EXPLANATORY STATEMENT
Subsections 3(1) and 5D(1) of the Student Assistance Act 1973
Determination of Education Institutions and Courses under subsections 3(1) and 5D(1) of the Student Assistance Act 1973
Determination No. 2002/1
Issued by the authority of the Minister for Education, Science and Training

Reason for the Determination

Subsections 3(1) and 5D(1) of the Student Assistance Act 1973 have the effect of providing that the Minister may determine what is an approved education institution and an approved course for the purposes of the Act.

Since 1 July 1998 the Social Security Act 1991 has required that, to qualify for Youth Allowance payments to students, Austudy payments or the Pensioner Education Supplement, a person must be enrolled in and undertaking study at an education institution and in a course determined by the Minister under the Student Assistance Act 1973.

Since 1 July 2000, the A New Tax System (Goods and Services Tax) Act 1999 has provided that a supply of secondary and tertiary courses, as determined by the Minister under the Student Assistance Act 1973, will be GST-free.

This Determination does not change the coverage of education institutions or courses provided by Determination 1999/2. Some wording has been amended to clarify this coverage and to address changes in terminology in the education sectors since the last review in 1999 (Determination 1999/2).

It has been necessary to clarify the definition of "vocational education and training programme". The definition in the 1999/2 Determination was open to an interpretation which was not intended by the underlying legislative policy. As a result payments had been made to persons undertaking "vocational education and training programmes" that included subjects or modules that were not from an accredited vocational education and training course.

In light of that it is necessary to amend the definition to ensure that payments are made to persons undertaking vocational education and training programmes that included all subjects and modules from an accredited vocational education and training course. Any students who were receiving Youth Allowance or Austudy based on an unintended interpretation of the 1999/2 Determination will no longer be eligible.

However, as unaccredited vocational education and training courses are typically of short duration, it is expected that these students will have completed their courses by 1 January 2003 when the new Determination takes effect.
Reason for Tabling the Determination of Education Institutions and Courses

Subsections 3(2A) and 5D(3) of the Student Assistance Act 1973 provide that Ministerial Determinations are disallowable instruments for the purposes of section 46A of the Acts Interpretation Act 1901 and therefore must be gazetted and tabled in the Parliament.

The Determination of Education Institutions and Courses

Determination 2002/1 will revoke Determination 1999/2 made on 26 November 1999, will commence on 1 January 2003 and shall remain in force until revoked.

Determination 2002/1 describes the types of education institutions, and secondary and tertiary courses provided by these institutions, that are approved for the purposes of the Student Assistance Act 1973. Through reference to the Determination, the Social Security Act 1991 identifies these courses as secondary and tertiary courses approved for the purposes of payments to students. Also through reference to the Determination, the A New Tax System (Goods and Services Tax) Act 1999 identifies these courses as secondary and tertiary courses, the provision of which is GST-free.

NOTE: This Determination was gazetted on Wednesday, 6 November 2002 in Government Notices No. GN 44, pages 2966 to 2974.