(1) of Schedule 1

This item inserts definitions of ineligible work experience unit and sub-bachelor course into the Dictionary at Schedule 1.

 ineligible work experience unit is defined as meaning a unit of study a student is enrolled in that meets both of the following conditions:

- the unit consists wholly of WEI
- the student is exempt from paying his or her student contribution amount for the unit or, alternatively, the unit does not meet the relevant requirements specified in the Administration Guidelines.

*sub-bachelor course* is defined as meaning a course of study (excluding a VET course of study) that leads to the award of a diploma, advanced diploma, or associate degree.
Part 2 – Amendments generally applying from 1 January 2019

Higher Education Support Act 2003

Items 15 and 16 – Section 5-1

Section 5-1 concerns the application of HESA to Table C providers (those providers listed at section 16-22).

The table at subsection 5-1(2) specifies how certain provisions of HESA apply to Table C providers.

Item 15 inserts a new item 3A into that table to specify that the Part 2-2 Commonwealth Grant Scheme applies to the Australian branch of a Table C provider and to students who are undertaking, or who propose to undertake, units of study at that branch. Item 15 also inserts a new item 3B to specify that Part 3-2 (HECS-HELP assistance) applies to the Australian branch of a Table C provider and to students undertaking or proposing to undertake units of study at that branch.

Subsections 5-1(3) and (4), read together, provide that Part 2-2 (Commonwealth Grant Scheme); Part 2-2A (Indigenous student assistance grants); Part 2-3 (Other grants); Part 2-4 (Commonwealth scholarships); Part 2-5 (Reduction and repayment of grants); Part 3-2 (HECS-HELP assistance); and Schedule 1A (VET FEE-HELP Assistance Scheme) do not apply to Table C providers. Item 16 repeals paragraphs 5-1(4)(a) and (e) meaning that Part 2-2 (Commonwealth Grant Scheme) and Part 3-2 (HECS-HELP assistance) will apply to Table C providers.

Item 17 – At the end of section 19-35

Section 19-35 provides for a range of benefits and opportunities to be extended equally to all eligible students and for providers to have fair and transparent procedures governing them.

This item adds a new subsection 19-35(6) which provides that higher education providers must not take into account whether a person has been given a scholarship place in relation to a course of study when making decisions about selecting persons for enrolment in the course of study.

Item 18 – Section 27-1 (note)

This item repeals the note to subsection 27-1 that explains Part 2-2 (Commonwealth Grant Scheme) does not apply to Table C providers.
Item 19 – Section 30-1

This item repeals and substitutes section 30-1 which deals with higher education providers’ eligibility for grants under Part 2-2 (Commonwealth Grant Scheme). New subsection 30-1(1) provides that Part 2-2 grants are payable to higher education providers for a year, as a benefit to their students, if the providers have entered into a section 30-25 funding agreement with the Commonwealth with respect to a period that is for that year, or includes that year.

New subsection 30-1(2) provides that Part 2-2 grants are only payable to non-Table A providers to the extent the grant relates to one or more of the following:

- national priorities
- enabling courses
- non-medical non-research postgraduate courses.

Items 20 to 22 – Section 30-10

Subsection 30-10(1) provides that the Minister may, before the start of a year, allocate a specific number of places to the following:

- Table A providers in relation to designated courses (paragraph 30-10(1)(a))
- higher education providers referred to in subparagraph 30-1(1)(b)(i) (paragraph 30-10(1)(b)).

Item 20 repeals and substitutes paragraph 30-10(1)(b) so that it just refers to higher education providers (i.e. there is no longer any reference to subparagraph 30-1(b)(i)).

Subsection 30-10(2) currently provides that the allocation of places must specify the distribution of places between funding clusters.

Item 21 repeals and substitutes subsection 30-10(2). New subsection 30-10(2) provides that the allocation for each funding cluster must specify the distribution of places between the following:

- courses of study in medicine
- enabling courses
- courses of study specified by the Minister under subsection 30-12(2) (designated courses of study for Table A providers)
- for non-Table A providers – non-medical bachelor courses and approved sub-bachelor courses.

Subsection 30-10(4) currently provides that allocations of places for non-Table A providers must specify the allocation is only in respect of national priorities and the number of allocated places for each national priority.

Item 22 inserts a new subsection 30-10(4A) to provide that subsection 30-10(4) does not apply to the extent the allocation is for enabling courses or non-medical non-research postgraduate courses.
Item 22 also inserts the sub-heading ‘Allocation is not legislative instrument’ before subsection 30-10(5).

**Items 23 and 24 – Section 30-12**

Subsection 30-12(1) specifies the courses of study that are considered to be designated courses of study in relation to Table A providers. Item 23 repeals paragraph 30-12(1)(a) so that non-research postgraduate courses of study are no longer designated courses of study.

Item 24 amends subsection 30-12(1) to add enabling courses to those courses of study that are designated courses of study in relation to Table A providers (new paragraph 30-12(1)(ba)).

**Items 25 to 28 – Section 30-25**

Subsection 30-25(1) provides that the Minister may, on behalf of the Commonwealth, enter into a three year funding agreement with a higher education provider relating to Part 2-2 Commonwealth Grant Scheme grants. Item 25 amends subsection 30-25(1) to omit the words ‘each year in a period of 3 years (the *grant years*)’ and substitute the words ‘one or more years (the *grant years*) if the Minister has allocated, or intends to allocate, Commonwealth supported places to the provider.’

Item 26 inserts a new subsection 30-25(1AA). This new subsection provides that the Minister may, on behalf of the Commonwealth, enter into a one or more year funding agreement with a higher education provider relating to Part 2-2 Commonwealth Grant Scheme grants if both the following apply:

- there are one or more Commonwealth supported students enrolled with the provider under subsection 36-30(6) (scholarship places – see item 39 of this Schedule) in relation to the unit of study
- the Minister has not allocated and does not intend to allocate Commonwealth supported places to the provider.

Subsection 30-25(1A) provides that the Minister, when negotiating a funding agreement with a provider, must consider all the types of matters the provider has indicated it wishes to be specified in ‘the agreement’. Item 27 amends subsection 30-25(1A) to replace the words ‘the agreement’ with the words ‘an agreement under subsection (1) or (1AA)’.

Under subsection 30-25(2), a funding agreement may specify conditions that are additional to those conditions that apply under Division 36. Without limiting subsection 30-25(2), subsection 30-25(3) provides that a funding agreement may specify a number of matters – including places in non-research postgraduate courses of study (subparagraph 30-25(3)(a)(ii)). Item 28 repeals subparagraph 30-25(3)(a)(ii).
**Item 29 – Section 30-27**

Section 30-27 concerns funding agreements specifying maximum basic grant amounts. This item repeals and substitutes section 30-27.

New subsection 30-27(1) provides that a funding agreement may specify a maximum unadjusted grant amount that is payable to a higher education provider for a grant year for the following:

- courses of study in medicine
- enabling courses
- courses of study specified by the Minister under subsection 30-12(2)
- non-designated courses of study excluding non-medical non-research postgraduate courses (this is only applicable to Table A providers)
- non-medical bachelor courses and approved sub-bachelor courses (this is only applicable to non-Table A providers).

New subsection 30-27(2) provides that the maximum unadjusted grant amount for a higher education provider for a particular kind of course (except for non-designated courses of study) for a grant year must not be less than the amount worked out for the provider under subsections 33-5(3) and (4) for that kind of course for the grant year.

New subsection 30-27(3) provides that the maximum unadjusted grant amount for a Table A provider for non-designated courses of study must not be less than the following:

- if the provider’s funding agreement for the previous year specified a maximum unadjusted grant amount for non-designated courses of study - it is the amount that was specified
- if the provider’s funding agreement for the previous year did not specify a maximum unadjusted grant amount for non-designated courses of study - it is the amount that is calculated for the provider under subsections 33-5(3) and (4) for that kind of course for the preceding year.

**Item 30 – Paragraph 33-1(1)(a)**

Section 33-1 concerns how a grant amount is worked out. This item amends paragraph 33-1(1)(a) by omitting the words ‘basic grant amount’ and substituting the words ‘adjusted grant amount’.

**Item 31 – Subdivision 33-B (heading)**

This item repeals the heading to subdivision 33-B (‘Subdivision 33-B - Basic grant amounts’) and substitutes the heading ‘Subdivision 33-B – Unadjusted and adjusted grant amounts’.
Item 32 – Section 33-5

This item repeals and substitutes section 33-5 and adds a new section 33-7 (adjusted grant amounts).

Section 33-5 sets out how a basic grant amount is to be worked out for a higher education provider for a year.

New subsection 33-5(1) explains that section 33-5 sets out how to work out the unadjusted grant amount for a provider for a year.

New subsection 33-5(2) provides that the unadjusted grant amount for a year is the course amount, which is the total of the amounts worked out under this section for the following types of courses:

- courses of study in medicine
- enabling courses
- courses of study that are specified by the Minister under subsection 30-12(2)
- non-medical non-research postgraduate courses
- for Table A providers – non designated courses of study (excluding non-medical non-research postgraduate courses)
- for non-Table A providers – non-medical bachelor courses and approved sub-bachelor courses.

New subsection 33-5(3) provides that, for those types of courses within the ambit of subsection (2) (subject to subsection (5)), the course amount is the total of the amounts calculated for each funding cluster in which the provider has provided places in such courses worked out by multiplying:

- the number of Commonwealth supported places provided by the provider as referred to in subsection (4) (paragraph 33-5(3)(a)) by
- the relevant Commonwealth contribution amount for a place in a course of that kind in that funding cluster (paragraph 33-5(3)(b)).

New subsection 33-5(4) stipulates that the number of Commonwealth supported places for the purposes of paragraph (3)(a) is as follows:

- for a non-medical non-research postgraduate course, a non-designated course of study or a course of study for which a maximum unadjusted grant amount is specified in the provider’s funding agreement – the number of Commonwealth supported places the provider provided in a course of that kind within the relevant funding cluster
- for any other kind of course of study – the lesser of either the number of places the provider provided in a course of that kind within the relevant funding cluster, or the number of places allocated to courses of that kind in the relevant funding cluster.

New subsection 33-5(5) provides that, despite subsection (3), the course amount for a course of that kind for the year is to be the maximum unadjusted grant amount if both the maximum unadjusted grant amount is specified in the provider’s funding agreement for courses of that kind, and the course amount worked out under subsection (3) is more than that specified maximum amount.
New section 33-7 concerns adjusted grant amounts and provides as follows:

- the Commonwealth Grant Scheme Guidelines may determine a method for adjusting an unadjusted grant amount for a higher education provider for a year – to reflect the provider’s performance against criteria specified in the Guidelines (subsection (1))
- the amount that is calculated by applying this method is the provider’s adjusted grant amount for the year (subsection (2))
- that adjusted grant amount may be equal to or more than the provider’s unadjusted grant amount for the year or it can be less than that unadjusted grant amount – with the proviso that it must not be less than 92.5 per cent of that unadjusted grant amount (subsection (3)).

Item 33 – Subsection 33-30(3) (table item 2)

Section 33-30 concerns how to work out the number of Commonwealth supported places provided by a higher education provider during a year.

Subsection 33-30(3) contains a table which provides for how the method statement in subsection 33-30(1) is to be applied against various items in the table in order to calculate the number of Commonwealth supported places provided for each of those items.

This item repeals item 2 of the table (designated courses of study in a funding cluster) and substitutes new table items 2A, 2B, 2C, 2D, 2E and 2F so that, with respect to these new items, the table provides as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>To work out the number of Commonwealth supported places provided in...</td>
<td>apply the method statement in subsection (1) to...</td>
</tr>
<tr>
<td>2A</td>
<td>courses of study in medicine in a funding cluster</td>
<td>units provided by the provider in the funding cluster in courses of study in medicine.</td>
</tr>
<tr>
<td>2B</td>
<td>enabling courses in a funding cluster</td>
<td>units provided by the provider in the funding cluster in enabling courses.</td>
</tr>
<tr>
<td>2C</td>
<td>courses of study specified by the Minister under subsection 30-12(2)</td>
<td>units provided by the provider in the funding cluster in specified courses.</td>
</tr>
<tr>
<td>2D</td>
<td>non-medical non-research postgraduate courses</td>
<td>units provided by the provider in the funding cluster in non-medical non-research postgraduate courses.</td>
</tr>
<tr>
<td>2E</td>
<td>*non-medical bachelor courses</td>
<td>units provided by the provider in the funding cluster in non-medical bachelor courses.</td>
</tr>
</tbody>
</table>
Item 34 – Section 33-37

Section 33-37 concerns adjustments to a provider’s basic grant amount for a grant year for breaches of section 19-37 (requiring membership of certain organisations or payment of certain amounts).

This item amends section 33-37 to omit the words ‘basic grant amount’ and substitute ‘adjusted grant amount’.

Items 35 and 36 – Section 36-10

Subsection 36-10(5) sets out when non-Table A providers must not advise a person they are a Commonwealth supported student in relation to a unit of study. Item 35 amends subsection 36-10(5) to qualify this so that the restriction on advising about being a Commonwealth supported student does not apply to a unit of study that is part of an enabling course or a non-medical non-research postgraduate course.

Item 36 inserts a new subsection 36-10(6A) which provides that a higher education provider must not advise a person they are a Commonwealth supported student in relation to a unit of study in a course of study if both of the following apply:

- they were a Commonwealth supported student under subsection 36-30(6) in relation to another unit of study in the course because they had been allocated a scholarship place in the course;
- they have been given a subsection 36-27(3) notice they are no longer to be a Commonwealth supported student as a result of the scholarship place in relation to any units of study making up the course.

Item 37 – After section 36-25

This item inserts a new section 36-27 which concerns persons advised they have been allocated a scholarship place for a non-medical non-research postgraduate course of study.

New subsection 36-27(1) provides that the Minister must advise a person in writing they have been allocated a scholarship place in relation to a course of study if the course is a non-medical non-research postgraduate course of study and the person meets the applicable requirements of the Commonwealth Grant Scheme Guidelines for the place.

New subsection 36-27(2) provides that the Minister may, in the subsection 36-27(1) notice, impose conditions on the scholarship place allocated to the person.
New subsection 36-27(3) requires a higher education provider to give a notice to a person that they are no longer a Commonwealth supported student as a result of the scholarship place in relation to any units of study in a course of study if they fail to meet any of the ongoing applicable requirements of the Commonwealth Grant Scheme Guidelines, or they fail to meet a condition specified in a subsection 36-27(1) notice given to them.

New subsection 36-27(4) provides that the Commonwealth Grant Scheme Guidelines may provide for a scholarships places scheme including in relation to the following matters:

- the person or body to administer the scheme
- the non-medical non-research postgraduate courses of study in relation to which scholarship places are allocated
- the number of scholarship places available for allocation, or the method for determining that number
- the processes for being allocated scholarship places
- the criteria and method for allocating scholarship places
- fees charged in relation to applying for a scholarship place under the scheme
- the process for higher education providers who wish to opt out of the scheme
- any transitional matters relating to the scheme (including any savings or application provisions).

Notes:

- explain that powers under section 36-27 and the scholarship places scheme can be delegated to the person or body that administers the scheme, or to an authorised officer of the person or body (see subsection 238-5(1A))
- draw attention to subsection 13(3) of the Legislation Act 2003 which provides that, if an Act confers on a person the power to make a legislative instrument which specifies, declares or prescribes a matter or the doing of anything in relation to a matter – then, in exercising the power, the person may identify the matter by referring to a class or classes of matters.

**Items 38 and 39 – Section 36-30**

Section 36-30 requires Table A providers, unless prohibited under sections 36-10 or 36-15, to enrol an undergraduate student undertaking a unit of study as part of a course of study in a Commonwealth supported place.

Subsection 36-30(3) provides that a non-Table A higher education provider must enrol a person in a unit of study as a Commonwealth supported student if completion of the unit furthers a national priority and the provider has been allocated places under section 36-10 in respect of that national priority for the year the person is enrolled. Item 38 qualifies subsection 36-30(3) so that the enrolment as a Commonwealth supported student requirement does not apply to a unit of study that is part of an enabling course, or a non-medical non-research postgraduate course.
Item 39 adds a new subsection 36-30(6) (with the subheading ‘Scholarship places’) which provides that a provider must enroll a person in a unit as a Commonwealth supported student if the following apply:

- the person is to be enrolled in a unit of study with the provider
- the person has been advised under section 36-27 of the allocation of a scholarship place in relation to a course of study that the unit forms a part of
- the provider is not prevented from advising the person about being a Commonwealth supported student under either or both of sections 36-10 or 36-15
- the person has not been given a subsection 36-27(3) notice that he or she is no longer a Commonwealth supported student as a result of the scholarship place in relation to any of the units making up the course
- there is no notice in force under the Commonwealth Grant Scheme Guidelines that is made for the purpose of paragraph 36-27(4)(g) stating the provider has opted out of the scholarships places scheme
- enrolling the person in the unit does not breach any conditions specified in a subsection 36-27(1) notice given to them (if the enrolment is subject to any such conditions).

**Item 40 – Paragraph 46-13(c)**

Section 46-13 provides that a student is entitled to receive a directly paid Commonwealth scholarship if the following criteria are all met:

- the Commonwealth Scholarships Guidelines provide for a particular kind of directly-paid standard Commonwealth scholarship (paragraph 46-13(a))
- the Guidelines set out eligibility requirements for that kind of scholarship (paragraph 46-13(b))
- a student of a Table A provider, or of a higher education provider to which subparagraph 30-1(1)(b)(i) applies, satisfies those eligibility requirements (paragraph 46-13(c))
- the student is selected by the provider to receive that kind of scholarship (paragraph 46-13(d))
- the selection is in accordance with a selection policy maintained by the provider (paragraph 46-13(e))
- the selection policy complies with the requirements set out in the Guidelines (paragraph 46-13(f)).

This item repeals and substitutes paragraph 46-13(c) so that it removes reference to subparagraph 30-1(1)(b)(i) and reads ‘a student of a Table A provider or any other higher education provider satisfies those eligibility requirements’. This is a consequential amendment to item 19 of this Schedule which repeals and substitutes section 30-1.

**Item 41 – Subsection 46-15(1)**

Subsection 46-15(1) provides that Table A providers, and higher education providers to which subparagraph 30-1(1)(b)(i) applies, are eligible to receive Commonwealth grants to pay indirectly-paid standard Commonwealth scholarships.
This item amends subsection 46-15(1) by omitting reference to higher education providers to which subparagraph 30-1(1)(b)(i) applies and substituting reference to any other higher education providers. This is a consequential amendment to item 19 of this Schedule which repeals and substitutes section 30-1.

**Item 42 – After subsection 238-5(1)**

Section 238-5 provides for delegations by the Minister.

This item inserts a new subsection 238-5(1A) to provide that the Minister may, in writing, delegate all or any of the Minister’s powers under HESA, or the Commonwealth Grant Scheme Guidelines, in relation to the scholarship places scheme, to the following who are specified for the purposes of paragraph 36-27(4)(a):

- a person or body
- an authorised officer of a person or body.

**Item 43 – Subclause 1(1) of Schedule 1**

This item inserts a definition of *adjusted grant amount* into the Dictionary at Schedule 1.

*adjusted grant amount* carries the meaning given by subsection 33-7(2) (see item 32 of this Schedule).

**Item 44 – Subclause 1(1) of Schedule 1**

This item repeals the definitions of *basic grant amount* and *maximum basic grant amount*.

**Item 45 – Subclause 1(1) of Schedule 1**

This item inserts definitions of *maximum unadjusted grant amount*, *non-medical bachelor courses* and *non-medical non-research postgraduate course* into the Dictionary at Schedule 1.

*maximum unadjusted grant amount* carries the meaning given by subsection 30-27(1) (see item 29 of this Schedule).

*Non-medical bachelor courses* means courses of study that lead to bachelor degrees (or equivalent), but excludes courses of study in medicine.

*non-medical non-research postgraduate course* means a non-research postgraduate course of study that is not a course of study in medicine.
Item 46 – Subclause 1(1) of Schedule 1 (definition of postgraduate course of study)

This item repeals and substitutes the definition of postgraduate course of study so that it means a course of study that leads to one or more of the following higher education awards (regardless of whether it leads to any other higher education award):

- graduate diploma
- graduate certificate
- master’s degree
- doctoral degree.

Item 47 – Subclause 1(1) of Schedule 1

This item inserts definitions of scholarship place, scholarship places scheme and unadjusted grant amount into the Dictionary at Schedule 1.

Under the definition of scholarship place, a scholarship place is allocated to a person in relation to a course of study if, when they enrol in a unit of study in the course, they become a Commonwealth supported student in relation to the unit under subsection 36-30(6) (see item 39 of this Schedule).

scholarship places scheme carries the meaning given by subsection 36-27(4) (see item 37 of this Schedule).

unadjusted grant amount carries the meaning given by section 33-5 (see item 32 of this Schedule).
**Income Tax Assessment Act 1997**

**Item 48 - Section 11-15 (table item headed “education and training”)**

Section 11-15 of the *Income Tax Assessment Act 1997* contains a table that identifies which amounts of ordinary or statutory income are exempt from income tax.

This item inserts the following into the table (under the “education and training heading”):

```
student, grant payable to higher education provider for scholarship place of ...........................................
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**Item 49 – Section 51-10 (at the end of the table)**

Section 51-10 of the *Income Tax Assessment Act 1997* contains a table that identifies amounts of ordinary income and statutory income that are exempt from income tax and specifies any exceptions or conditions to that income tax exempt status.

This item adds the following at the end of the table:

```
2.10 a student who has been allocated a scholarship place under the *Higher Education Support Act 2003* in relation to a course of study the amount of the grant payable to the relevant higher education provider in relation to the scholarship place none
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Part 3 – Application and transitional provisions

Item 50 – Grants, places and funding agreement for enabling and designated courses

This item provides that the amendments made by Part 1 of this Schedule to sections 30-25 (see item 1) and 33-1 (see item 2) apply in relation to grants payable in respect of 2018 and later years and to funding agreements made in relation to 2018 and later years.

Item 51 - Work experience in industry and enabling courses

This item provides that the amendments made by Part 1 of this Schedule to sections 33-30 (see item 3) and 93-5 (see item 7) and the definition of enabling course in clause 1 of Schedule 1 of HESA (see item 13) apply in relation to any unit of study with a census date that is on or after 1 January 2018 (whether the unit of study is part of a course commenced before or after that day).

Item 52 - Sub-bachelor courses

Subitem (1) provides that subsections 36-10(4A) and 36-15(1B) as inserted by Part 1 of this Schedule (see items 4 and 6), apply in relation to sub-bachelor courses commenced on or after 1 January 2018.

For the avoidance of doubt, subitem 50(2) provides that, for the purposes of determining, after the commencement of this item, whether a higher education provider would have been prohibited from advising a person who commenced a sub-bachelor course before 1 January 2018 that he or she is a Commonwealth supported student, subsections 36-10(4A) and 36-15(1B) of HESA are to be disregarded.

Item 53 - Grants, places and funding agreements for enabling and designated courses

Subitem (1) provides that the amendments made by Part 2 of this Schedule to sections 30-1 to 33-37 (except for amendments to section 30-25) (see items 19 to 34) apply in relation to the following:

- grants payable in respect of 2019 and later years
- places allocated for 2019 and later years
- funding agreements made in relation to 2019 and later years.

Subitem (2) provides that the amendments made to section 30-25 by Part 2 of this Schedule apply in relation to funding agreements made in relation to 2018 and to later years.
Item 54 - Performance funding for 2018

Subitem (1) provides that HESA applies, in respect of 2018, as if the amount of a grant payable under paragraph 33-1(1)(a) in respect of that year were the amount worked out for the purposes of that paragraph adjusted, in accordance with the Commonwealth Grant Scheme Guidelines, to reflect the performance of the provider, against criteria specified by those Guidelines.

Subitem (2) provides that the adjusted amount for a provider for 2018 may be either of the following:

- more than, or equal to, the amount worked out under paragraph 33-1(1)(a) for the provider for 2018
- less than that amount, but must not be less than 92.5% of that amount.

Subitem (3) provides that section 238-10 applies as if a reference to this item were included in item 2 of the table in subsection 238-10(1).

Item 55 - Scholarship places scheme

Subitem (1) provides that the amendments made by Part 2 of this Schedule to sections 36-10 to 46-15 apply in relation to any unit of study with a census date that is on or after 1 January 2019 (whether the unit of study is part of a course commenced before or after that day).

Subitem (2) provides that, for the purposes of HESA, an individual is taken to have been advised under section 36-27 (as inserted by item 37 of this Schedule) that he or she has been allocated a scholarship place in relation to a non-medical non-research postgraduate course if, before 2 May 2017, he or she received an offer of a Commonwealth supported place in relation to the course. A note explains that the Commonwealth Grant Scheme Guidelines can also provide for transitional matters in relation to the scholarship places scheme (under paragraph 36-27(4)(h) of HESA).

Subitem (3) provides that subitem (2) ceases to apply at the end of 31 December 2020.

Subitem (4) provides that a higher education provider must not, under subsection 36-27(3), give a notice to an individual who is taken to have been allocated a scholarship place under subitem (2).

Subitem (4) is an avoidance of doubt provision and provides that if:

- an individual is advised before 1 January 2019 he or she is a Commonwealth supported student in relation to a unit of study in a non-medical non-research postgraduate course; and
- the census date for the unit is on or after 1 January 2019; and
- he or she is not covered by subitem (2)
then that individual is not a Commonwealth supported student in relation to the unit unless he or she is enrolled as a Commonwealth supported student under subsection 36-30(6) (as inserted by item 39 of Part 2 of this Schedule).

**Item 56 - Definition of postgraduate course of study**

This item provides that the amendments made by Part 2 of this Schedule to the definition of *postgraduate course of study* in subclause 1(1) of Schedule 1 (see item 46 of this Schedule) applies in relation to any unit of study with a census date on or after 1 January 2019 (whether the unit of study is part of a course commenced before or after that day).
Schedule 3 Higher Education Loan Program

Summary

Schedule 3 of the Bill extends access to student loans to most Australian permanent residents and most New Zealand citizens while removing their entitlement to a Commonwealth supported place from 1 January 2018.

Schedule 3 also preserves current eligibility arrangements for several cohorts. It enables Australian permanent residents and New Zealand citizens to remain in a Commonwealth supported place for the remainder of their course if they have already commenced that course of study prior to 31 December 2017. Schedule 3 continues ongoing access to Commonwealth supported places and HELP loans for both permanent humanitarian visa holders and the cohort of New Zealand Special Category Visa (SCV) holders who arrived in Australia as dependent children and have been long term residents. It retains eligibility for a Commonwealth supported place and a HELP loan for Australian permanent humanitarian visa holders for the remainder of their current course of study who become permanent visa holders due to travelling outside Australia after the travel facility on their humanitarian visa has expired. Finally, the Schedule retains current access to subsidised places and HECS-HELP loans for the small cohort of New Zealand citizens who commenced study as an SCV holder, who arrived in Australia as dependent children and have been long term residents and, mid-study, became a permanent resident. This would be for their current course of study only.

Schedule 3 of the Bill replaces the current minimum repayment income with a new one of $41,999 and replaces the current repayment thresholds with new ones, including additional repayment thresholds and rates. From 1 July 2019 repayment thresholds including the minimum repayment amount will be indexed using the Consumer Price Index rather than Average Weekly Earnings.

There will be a Commonwealth contribution amount payable for work experience in industry units as defined in the Administration Guidelines 2012, provided that the units meet specified criteria related to course relevance and provider involvement in the unit.
Detailed explanation

Part 1 – Amendments

*Higher Education Support Act 2003*

**Items 1 to 7 – Section 36-10**

Subsection 36-10(1) provides that a higher education provider must not advise a person they are a Commonwealth supported student in relation to a unit of study unless the following apply:

- the provider has entered into a section 30-25 funding agreement for the year in which the person is undertaking the unit
- the unit contributes to the requirements of a course of study in which the person is enrolled with the provider or another higher education provider
- the person meets the citizenship or residency requirements
- the person is enrolled in the unit on or before the census date for the unit and remains enrolled at the end of the census date.

The citizenship or residency requirements are set out in subsections 36-10(2) and (2A).

Subsection 36-10(2) provides that a person meets the citizenship or residency requirements if they are one of the following:

- an Australian citizen (paragraph 36-10(2)(a))
- a citizen of New Zealand who will be resident in Australia for the duration of the unit (paragraph 36-10(2)(b))
- a permanent visa holder who will be resident in Australia for the duration of the unit (paragraph 36-10(2)(c)).

Item 3 repeals and substitutes paragraphs 36-10(2)(b) and (c). New paragraph 36-10(2)(b) refers to a permanent humanitarian visa holder who will be resident in Australia for the duration of the unit. New paragraph 36-10(2)(c) refers to a person to whom both of the following apply:

- the person was a permanent humanitarian visa holder when he or she commenced the course of study the unit forms part of
- the person is a permanent visa holder who will be resident in Australia for the duration of the unit.

Item 4 inserts new subsections 36-10(2AA) and 36-10(2AB) with the subheading ‘Current and former special category visa holders’.

New subsection 36-10(2AA) provides that a person will also meet the paragraph 36-10(1)(c) citizenship or residency requirements if he or she meets all of the following:
- the person is a New Zealand citizen
- the person is a special category visa holder under the *Migration Act 1958*
- the person first began to be usually resident in Australia as a dependent child and has not ceased being usually resident in Australia since that time which must be at least 10 years before the day the person requested Commonwealth assistance
- the person has been in Australia (whether or not continuously) for at least 8 years of the 10 year period immediately before that day, of which at least 18 months was in the most recent 2 year period
- the person will be resident in Australia for the duration of the unit.

New subsection 36-10(2AB) provides that a person also meets the citizenship or residency requirements for the purposes of paragraph 36-10(1)(c) if he or she meets both of the following:

- when the person commenced the course of study of which the unit is a part, the person met the citizenship or residency requirements under subsection 36-10(2AA)
- the person is a permanent visa holder who will be resident in Australia for the duration of the unit.

Item 4 also inserts the subheading ‘When a person is resident within Australia’ at the end of new subsection 36-10(2AB).

Item 1 makes a consequential amendment to paragraph 36-10(1)(c) to insert reference to subsections 36-10(2AA) and (2AB).

Item 2 inserts the subheading ‘Australian citizens and current or former permanent humanitarian visa holders’ before subsection 36-10(2).

Item 5 makes a consequential amendment to subsection 36-10(2A) to omit ‘subparagraph (2)(b) or (c)’ and substitute ‘this section’.

Item 6 inserts the subheading ‘When an Australian citizen does not meet citizenship or residency requirements’ before subsection 36-10(2B).

Item 7 amends subsection 36-10(2B) to omit ‘subsections (2) and (2A), a person’ and substitute ‘paragraph (2)(a), a person who is an Australian citizen’.

**Item 8 – Paragraph 90-1(aa)**

Section 90-1 sets out the criteria to determine when a student is entitled to HECS-HELP assistance for a unit of study that forms part of a course of study.

One of these criteria is that the course of study must be an accredited course of study in relation to the provider (paragraph 90-1(aa)). This item amends paragraph 90-1(aa) so that it reads ‘the course of study is an accredited course of study or enabling course in relation to the provider.’
Items 9 to 14 – Section 90-5

Another of the criteria for determining whether a student is eligible for HECS-HELP assistance is that the student must meet the citizenship or residency requirements under section 90-5.

Item 9 inserts a heading before subsection 90-5(1) that reads 'Australian citizens and current or former permanent humanitarian visa holders'.

Subsection 90-5(1) provides that a student meets the citizenship or residency requirements if they are either of the following:

- an Australian citizen (paragraph 90-5(1)(a))
- a permanent humanitarian visa holder resident in Australia for the duration of the unit (paragraph 90-5(1)(b)).

Item 10 broadens subsection 90-5(1) by adding a new paragraph 90-5(1)(c) to provide that a student who was a permanent humanitarian visa holder when they commenced the course of which the unit is a part and also is a permanent visa holder who will be resident in Australia for the duration of the unit – will also meet the citizenship or residency requirements.

Item 11 makes a minor consequential amendment to subsection 90-5(2) to correct a numbering reference.

Subsection 90-5(2A) currently provides that certain New Zealand citizens will also meet the citizenship or residency requirements for HECS-HELP. Item 12 repeals and substitutes subsection 90-5(2A) and substitutes new subsections 90-5(2A) and (2B).

New subsection 90-5(2A) provides that a student will also meet the citizenship or residency requirements if they satisfy all of the following:

- the student is a New Zealand citizen
- the student holds a special category visa under the Migration Act 1958
- the student was a dependent child at the time he or she first began to be usually resident in Australia and has not, since that time, ceased to be usually resident in Australia
- that time was at least 10 years before the ‘test day’ referred to in subsection 90-5(2B)
- the student has been in Australia (this need not be continuously) for at least 8 years out of the 10 years immediately before the test day, including at least 18 months in the most recent 2 year period
- the student will be resident in Australia for the duration of the unit.

New subsection 90-5(2B) provides that a student will also meet the citizenship or residency requirements in relation to a unit of study if both of the following apply:

- the student met the subsection 90-5(2A) citizenship or residency requirements when commencing the course of which the unit is a part
- the student is a permanent visa holder who will be resident in Australia for the duration of the unit.
Item 13 inserts a heading before subsection 90-5(3) that reads ‘When an Australian citizen does not meet citizenship or residency requirements’.

Item 14 amends subsection 90-5(3) to omit ‘subsections (1), (2) and (2A), a student’ and substitute ‘paragraph (1)(a), a student who is an Australian citizen’.

**Items 15 to 20 – Section 104-5**

Section 104-1 sets out the criteria for determining whether a student is eligible for FEE-HELP assistance. One of those criteria is that the student must meet the citizenship or residency requirements under section 104-5.

Item 15 inserts a heading before subsection 104-5(1) that reads ‘Australian citizens and certain permanent visa holders’.

Subsection 104-5(1) provides that a student meets the citizenship or residency requirements if they are one of the following:

- an Australian citizen (paragraph 104-5(1)(a))
- a permanent humanitarian visa holder resident in Australia for the duration of the unit (paragraph 104-5(1)(b))
- if the student is undertaking, or will undertake, the unit as part of a bridging course for overseas-trained professionals – the student is a permanent visa holder who will be resident in Australia for the duration of the unit (paragraph 104-5(1)(c)).

Item 16 broadens subsection 104-5(1) to provide that the following will also meet the citizenship or residency requirements for FEE-HELP:

- a New Zealand citizen who will be resident in Australia for the duration of the unit (new paragraph 104-5(1)(ba))
- a permanent visa holder (unless the student is covered by the bridging course for overseas-trained professionals criterion under paragraph 104-5(1)(c)) who will be resident in Australia for the duration of the unit (new paragraph 104-5(1)(bb))
- a student who was a permanent humanitarian visa holder when he or she commenced the course of which the unit is a part and he or she is also a permanent visa holder who will be resident in Australia for the duration of the unit (new paragraph 104-5(1)(bc)).

Item 17 makes a consequential amendment to subsection 104-5(2) to correct numbering references.

Subsection 104-5(2A) currently provides that certain New Zealand citizens will also meet the citizenship or residency requirements. Item 18 repeals and substitutes subsection 104-5(2A). New subsection 104-5(2A) provides that a student will also meet the citizenship or residency requirements if they satisfy all of the following:

- the student is a New Zealand citizen
- the student holds a special category visa under the *Migration Act 1958*
• the student was a dependent child at the time he or she first began to be
usually resident in Australia and has not, since that time, ceased to be
usually resident in Australia
• that time was at least 10 years before the ‘test day’ referred to in subsection
104-5(2B)
• the student has been in Australia (this need not be continuously) for at least
8 years out of the 10 years immediately before the test day, including at least
18 months in the most recent 2 year period
• the student will be resident in Australia for the duration of the unit.

Item 18 also inserts a new subsection 104-5(2B) which provides that a student will
also meet the citizenship or residency requirements in relation to a unit of study if
both of the following apply:

• the student met the subsection 90-5(2A) citizenship or residency
requirements when commencing the course of which the unit is a part
• the student is a permanent visa holder who will be resident in Australia for
the duration of the unit.

Item 19 inserts a heading before subsection 104-5(3) that reads ‘When an
Australian citizen does not meet citizenship or residency requirements’.

Item 20 amends subsections 104-5(3) and (4) to omit ‘subsections (1), (2) and (2A),
a student’ and substitute ‘paragraph (1)(a), a student who is an Australian citizen’.

Items 21 to 24 – Section 118

Section 118-1 sets out the criteria for determining whether a student is eligible for
OS-HELP assistance. One of those criteria is that the student must meet the
citizenship or residency requirements under section 118-5.

Subsection 118-5(1) currently provides that the citizenship or residency
requirements for OS-HELP assistance are that the student must be one of the
following:

• an Australian citizen (paragraph 118-5(1)(a))
• a permanent humanitarian visa holder (paragraph 118-5(1)(b))
• a student covered by subsection 118-5(2).

Item 21 amends paragraph 118-5(1) to insert a new paragraph 118-5(1)(ba). The
effect of this is to add another category into the citizenship or residency
requirements – a student who was both a permanent humanitarian visa holder on
the day referred to in subsection 118-5(3) (i.e. the day the student made the
request for Commonwealth assistance) and is also a permanent visa holder.

Subsection 118-5(2) currently provides that certain New Zealand citizens will also
meet the citizenship or residency requirements for OS-HELP. Item 23 repeals and
substitutes subsection 118-5(2) and adds a new subsection 118-5(2A).

New subsection 118-5(2) has the effect that a student will also meet the citizenship
or residency requirements if they satisfy all of the following:
the student is a New Zealand citizen
the student holds a special category visa under the Migration Act 1958
the student first began to be usually resident in Australia as a child and has not, since that time, ceased to be usually resident in Australia
that time was at least 10 years before the ‘test day’ referred to in subsection 118-5(3)
the student has been in Australia (this need not be continuously) for at least 8 years out of the 10 years immediately before the test day, including at least 18 months in the most recent 2 year period.

New subsection 118-5(2A) has the effect that a student will also meet the citizenship or residency requirements if, on the day referred to in subsection 118-5(3) (the day the student made the request for Commonwealth assistance), the student met the subsection 118-5(2) citizenship or residency requirements and is also a permanent visa holder.

Item 22 makes a minor consequential renumbering change to paragraph 118-5(1)(c) to add in reference to subsection 118-5(2A).

Item 24 makes a minor consequential amendment to subsection 118-5(3) to omit ‘subsection (2)’ and substitute ‘this section’.

**Items 25 to 30 – Section 126-5**

Section 126-1 sets out the criteria for determining whether a student is eligible for SA-HELP assistance. One of those criteria is that the student must meet the citizenship or residency requirements under section 126-5.

Item 25 inserts a heading before subsection 126-5(1) that reads ‘Australian and New Zealand citizens and permanent visa holders’.

Subsection 126-5(1) provides that a student meets the citizenship or residency requirements for SA-HELP assistance if they are one of the following:

- an Australian citizen
- a permanent humanitarian visa holder resident in Australia.

Item 26 amends subsection 126-5(1) by adding new paragraphs 126-5(1)(c), (d) and (e), the effect of which is to provide that the following will also meet the citizenship or residency requirements for SA-HELP:

- a New Zealand citizen resident in Australia (new paragraph 126-5(1)(c))
- a permanent visa holder resident in Australia (new paragraph 126-5(1)(d))
- a student who was both a permanent humanitarian visa holder on the day referred to in subsection 126-5(1B) and is also a permanent visa holder resident in Australia (new paragraph 125-5(1)(e)).

Subsection 126-5(1A) currently provides that certain New Zealand citizens will also meet the citizenship or residency requirements for SA-HELP assistance. Item 27 repeals subsection 126-5(1A) and substitutes new subsection 126-5(1A) and (1AB).
New subsection 126-5(1A) provides that a student will also meet the citizenship or residency requirements if they satisfy all of the following:

- the student is a New Zealand citizen
- the student holds a special category visa under the Migration Act 1958
- the student was a dependent child at the time he or she first began to be usually resident in Australia and has not, since that time, ceased to be usually resident in Australia
- that time was at least 10 years before the ‘test day’ referred to in subsection 126-5(1B)
- the student has been in Australia (this need not be continuously) for at least 8 years out of the 10 years immediately before the test day, including at least 18 months in the most recent 2 year period
- the student is resident in Australia.

New subsection 126-5(1AB) provides that a student will also meet the section 126-5 citizenship or residency requirements if, on the day referred to in subsection 126-5(1B), the student met the subsection 126-5(1A) citizenship or residency requirements and is also a permanent visa holder resident in Australia.

Item 28 makes a minor consequential amendment to subsection 126-5(1B) to omit ‘subsection (1A)’ and substitute ‘this section’.

Item 29 inserts a heading before subsection 126-5(2) that reads ‘When an Australian citizen does not meet citizenship or residency requirements’.

Item 30 amends subsection 125-5(2) to omit ‘subsections (1) and (1A), a student’ and substitute ‘paragraph (1)(a), a student who is an Australian citizen’.
VET Student Loans Act 2016

The VET Student Loans Act 2016 (VSL Act) created VET student loans which replaced VET FEE-HELP from 1 January 2017 for new VET students.

Under section 7 of the VSL Act, the Secretary may approve a loan for a student for a course of study if satisfied the student is an eligible student and the course is approved. The criteria for someone to be an eligible student are set out in sections 10 (enrolment and loan application), 11 (citizenship and residency) and 12 (academic suitability).

Items 32 and 33 – Section 11

Under subsection 11(1), the eligible student citizenship and residency criteria are that the student must be one of the following:

- an Australian citizen (paragraph 11(1)(a))
- the holder of a permanent humanitarian visa who is usually resident in Australia (paragraph 11(1)(b))
- a qualifying New Zealand citizen (paragraph 11(1)(c)).

Subsection 11(2) provides for who is a qualifying New Zealand citizen.

Item 32 adds new paragraphs 11(1)(d), (e) and (f) to subsection 11(1). The effect of this is that, under subsection 11(1), the eligible student citizenship and residency criteria are that the student must be one of the following:

- an Australian citizen (paragraph 11(1)(a))
- the holder of a permanent humanitarian visa who is usually resident in Australia (paragraph 11(1)(b))
- a qualifying New Zealand citizen who is covered by subsection 11(2) (paragraph 11(1)(c))
- a New Zealand citizen who is usually resident in Australia (new paragraph 11(1)(d))
- a holder of a permanent visa (within the meaning of subsection 30(1) of the Migration Act 1958) who is usually resident in Australia
- a student who was the holder of a permanent humanitarian visa (within the meaning of the Migration Act 1958) on the day the Secretary approved a VET student loan to the student and is also the holder of a permanent visa (within the meaning of the Migration Act 1958) who is usually resident in Australia.

Item 33 adds a new subsection 11(3) to section 11 which provides that a qualifying New Zealand Citizen is also a New Zealand citizen who was a qualifying New Zealand citizen under subsection 11(2) on the day the Secretary approved a VET student loan to the citizen and is also the holder of a permanent visa (within the meaning of the Migration Act 1958) who is usually resident in Australia.
Item 31 – Section 6 (definition of *qualifying New Zealand citizen*)

This item makes a minor consequential renumbering change to the definition of *qualifying New Zealand citizen* in section 6 so that it reads ‘*qualifying New Zealand citizen*: see subsections 11(2) and (3).’
Part 2 – Amendments commencing 1 July 2018

Higher Education Support Act 2003

Item 34 – Section 140-15

Section 140-15 provides for the index number (which is the CPI) for the purpose of calculating accumulated HELP debts. This item repeals section 140-15. It will no longer be required following the commencement of Schedule 2 to the Budget Savings (Omnibus) Act 2016 (Omnibus Act) on 1 January 2018, which will change the index for amounts that are indexed annually under HESA from the Higher Education Grants Index (HEGI) to the CPI.

Item 35 - Paragraph 154-10(a)

Section 154-10 of HESA provides for the minimum repayment income for an income year, that is, the amount that a person’s repayment income must be above before they will be obliged to start repaying their accumulated HELP debts.

Paragraph 154-10(a) currently provides that the minimum repayment income for the 2005-06 income year was $36,184. This amount has since been indexed every year.

This item repeals and substitutes paragraph 154-10(a) to provide that the minimum repayment income for the 2018-19 income year is $41,999.

Item 1 of Schedule 1 to the Omnibus Act repeals and substitutes paragraph 154-10(a) and sets a new minimum repayment income for the 2018-19 income year of $51,956. The amendments made by this item replace the Omnibus Act minimum repayment income change.

Item 36 – Section 154-20 (table)

Section 154-20 contains a table which lists repayment income thresholds and the applicable percentage rates for the compulsory repayment of HELP debts. This item repeals and substitutes the table with the following:
<table>
<thead>
<tr>
<th>Item</th>
<th>If the person’s repayment income is:</th>
<th>The percentage applicable is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>More than the *minimum repayment income, but less than: (a) for the 2018-19 *income year—$44,520; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>1%</td>
</tr>
<tr>
<td>2</td>
<td>Equal to, or more than, the amount under item 1, but less than: (a) for the 2018-19 *income year—$47,191; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>1.5%</td>
</tr>
<tr>
<td>3</td>
<td>Equal to, or more than, the amount under item 2, but less than: (a) for the 2018-19 *income year—$50,022; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>2%</td>
</tr>
<tr>
<td>4</td>
<td>Equal to, or more than, the amount under item 3, but less than: (a) for the 2018-19 *income year—$53,024; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>2.5%</td>
</tr>
<tr>
<td>5</td>
<td>Equal to, or more than, the amount under item 4, but less than: (a) for the 2018-19 *income year—$56,205; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>3%</td>
</tr>
<tr>
<td>6</td>
<td>Equal to, or more than, the amount under item 5, but less than: (a) for the 2018-19 *income year—$59,577; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>3.5%</td>
</tr>
<tr>
<td>7</td>
<td>Equal to, or more than, the amount under item 6, but less than: (a) for the 2018-19 *income year—$63,152; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>4%</td>
</tr>
<tr>
<td>8</td>
<td>Equal to, or more than, the amount under item 7, but less than: (a) for the 2018-19 *income year—$66,941; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>4.5%</td>
</tr>
<tr>
<td>9</td>
<td>Equal to, or more than, the amount under item 8, but less than: (a) for the 2018-19 *income year—$70,958; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>5%</td>
</tr>
<tr>
<td>10</td>
<td>Equal to, or more than, the amount under item 9, but less than: (a) for the 2018-19 *income year—$75,215; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>5.5%</td>
</tr>
<tr>
<td>11</td>
<td>Equal to, or more than, the amount under item 10, but less than: (a) for the 2018-19 *income year—$79,728; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>6%</td>
</tr>
<tr>
<td>12</td>
<td>Equal to, or more than, the amount under item 11, but less than: (a) for the 2018-19 *income year—$84,512; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>6.5%</td>
</tr>
<tr>
<td>13</td>
<td>Equal to, or more than, the amount under item 12, but less than: (a) for the 2018-19 *income year—$89,582; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>7%</td>
</tr>
<tr>
<td>14</td>
<td>Equal to, or more than, the amount under item 13, but less than: (a) for the 2018-19 *income year—$94,957; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>7.5%</td>
</tr>
<tr>
<td>15</td>
<td>Equal to, or more than, the amount under item 14, but less than: (a) for the 2018-19 *income year—$100,655; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>Equal to, or more than, the amount under item 15, but less than:</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>16</td>
<td>(a) for the 2018-19 *income year—$106,694; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>8.5%</td>
</tr>
<tr>
<td>17</td>
<td>(a) for the 2018-19 *income year—$113,096; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>9%</td>
</tr>
<tr>
<td>18</td>
<td>(a) for the 2018-19 *income year—$119,882; or (b) for a later income year—that amount indexed under section 154-25.</td>
<td>9.5%</td>
</tr>
<tr>
<td>19</td>
<td>Equal to, or more than, the amount under item 18.</td>
<td>10%</td>
</tr>
</tbody>
</table>

**Item 37 – Subsection 154-25(1)**

This item repeals and substitutes the method of indexation in subsection 154-25(1). New subsection 154-25(1) provides that, for the 2019-20 income year and later income years, the minimum repayment income and the amounts referred to in paragraph (a) of the second column of items 1 to 18 of the table in section 154-20 (see item 36 of this Schedule) are indexed by multiplying the relevant amount for the 2018-19 income year by an amount that is to be worked out by applying the following formula:

\[
\text{The sum of the index rates for the *quarter ending on 31 December immediately before the income year, and the 3 quarters immediately preceding that quarter}
\]

The Dictionary at Schedule 1 to HESA defines *quarter* as meaning a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

**Item 38 – Subsections 154-25(2) and (3)**

This item repeals subsections 154-25(2) and (3) which are no longer required due to the repeal and substitution of subsection 154-25(1) by item 37 of this Schedule.

**Item 39 – Paragraph 154-30(b)**

Section 154-30 deals with publishing indexed amounts.
This item omits ‘to 9’ from paragraph 154-30(b) and substitutes ‘to 18’. This is a consequential amendment to item 36 of this Schedule.

Item 40 – Section 198-1 (note 1)

This item omits ‘sections 140-10 and 140-15’ from note 1 to section 198-1 and substitutes ‘section 140-10’. This is a consequential amendment to item 34 of this Schedule which repeals section 140-15.

Item 41 – Clause 1 of Schedule 1 (definition of AWE)

This item repeals the definition of AWE in the Dictionary at Schedule 1. The term AWE is no longer required due to amendments made to section 154-25 by item 37 of this Schedule.

Item 42 – Clause 1 of Schedule 1 (paragraph (a) of the definition of index number)

Paragraph (a) of the definition of index number in the Dictionary at Schedule 1 provides that, for the purposes of Part 4-1 (indebtedness), it has the meaning given by section 140-15.

This item repeals and substitutes the paragraph (a) definition. Under the new definition, index number for the purposes of Part 4-1 and Part 4-2 (discharge of indebtedness) has the meaning given by clause 2 of Schedule 1. This is a consequential amendment to item 44 of this Schedule.

Item 43 – Subclause 1(1) of Schedule 1 (definition of reference period)

This item repeals the definition of reference period which is no longer required.

Item 44 – At the end of Schedule 1

This item adds a new clause 2 at the end of Schedule 1 to provide for index numbers.

New subclause 2(1) of Schedule 1 provides that, for the purposes of Part 4-1 (indebtedness) and Part 4-2 (discharge of indebtedness), the index number for a quarter is the All Groups Consumer Price Index number – which is the weighted average of the 8 capital cities as published by the Australian Statistician for that quarter.

New subclause 2(2) of Schedule 1 provides that, subject to subclause 2(3) of Schedule 1, if at any time before or after the commencement of HESA, the Australian Statistician has published or publishes an index number for a quarter and this is in substitution for a previously published index number for the quarter – then the later published index number is to be disregarded.
New subclause 2(3) provides that if, at any time before or after the commencement of HESA, the Australian Statistician has changed or changes the reference base for the Consumer Price Index – then, when later applying this clause, regard is to be given only to the index numbers published in terms of the new reference base.
Part 3 – Application and transitional provisions

Item 45 – Amendments made by Part 1 of this Schedule

Subitem 46(1) provides that the amendments made to HESA by Part 1 of this Schedule (apart from the repeal of paragraphs 36-10(2)(b) and (c)) apply to units of study that have a census date which is on or after 1 January 2018 (whether or not the unit is part of a course that commenced before or after 1 January 2018).

Subitem 46(2) provides that the amendments made by Part 1 of this Schedule apply in relation to any part of a course with a census date which is on or after 1 January 2018 (whether or not the course commenced before or after 1 January 2018).

Item 46 – Commonwealth supported students

This item provides that the repeal of paragraphs 36-10(2)(b) and (c) of HESA made by Part 1 of this Schedule applies in relation to the following:

- courses commenced on or after 1 January 2018
- for courses that commenced before that date - units of study in these courses if the units commenced on or after 1 January 2023.

Item 47 – Indexation

This item provides that:

- the amendments made to HESA by Part 2 of this Schedule (apart from the amendments to section 154-25) apply in relation to the 2018-19 income year and to later income years
- the amendments made to section 154-25 of HESA by Part 2 of this Schedule apply in relation to the 2019-20 income year and to later income years.
**Schedule 4 Other grants**

**Summary**

This schedule strengthens the provisions of the Higher Education Participation and Partnerships Program (HEPPP), with legislative certainty provided by embedding funding arrangements for the program into the Act.

The Bill introduces a new, demand-driven, low-SES student loading amount of $985 per student per year.

In addition, annual funding amounts of $13.3 million in performance funding and $9.5 million for the National Priorities Pool will be guaranteed into the future.

To support these changes, this Schedule amends Part 2-3 – Other Grants by creating a new Division 40, amending the existing Division 41 and introducing a new Division 42 which relates to the Higher Education Participation and Partnerships Program (HEPPP). Division 42 provides for the payments of grants under the HEPPP to Table A providers and, in relation to the National Priorities Pool, to eligible bodies corporate, for the purpose of promoting equality of opportunity in higher education by improving:

- access to undergraduate courses for people from low SES backgrounds; and
- the extent to which people from low SES backgrounds participate, remain and succeed in higher education and obtain higher education awards.

This Schedule introduces the HEPPP Guidelines, made by the Minister pursuant to section 238-10 of the Act, and sets out the types of grants payable under the HEPPP to be a low SES student loading, performance funding and grants under a National Priorities Pool.

New definitions subsequent to the amendments to this Schedule are inserted in Schedule 1 of the Act.

**Detailed explanation**

**Part 1 – Amendments**

*Higher Education Support Act 2003*

**Item 1 – Division 41 (heading)**

This item repeals the heading to Division 1 (Other grants) and substitutes a new heading titled ‘Division 40 – Introduction’.
Item 2 – Section 41-1

This item renumbers section 41-1 as section 40-1.

Item 3 – Before section 41-5

This item inserts a new heading before section 41-5 which reads ‘Division 41 – Other grants’.

Item 4 – At the end of section 41-10

Section 41-10 concerns the eligibility for grants under Part 2-3.

This item adds a note at the end of section 41-10 to explain that the HEPPP is established by Division 42.

Item 5 – At the end of section 41-20

Section 41-20 provides that the Minister may approve a Part 2-3 grant to an eligible body corporate in respect of a year or a project.

This item adds a note at the end of section 41-20 to explain that the Minister may, under section 41-20, approve a Division 42 grant with respect to the HEPPP.

Item 6 – Paragraph 41-25(a)

Section 41-25 concerns conditions of a Part 2-3 grant and paragraph 41-25(a) refers to conditions specified in the Other Grants Guidelines. This item amends paragraph 41-25(a) to add in reference to the HEPPP Guidelines.

Items 7 to 9 – Section 41-30

Section 41-30 provides that the amount of a grant under Part 2-3 is as follows:

- if the grant is made under a program and the Other Grants Guidelines specify a method for determining the grant – then the amount is as determined by that method (paragraph 41-30(a))
- in other cases – the amount is as determined in writing by the Minister (paragraph 41-30(b)).

Item 7 amends section 41-30 to add the words ‘(except a grant under section 42-20)’ after ‘amount of grant’.

Item 8 amends paragraph 41-30(a) to add in reference to the HEPPP Guidelines.

Item 9 adds a note to section 41-30 to explain that section 42-20 provides for how to work out the amount of a low SES loading under the HEPPP.
Items 10 and 11 – Section 41-35

Section 41-35 provides that a Part 2-3 grant amount is payable to a body corporate for a year or project of an amount equal to that referred to in section 41-30 if either of the following apply:

- the body corporate meets, in respect of a year, the requirements of the Other Grants Guidelines made for the purposes section 41-15 in relation to a program (paragraph 41-35(a))
- the Minister approves, under section 41-20, a grant to the body corporate in respect of a year or project (paragraph 41-35(b)).

Item 10 repeals and substitutes paragraph 41-35(a). The new paragraph 41-35(a) is essentially the same as the current version – except that, in addition to referring to the requirements of the Other Grants Guidelines, it also refers to the requirements of the HEPPP Guidelines made for the purposes of subsection 42-10(3).

Item 11 also amends section 41-35 to add in the words ‘or 42-20 (as the case requires)’ after the reference to section 41-30.

Items 12 to 15 – Section 41-45

Section 41-45 concerns maximum payments for other grants under Part 2-3.

These items make minor consequential amendments to the following parts of section 41-45 to change the reference to ‘this Part’ to ‘this Division’:

- the heading to section 41-45
- subsection 41-45(1) (including the table heading)
- subsections 41-45(1A) and (1B).

Item 16 – Subsection 41-50(1)

Subsection 41-50(1) provides that, before a year starts, the Minister must make a legislative instrument listing the maximum amounts of all grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10.

This item makes a minor amendment to subsection 41-50(1) to make it clear that the reference to amounts that may be paid is with respect to grants which may be paid under Division 41.

Item 17 – At the end of Part 2-3

This item adds a new Division 42 headed ‘Higher Education Participation and Partnerships Program’ consisting of new sections 42-1, 42-5, 42-10, 42-15, 42-20, 42-25, 42-30 and 42-35.
Section 42-1 – What this Division is about

This section explains that new Division 42 provides for the payments of grants under the HEPPP to Table A providers and, in relation to the National Priorities Pool, to eligible bodies corporate, for the purpose of promoting equality of opportunity in higher education by:

- improving access to undergraduate courses for people from low SES backgrounds
- improving the extent to which people from low SES backgrounds participate, remain and succeed in higher education and obtain higher education awards.

Section 42-5 – The HEPPP Guidelines

This section provides that grants under Division 42 are also dealt with in the HEPPP Guidelines and that the provisions of Division 42 indicate when something is or may be dealt with in those Guidelines.

A note explains the meaning of HEPPP and that the Minister makes the HEPPP Guidelines under section 238-10.

Section 42-10 - Higher Education Participation and Partnerships Program

Subsection 42-10(1) provides that the following types of grants are payable under the HEPPP with respect to those purposes that are set out in subsection 42-10(2):

- loadings under section 42-20
- performance funding under section 42-25
- National Priorities Pool grants under section 42-30.

A note to subsection 42-10(1) explains that the Minister approves the grants under section 41-20.

Subsection 42-10(2) provides that the HEPPP purpose is to promote equality of opportunity in higher education by:

- improving access to undergraduate courses for people from low SES backgrounds
- improving the extent to which people from low SES backgrounds participate, remain and succeed in higher education and obtain higher education awards.

A note to subsection 42-10(2) gives an example of a grant for a HEPPP purpose – which is a grant to an eligible body corporate to research or investigate how to improve the matters referred to in paragraphs 42-10(2)(a) or (b).

Subsection 42-10(3) provides that the HEPPP Guidelines may specify any of all of the following matters:

- HEPPP objectives
- extra conditions of eligibility for a HEPPP grant
• the method by which amounts of grants under sections 42-25 or 42-30 will be determined
• conditions applicable to HEPPP grants.

Section 42-15 – Meaning of eligible low SES student

This section provides that students are eligible low SES students of a provider for a period if they are domestic students from a low SES background who are enrolled in an undergraduate course of study with that provider during the period.

Section 42-20 – Low SES loadings for Table A providers

Subsection 42-20(1) provides that, subject to subsection 42-20(3), Table A providers are eligible for a loading for a year – the method of calculation being the number of eligible low SES students of the provider for the most recent year for which data is available, multiplied by the low SES student loading amount.

Subsection 42-20(2) provides that the low SES student loading amount is $985. A note explains that this amount is indexed under Part 5-6.

Subsection 42-20(3) provides that a Table A provider is not eligible for the low SES loadings grant if the HEPPP Guidelines specify any extra eligibility conditions and the provider does not comply with those extra conditions.

Section 42-25 – Performance funding for Table A providers

Subsection 42-25(1) provides that a Table A provider is eligible for performance funding for a year if, the provider improves, over the period and in accordance with the requirements of the HEPPP Guidelines, the outcomes of either or both of their:

• eligible low SES students during all or part of the period
• Indigenous students who are enrolled in an undergraduate course of study with the provider during all or part of the period.

Subsection 42-25(2) provides that the total of performance funding grants that are approved for a year must equal $13,348,307. A note explains that this sum is indexed annually under Part 5-6.

Subsection 42-25(3) provides that a Table A provider is not eligible for the performance funding grant if the HEPPP Guidelines specify any extra eligibility conditions and the provider does not comply with those extra conditions.

Section 42-30 – National Priorities Pool

Subsection 42-30(1) provides that bodies corporate are eligible for National Priorities Pool grants for a year if they are eligible under the HEPPP Guidelines.

Subsection 42-30(2) provides that the total of National Priorities Pool grants that are approved for a year must equal $9,500,000. A note explains that this sum is indexed annually under Part 5-6.
Item 18 – Subsection 198-5(1) (after table item 2)

The table in subsection 198-5(1) sets out the amounts under HESA that are to be indexed. This item adds the following to the list:

- low SES loadings (section 42-20)
- performance funding (subsection 42-25(2))
- National Priorities Pool funding (subsection 42-30(2)).

Items 19 and 20 – Subsection 238-10(1)

Section 238-10 concerns the various Guidelines the Minister may make under HESA.

Item 19 adds a new item 5A to the subsection 238-10(1) list of Guidelines the Minister may make to add in the HEPPP Guidelines under Division 42.

Item 20 amends item 8 of the subsection 238-10(1) list of Guidelines relating to the Other Grants Guidelines to specify they are made under Division 41 instead of Part 2-3.

Item 21 – Subclause 1(1) of Schedule 1

This item inserts definitions of eligible low SES student, from a low socioeconomic status background and low SES student loading amount into the Dictionary at Schedule 1.

eligible low SES student carries the meaning given by section 42-15 – which provides that students are eligible low SES students of a provider for a period if they are domestic students from a low SES background who are enrolled in an undergraduate course of study with that provider during the period.

from a low socio-economic status background carries the meaning given by the HEPPP Guidelines. A note also clarifies that the definition in the HEPPP Guidelines may apply, adopt or incorporate matter contained in an instrument or other writing despite subsection 14(2) of the Legislation Act 2003.

low SES student loading amount carries the meaning given by subsection 42-20(2) – which provides that the low SES student loading amount is $985 (as indexed under Part 5-6).

Item 22 – At the end of clause 1 of Schedule 1

This item adds a new subclause 1(4) at the end of Schedule 1 to HESA which provides that the definition of from a low socio-economic status background in the HEPPP Guidelines may apply, adopt or incorporate any matter contained in an instrument or other writing as in force or existing from time to time – despite subsection 14(2) of the Legislation Act 2003.
Subsection 14(2) of the *Legislation Act 2003* provides that, unless the contrary intention appears, a legislative instrument or notifiable instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

The definition of “from a low socio-economic status background” is contained within the HEPPP Guidelines, as are the definitions of “Statistical Area Level 1(SA1)” and “Index of Education and Occupation”. These two latter sources are published by the Australian Bureau of Statistics (ABS) and are subject to change over time. The Statistical Area Level 1 and Index of Education and Occupation are published by the ABS and are the most up to date and accurate ways to define low socio-economic status. Use of the most recent data from these sources will provide the most accurate definition of low socio-economic status. Both sources are readily and freely available at the following locations:

**Statistical Area Level 1 (SA1)**
Statistical Area Level 1 is explained in Volume 1 of the Australian Statistical Geography Standard published from time to time by the Australian Bureau of Statistics.
Current version: 2016
Catalogue number: 1270.0.55.001

**Socio-economic Indexes for Areas Index of Education and Occupation (SEIFA–IEO)**
Title details: The indexes and supporting material are found in the publication Census of Population and Housing: Socio-Economic Indexes for Areas (SEIFA), Australia, 2011 (cat. no. 2033.0.55.001)
Current version: 2011
Catalogue number: 2033.0.55.01
Part 2 – Application and transitional provisions

Item 23 – Application of amendments

This item provides that new Division 42 applies in relation to any Part 2-3 grants made either before or after this item commences.
Schedule 5  Minor and technical amendments

Summary

Schedule 5 of the Bill makes a minor amendment to the definition of the term 'higher education award' to clarify that vocational awards are not higher education awards.

It also updates the names of two higher education providers (University of Technology Sydney and University of Divinity) so that HESA reflects their correct names.

Detailed explanation

Part 1 – Amendments

Higher Education Support Act 2003

Item 1 – Subsection 16-15(1) (table item dealing with University of Technology, Sydney)

Subsection 16-15(1) lists all of the HESA Table A providers, one of which is currently listed as ‘University of Technology, Sydney’. This item changes that listing to ‘University of Technology Sydney’ to reflect the University’s current name (i.e. a minor change has been made to remove a comma).

Items 2 and 3 – Subsection 16-20(1)

Subsection 16-20(1) lists all of the HESA Table B providers, one of which is currently listed as ‘MCD University of Divinity’. These items change that listing to ‘University of Divinity’ to reflect the University’s current name.

Item 4 – Subclause 1(1) of Schedule 1 (paragraph (c) of the definition of higher education award)

Paragraph (c) of the definition of higher education award currently means any other award specified as a higher education award under the Australian Qualifications Framework (AQF). The reference to the AQF was included to distinguish between awards that are available in both the higher education and vocational spheres, such as diplomas. The AQF has been updated and no longer refers to higher education awards.
This item repeals and substitutes paragraph (c) so that this part of the definition means any other award that is offered or conferred by a higher education provider – except for those that are offered or conferred for the VET course of study.

Part 2 – Application and transitional provisions

Item 5 – Higher education awards

This item provides that the amendment made to paragraph (c) of the definition of higher education award by this Schedule applies with respect to any unit of study with a census date on or after 1 January 2018 (whether the unit is part of a course commenced before or after that date).