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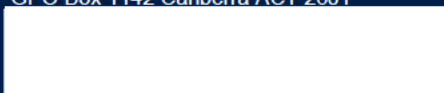
SUBMISSION TO THE SENATE EDUCATION AND EMPLOYMENT COMMITTEE: JOB-READY GRADUATES LEGISLATION

SEPTEMBER 2020

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Further inquiries should be made to the Chief Executive:

GPO Box 1142 Canberra ACT 2601



UNIVERSITIESAUSTRALIA.EDU.AU

ABN 53 008 502 930

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1 EXECUTIVE SUMMARY

Universities Australia welcomes the opportunity to make a submission to the Committee's inquiry into the Higher Education Support Amendment (Job-ready Graduates and Supporting Regional and Remote Students) Bill 2020.

Universities Australia is the peak body for the university sector, representing Australia's 39 comprehensive universities. Universities Australia's members educate more than 1.4 million students and conduct research and development on behalf of the nation. Now, more than ever, Australia's universities are central to our welfare and prosperity, as they help guide our response to the COVID-19 pandemic.

Universities are vital national infrastructure. They play a fundamental role in the economic and social wellbeing of the nation, through the production of skilled graduates who provide critical skills to the labour market and wider community; through research that brings new knowledge to drive productivity; and through their community outreach, leadership and service that makes Australia a better place to live.

Australia's universities are stewards of a wealth of expertise and knowledge that can be deployed on behalf of the nation. University research produces knowledge and innovation that will address the pandemic and its impact. Australia will need more skilled graduates to drive economic recovery.

Universities Australia acknowledges the Government's decision to alter the legislation before it was introduced to Parliament in order to protect funding for student places, through a floor on the 'maximum basic grant amount' that the Education Minister can set. We also acknowledge the inclusion of the Transition Fund in the Bill.

The package – and the legislation to enact it – is complicated and the changes proposed are profound. The sector has now had the opportunity to scrutinise the legislation in more detail and to discuss its many implications. Universities Australia has some further proposals to make for amendments to enshrine key aspects of the package in legislation and to improve particular elements of the Bill.

Universities Australia welcomes the Government's commitment through the Job-ready Graduates (JRG) package to providing additional university places to meet increasing demand for higher education. Demographic growth in the youth population, plus the effects of the first recession Australia has experienced in nearly 30 years, mean that many more people – both school leavers and others – will want to study in coming years. To equip Australians with the skills needed to drive recovery and to thrive in the economy of the future, more university places are urgently needed.

We note, however, that Government is not making available any additional resourcing to support these additional places. Indeed, total funding for teaching will fall – by 5.8 per cent per place on average. To give more Australians the opportunity to get a degree, universities will have to teach more students for – at best – the same amount of funding. Further, this obligation to do more with less will arise in a context of significant – in some cases severe – reductions in universities' revenues.

Reductions in funding for student places under JRG are hardwired into legislation. The money diverted by these measures has a number of intended uses, including to fund additional places; indexation of funding; two new funds to support industry engagement and equity and access; and a 'Transition Fund' to help universities disadvantaged by the package in the first three years of implementation.

Universities Australia notes that while funding reductions are all to be legislated, repurposing of the money is not. While we welcome the policy intent of the package, we remain concerned that failure to protect key elements in legislation puts the policy objectives at risk, avoids Parliamentary oversight of higher education funding and will leave higher education vulnerable to ad hoc budget cuts in the medium term.

Universities Australia seeks further assurance on the future funding of key elements of the JRG package, through their inclusion in the legislation or at least through timely publication of the relevant changes to delegated legislation such as the *Commonwealth Grant Scheme Guidelines* and the *Other Grants Guidelines*.

Recommendations

The Bill should be amended to provide legislative protection for:

- indexation of grants to universities;
- 'growth factors' for increasing grant funding in order to provide additional places; and
- total resourcing for the new industry engagement and equity funds.

The Government should make publicly available draft guidelines for the Transition Fund, and other elements of the JRG package which require new or amended guidelines.

The Bill should be amended to:

- extend demand-driven places to all Indigenous students (not just those from regional and remote areas);
- set conditions for audits of universities' compliance with 'quality and accountability requirements' in the *Higher Education Support Act 2003*, to ensure that audits are only undertaken on the basis of genuine and demonstrated risk;
- leave Enabling Loading in the Commonwealth Grant Scheme; and
- mandate a review of the impact of new funding arrangements three years after they come into effect.

Guidelines should be drafted so that 'growth factors' for funding additional places take account of absolute growth in the youth population in a university's catchment, not just population growth relative to other areas.

Government should provide clearer assurance in the legislation on future study options and pathways for students who fail more than half of their units in a given course.

2 ADDITIONAL PLACES ARE NEEDED

At the end of 2017, funding for student places was frozen. No allowance was made for inflation, so overall funding has declined in real terms. As a result, there are fewer fully funded Commonwealth-supported places in the system now than there were three years ago.

In 2018 and 2019, aggregate Government funding for university places was at the same nominal level as 2017. Funding decreased in real terms over these two years due to inflation. From 2020, some additional funding is available to universities through a new performance-based funding (PBF) scheme. Increases in funding under the PBF scheme are based on population growth of 18 to 64 years old and are less than inflation, so funding continues to decline in real terms.

As the number of available places is falls, the population of young Australians continues to grow. Over the course of the decade, growth in the number of 18 year olds will be strong, peaking at around four per cent per year in 2024 and 2025. By 2030, there will be 55,000 more 18 year olds than there are now.

In addition to this demographically driven growth, the impact of the recession on the labour market will further increase demand for university places. This will be exacerbated by the closure of international borders which effectively rules out ‘gap year’ travel. As in previous recessions, people who have lost their jobs will seek to upskill or retrain, while school leavers – and others – will look to invest in education and training to be ready for job market needs as the economy recovers. From the perspective of both the individual and the nation, this is a useful – and very necessary – counter-cyclical investment in skills and productive capacity.

There are strong preliminary indications of major increases in demand for university places in 2021. For example, in New South Wales and the Australian Capital Territory, preliminary data suggest a 35 per cent increase in demand, while in Queensland there is a 38 per cent increase in applications overall. In South Australia and the Northern Territory, applications for undergraduate places in 2021 are up 26 per cent.

In most years, changes in demand are in the low single digits. Even at the end of 2008 – after the Global Financial Crisis hit – applications rose by less than six per cent (and this was the biggest increase in seven years).¹

While the size of the increase in 2021 will not be clear until later this year, it appears likely that the growth in demand will be at least on the levels observed in 2009.

Against the background of this increase in demand, Universities Australia welcomes the Government’s emphasis on participation. The new places provisioned for by the JRG package will go some way towards meeting this demand.

¹ DESE (2010), *Undergraduate Applications, Offers and Acceptances 2009*

3 THE JOB-READY GRADUATES PACKAGE OFFERS NO ADDITIONAL FUNDING

While the JRG package makes provision for additional places, it does not provide any additional funding for these places. Instead, universities are asked to provide 39,000 extra places over three years within the existing funding envelope. In the first three years, Commonwealth-Supported Places (CSPs) in Bachelor degree courses are expected to increase by around six per cent, compared to 2018. At the same time, average resourcing per place will fall by 5.8 per cent.

Funding for each student place is made up of two components, the Commonwealth contribution paid through the Commonwealth Grant Scheme (CGS) and the student contribution, with differing amounts for each of the two applying to places in different fields of education. Changes to funding under the JRG package are implemented by a series of changes to these arrangements. The changes outlined in the Bill would simplify a complicated structure of Government subsidies and student fees, but the very complexity of the existing system makes any change a complicated matter.

Overall, CGS is reduced by 17 per cent per place on average.

Student contributions fall for most students (around 55 per cent of all students) but rise significantly for around 40 per cent. On average across all fields, student contributions increase by around nine per cent.

The impact on combined resourcing per place – CGS plus student contributions – is a reduction of six per cent (again, on average across all fields).

The package reduces student contributions – often by large amounts – in several fields, such as nursing, allied health, education, science, English and mathematics.

There are significant reductions in overall funding per place in most of the disciplines where student contributions come down, including in mathematics (overall funding per place down 17 per cent); science (down 16 per cent); agriculture (down nine per cent); nursing (down eight per cent) and education (down six per cent).

It is important to see these changes in context. Universities are facing major reductions in revenue (up to \$4.8 billion this year, and \$16 billion over the four years 2020-23); many more Australians are seeking a university place; and the nation needs to invest in a knowledge and skills led economic recovery. Reductions in funding per student place for teaching puts additional pressure on a system already under very significant stress.

4 FUNDING REDUCTIONS ARE LEGISLATED: OTHER MEASURES ARE NOT

The funding reductions that are part of the JRG package are all included in the legislation. Other important elements of the package – which transfer these savings to other purposes (additional places, indexation, new and targeted funding pools) are not. These measures will therefore lack legislative protection and will become vulnerable in the future. Parliament will be denied effective oversight of important elements of higher education funding.

The Bill implements reductions in funding for student places by setting a new schedule of Commonwealth contributions at Item 5 of Schedule 1. Some of the details are left to delegated legislation (that is, the *CGS Guidelines*). In particular, it is not clear how Government will operationalise the new disciplines of Professional Pathway Social Work and Professional Pathway Psychology and determine which units qualify. Nevertheless, the essential components of changes to CGS are in the legislation.

Similarly, changes to student contributions are set out in Schedule 2.

The overall design of the JRG package is that money removed from direct funding for student places is to be re-allocated, to provide:

- additional places, allocated through ‘growth factors’ to increase universities’ aggregate funding for student places;
- indexation of universities’ aggregate funding for student places;
- a ‘Transition Fund’ to compensate universities which are worse off under the new funding arrangements in the first three years; and
- two new funds for equity and access (the Indigenous, Regional and Low SES Attainment Fund or IRLSAF) and industry engagement (the National Priorities and Industry Linkage Fund or NPILF).

None of these important elements of the JRG package are legislated. Universities Australia welcomes the Government’s commitment to the measures listed above. It is our view that stronger legislative protection for these measures would more effectively realise the policy objectives of the package. Legislating these measures would require Parliamentary approval for any significant future change to the package, thereby affording assurance into the medium term that these JRG initiatives will remain in place.

We suggest options for legislating these measures below.

4.1 ADDITIONAL PLACES AND INDEXATION

The most important element of the JRG package – namely the provision for future growth in the number of CSPs to meet increasing demand – depends on the commitment to increase universities’ funding envelopes each time they sign a three-year funding agreement with Government. Without legislative protection of some kind, there is no guarantee that this important and necessary commitment will continue.

Universities Australia recommends that a new clause be inserted in s.30-25 of the *Higher Education Support Act 2003 (HESA)*, requiring that a funding agreement with a Table A provider include the growth factor worked out for that provider under rules set out in the *CGS Guidelines*.

- (1B) A funding agreement with a Table A provider must include the *growth factor worked out for that provider under rules set out in the Commonwealth Grant Scheme Guidelines.

Item 9 of Schedule 1 – setting a floor under the ‘maximum basic grant amount’ (MBGA) for ‘higher education courses’ – should be amended to require that from 2025 onwards, the MBGA for ‘higher education courses’ for a university must take growth factors (set every three years through funding agreements) into account.

Similarly, indexation could be protected in legislation through a further change to Item 9 of Schedule 1 to require that from 2025, the MBGA for ‘higher education courses’ for a university cannot be less than the previous year’s MBGA indexed under s.198-10 of *HESA*.

The relevant section of Item 9 of Schedule 1, as modified to accommodate both of these changes, could be drafted as follows:

Table A providers—maximum basic grant amount for higher education courses

- (2) If a funding agreement for a *Table A provider is in respect of 2021, 2022 and 2023, the maximum basic grant amount for the provider for each of those years for *higher education courses must not be less than the amount specified in the Commonwealth Grant Scheme Guidelines for the purposes of this subsection for the provider for each of those years for those courses.
- (3) If a funding agreement for a *Table A provider is in respect of other later years, the maximum basic grant amount for the provider for each of those years for *higher education courses must not be less than:
- (a) for 2024—the amount specified in the Commonwealth Grant Scheme Guidelines for the purposes of this paragraph for the provider for that year for those courses; and
 - (b) **for any other later year which is the first year of a new funding agreement made with the provider—the maximum basic grant amount specified for the preceding year in the provider’s previous funding agreement for those courses, as**
 - (i) indexed under s.198-10 and**
 - (ii) multiplied by one plus the *growth factor worked out for the provider under the rules specified in the Commonwealth Grant Scheme Guidelines and included in the provider’s new funding agreement.**
 - (c) **for any other later year which is not the first year of the provider’s funding agreement – the maximum basic grant amount specified in the provider’s funding agreement for the preceding year for those courses, as indexed under s.198-10**
- (4) Without limiting subsection (2) and paragraph (3)(a), the Commonwealth Grant Scheme Guidelines may:
- (a) specify different amounts for different years for the purposes of that subsection; and
 - (b) specify different amounts for different *Table A providers for the purposes of that subsection or paragraph.

A definition of 'growth factor' should be inserted into the Dictionary at Schedule 1 of HESA as follows:

Growth factor means the percentage change of one per cent or more worked out under rules set out in the Commonwealth Grant Scheme Guidelines in order to vary the *maximum basic grant amount for *higher education courses at *Table A provider, in addition to annual indexation, in order to provide additional places.

4.2 TRANSITION FUND

Universities Australia welcomes the Government's inclusion of the Transition Fund in the Bill at Item 8 of Schedule 1, and the decision to make the Transition Fund part of the CGS.

The total amount of funding available through the Transition Fund and methods for allocating it to universities will be set in *CGS Guidelines*. Without having seen draft changes to the *CGS Guidelines* we remain concerned that there is inadequate protection for the Transition Fund.

Universities Australia urges Government to publish draft guidelines in order to provide assurance that the Transition Fund will operate as announced in the JRG package.

The Bill itself should be amended to set out the quantum of the Transition Fund and to ensure that it will be allocated to universities in accordance with the policy intent.

4.3 NEW FUNDS: NPILF AND IRLSAF

New funds to support industry linkage (NPILF) and access and equity (IRLSAF) will be set up under JRG, presumably through the *Other Grants Guidelines* made under Division 41 of *HESA*. Both of these funds repurpose funding from other sources, including the CGS and CGS loadings. Design of these funds is subject to separate sector consultation processes.

Universities Australia has particular concerns about the proposal to move Enabling Loading out of the CGS and into IRLSAF. Universities Australia believes that this will have a negative impact on Enabling programs and the important contribution they make to expanding access to university to students who have experienced educational disadvantage – including students from regional and low SES backgrounds and Indigenous Australians.

Universities Australia recommends that Enabling Loading remain in the CGS. It should not be transferred to IRLSAF.

It is not possible at this stage to make detailed guidelines on how the two new funds will work, simply because they have not yet been designed. Nevertheless, Government should provide assurance on the total funding available under each program within legislation.

This could be done by replacing the table at s.41-45(1) of *HESA* with an updated table that listed for the years 2021 to 2025 the amount of funding available for each category of Other Grants, including NPILF and IRLSAF. Paragraphs (1A) could be deleted as obsolete, and replaced with a new paragraph (1A):

(1A) For a year after 2025, maximum payments for each item listed in the table at s.41- 45(1) shall be the maximum amount for the previous year indexed under s.198- 10.

5 OTHER PROPOSED AMENDMENTS

In addition to the amendments listed above, which are intended to provide additional certainty and Parliamentary scrutiny by anchoring in legislation key elements of the JRG package, there are a number of other improvements Universities Australia recommends. These are:

- Extend demand-driven funding to all Indigenous students (not just those from regional and remote areas).
- Revise growth factors so that they take account of absolute growth in the youth population in a statistical area, not just growth relative to other areas.
- Provide clearer assurance in the legislation on the policy intent regarding study options and pathways for students who fail more than half of their units and lose eligibility for their Commonwealth-Supported Place.
- Legislate conditions on audits of universities so that audits can only be undertaken on the basis of genuine and demonstrated risk.
- Require a review of new funding arrangements under JRG three years after they have come into effect.

5.1 DEMAND-DRIVEN FUNDING FOR INDIGENOUS STUDENTS

The JRG package includes a measure to make funding of Bachelor places (except in medicine) demand-driven for Indigenous students from regional and remote areas. This is a welcome and commendable measure which will help universities to continue to increase participation in higher education by Indigenous Australians. Indigenous enrolments more than doubled under the former demand-driven system. This progress was put at risk by the funding freeze that ended the demand-driven system at the end of 2017. As a share of domestic undergraduate enrolments Indigenous students (1.8 per cent) are still well below the Indigenous share of the total population (3.1 per cent).

Universities Australia recommends that demand-driven funding be extended to all Indigenous students in Bachelor degrees (other than medicine), regardless of where the student comes from.

Our reasoning is simple. Most Indigenous Australians live in cities and towns: according to ABS data, 75 per cent of Indigenous people live in major cities.¹ Indigenous people in major cities are much more likely to have a degree than those from the regions, but the attainment rate for urban Indigenous people aged 20-64 is only 11 per cent² – only **one third** of the figure for the non-Indigenous population (33 per cent)³. While Indigenous disadvantage does increase with remoteness, it is clearly and obviously present in urban areas too.

Figure 1. Higher education by Indigenous status and regionality, 20 to 64 years old, 2016 Census



Source: ABS, 2016 Census of Housing and Population, TableBuilder.

As Government reports on the *Closing the Gap* agenda have consistently shown, Indigenous higher education is a success story, and a major contributor to Indigenous advancement. Enrolments and completions are trending up, and for those Indigenous people that have degrees, there is effectively no gap in employment. The 2016 Census found that both Indigenous and non-Indigenous graduates had employment rates of 83 per cent. For all Indigenous Australians aged 15-64, employment rates are around 47 per cent for non-Indigenous people – well below the non-Indigenous rate (72 per cent)⁴. Annual Government surveys on graduate employment outcomes consistently show that Indigenous graduates' outcomes are comparable to – or better than – those of non-Indigenous graduates.

Demand-driven funding could be extended to all Indigenous students through a simple change to Item 33 of Schedule 1:

demand driven higher education course means a *course of study that:

- (a) is undertaken by an ~~*eligible~~ Indigenous person for the course of study with a *Table A provider; and
- (b) is leading to a *higher education award that is a bachelor degree or bachelor honours degree; and
- (c) is not a *designated higher education course.

The definition of 'eligible Indigenous person' in Item 35 of Schedule 1 could then be deleted as unnecessary.

5.2 GROWTH FACTORS: ABSOLUTE POPULATION GROWTH

Although growth factors are not included in the Bill currently before the Senate, they are a fundamental element of the JRG package and should therefore be referenced in the legislation, as we argue above.

The approach to growth factors which the Minister announced is based on the location of a university's campuses (by Statistical Area 4s or SA4s). For metropolitan campuses, this is a very small area which does not always represent the university's urban catchment. Universities Australia recommends that Government consider using a bigger area for metropolitan campuses.

Growth factors will differ between 'high growth' and 'low growth' metropolitan areas. This is of course a relative concept: 'high growth' will be defined as population growth in the 15-29 year old population that is higher than the average for all SA4s, while lower than average growth will count as 'low growth'.

This measure does not take adequate account of the absolute growth in the 15-29 year old population – and thus the number of additional university places that will be needed – in metropolitan areas that start from a base of high numbers of 15-29 year olds. The number of additional places a university will need to accommodate population growth is a factor of the absolute number of additional young people, not necessarily of the percentage growth relative to early population numbers (which will differ widely in absolute size).

It would be more appropriate to base growth factors for metropolitan campuses on the absolute growth in an SA4, rather than growth in that SA4 relative to the average of other areas.

Conversely, this measure would need to be adjusted for the size of the 15-29 year old population by SA4, in order to avoid disadvantaging areas with small populations.

These two adjustments would, in combination, deliver growth factors that are more effectively designed to deliver increases in the provision of student places that are aligned with population growth.

5.3 FUTURE STUDY PATHWAYS FOR STUDENTS WHO FAIL MORE THAN HALF THEIR UNITS

Universities Australia acknowledges the intent of Item 40 of Schedule 4, which would extend to Commonwealth-supported students a rule that students must pass at least 50 per cent of their units in order to remain eligible for Commonwealth assistance. Item 39 similarly extends this rule to students in receipt of FEE-HELP loans at Table A, B and C providers.

Universities already have a wide range of carefully considered measures in place to ensure satisfactory academic progress of their students.

Universities Australia is concerned about future study prospects for students who fail more than the permitted proportion of units. We seek clarification on the pathways back to study that may be available to these students.

There are many circumstances – often outside a student's control – that interfere with academic progress. Very careful judgements need to be made to avoid unfairly excluding students from the opportunity to study.

Universities Australia recommends that the new subsection 36-13 and extension of 104-1A to all students accessing FEE-HELP assistance should be carefully drafted to ensure that students who have failed more than the permitted number of units or subjects in a course of study are not permanently excluded from accessing Commonwealth-Supported Places (CSPs) and/or Commonwealth assistance.

At an absolute minimum, provisions relating to courses other than Bachelor degrees should be redrafted to make clear the policy intent that a student who fails more than half of their units will lose eligibility for a CSP only in that course.

Similarly, provisions relating to Bachelor degree students should more clearly express the policy intent to allow (indeed, encourage) a student to move into a different course for which they will have access to a CSP.

Universities Australia also seeks clarity on the definition of a 'completed unit' in the denominator – specifically that this excludes units where students 'withdraw without academic penalty'.

5.4 CONDITIONS ON AUDITS

Item 9 of Schedule 4 is a provision to extend the scope of s.19-80 of *HESA* to Table A providers. This would empower the Education Minister to order an audit of a Table A provider's compliance with quality and accountability requirements set out in Division 19 of *HESA*, namely:

- the financial viability requirements;
- the fairness requirements;
- the compliance requirements; and
- the contribution and fee requirements.

We are unsure whether this amendment will achieve a meaningful improvement in universities' accountability, given the other regulatory arrangements and reporting requirements to which Table A universities are already subject.

In any case, Universities Australia argues that this new power should be limited to ensure that an audit could only be initiated when necessary, proportionate and risk-based.

Universities Australia recommends that s.19-80 be amended to set generic conditions for prima facie evidence of non-compliance with the quality and accountability requirements, or risks of non-compliance.

The following additional clauses should be added to s.19-80:

(5) Prior to issuing a determination under subsection (1) in respect of a higher education provider that is a Table A provider, the Minister must have reasonable grounds to suspect that a material breach of the requirements has occurred, or is likely to occur.

(6) Before issuing a determination under subsection (1), the Minister must have regard to the regulatory principles in Part 2 of the Tertiary Education Quality and Standards Agency Act 2011.

5.5 REVIEW THE IMPACT OF THE JOB-READY GRADUATES PACKAGE AFTER THREE YEARS

The Job-ready Graduates package is a large and complex series of measures that will affect different areas of higher education in various and in some cases unpredictable ways. The package includes, among other things:

- The biggest change in funding for student places in 25 years – with big increases in fees for some disciplines and substantial discounts in others;
- fundamental changes to mechanisms for Government funding of universities;
- measures to boost participation by regional students and support regional universities which are quite different from previous policy approaches; and
- entirely new approaches (which have not yet been designed) to supporting industry linkage and higher education equity and access – both complex and important areas.

Universities Australia recommends that the legislation be amended to require a review of the impact of the JRG package three years after it comes into effect. Assuming a commencement date of 1 January 2021, this would of course require a review to report by the end of 2023.

In assessing the impact of the changes, and their effect on students and universities, the review should have regard to the operation of the Transition Fund, its effectiveness and adequacy in supporting universities' structural adjustment and whether there is a need for further transition support funding in 2024 and beyond.

For JRG measures which are due to commence after 1 January 2021, a preliminary report on implementation may be possible by the end of 2023, with a full evaluation delayed until three years after the measure in question comes into effect.

Measures in the Bill which are due to commence later than 2021 are those included in Schedule 4 Part 2 of the legislation. Essentially, these implement the rule that a student in a CSP must pass at least 50 per cent of their units to retain eligibility for their CSP (Item 40) and the extension of similar rules for FEE-HELP to universities (Item 39). The issues associated with these measures are genuinely complex and difficult and the impacts are uncertain. A thorough review of their effect on students is essential.

The new industry linkage and equity funds are not intended to be in operation much before the initial review reports. The final design and structure for NPILF is due to be in place from 2023, while IRLSAF is due to commence in 2024. While the initial review could – and should – usefully examine the process for designing and implementing these funds, a post-implementation review of the changes is also necessary once they have been in effect for a few years.