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Innovation and Education Legislation Amendment Bill (No.2) 2001

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Innovation and Education Legislation Amendment Bill (No.2) 2001

Date Introduced: 22 August 2001

House: House of Representatives

Portfolio: Education, Training and Youth Affairs

Commencement: Royal Assent

Purpose

The Bill will amend the *Higher Education Funding Act 1988* (the HEFA) to:

- provide additional funding for operating grants and superannuation expenses
- introduce a loan scheme for postgraduate students
- enable the imposition of a cap on student debt to the Commonwealth, and
- facilitate and regulate electronic communication between students and institutions.

Background

The Innovation and Education Legislation Amendment Bill 2001 (the original Bill) was introduced into the House of Representatives on 5 April 2001. On 23 May the Senate referred the Bill to the Employment, Workplace Relations, Small Business and Education Legislation Committee, which reported on 28 June.[1] On the same day the Senate voted to divide the Bill into three separate bills, respectively dealing with:

- extra funding for research and higher education
- extra funding for primary and secondary education, and
- the Postgraduate Education Loans Scheme (PELS), the cap on student debt and electronic communications with students.

The extra funding for research and higher education was the subject of the Higher Education Funding Amendment Act 2001, which was introduced on 7 June 2001 and assented to on 18 July 2001. Subsequently, the Government has introduced the States Grants (Primary and Secondary Education Assistance) Amendment Bill (No.2) 2001, which contains the school funding provisions of the original Bill and this Bill - the Innovation and Education Legislation Amendment Bill (No.2) 2001- which deals with the PELS, student debt and electronic communications.

This Bill also contains two new funding measures that will provide an additional $39.35 million for higher education grants in the 2001 to 2003 triennium:

- increases to university operating grants of $24 589 000 (2001) and $2 499 000 (2002) to reflect new estimates of expenditure under the Higher Education Workplace Reform Program, and
- an additional $6 131 000 for superannuation expenses in both 2002 and 2003 to cover the Commonwealth's liability arising from the Victorian Government's Beneficiary Choice Program.

The Workplace Reform Program provides up to $259 million over three years (2000-2002) to fund pay rises for university staff if the universities implement significant reforms in workplace relations arrangements, management and administration.[2].

The Postgraduate Education Loans Scheme (PELS)

Background to the Scheme

Fees for postgraduate courses were re-introduced in 1989, when institutions were able to charge regulated fees for certain types of postgraduate courses. This market was progressively deregulated so that by 1994 universities were able to charge fees for most postgraduate courses and to determine the level of fees they charged. However, institutions are not required to charge postgraduate fees: they can also offer postgraduate places to non-overseas students on a HECS-liable or HECS-exempt basis.

Under section13 of the HEFA institutions may charge postgraduate fees in accordance with guidelines issued by the Minister.[3] Under these guidelines, HECS-liable and non-fee-paying HECS exempt students (students who hold a research HECS exemption, a Research Training Scheme place and students in courses fully funded by an employer) must be able to complete the requirements of their award course without being required to pay fees under section13 of the HEFA and must have access to the full range of unit electives offered for their award course.

The guidelines also stipulate that fees cannot be charged for postgraduate award courses required for initial registration for general nursing, or teaching, or which would allow provisional registration as a medical practitioner by State, Territory or Commonwealth authorities: such students must be HECS-liable or exempt.

Higher education institutions are not precluded from charging fees under section 13 of the HEFA to students who have enrolled in an award course on a HECS-liable or non-fee-paying HECS exempt basis and who subsequently choose to enrol in an award course on a fee-paying basis.

In January 1995 the *Report of the Committee to Review Fee-Paying Arrangements for Postgraduate Courses* recommended against the introduction of a HECS-type scheme for fee-paying postgraduate courses, although it considered that the need for such a scheme should be re-evaluated if significant expansion of the market occurred.[4]

The last five years has seen such an expansion: total non-overseas, fee-paying postgraduate student load has grown from 10839 equivalent full-time student units (EFTSU) in 1995 to 24689 EFTSU in 2000, an increase of 129 per cent.[5] These students now constitute about a quarter of postgraduate places. The most popular courses for postgraduate fee-payers are Masters (by coursework) and Graduate/Postgraduate Diplomas. The full-time duration of these courses is generally 1 to 1.5 years (Masters), and one year (Graduate Diploma). The most popular subject areas are business/economics/law (46 per cent), health sciences (12 per cent), maths/computing (12 per cent) and social studies (10 per cent).

A breakdown of postgraduate student load in 2000 is as follows:

Table 1: Postgraduate Places in 2000

Category of postgraduate places	Student load in 2000 (EFTSU)	Per cent of total
HECS liable	17793	19.1
Non-overseas fee-paying	24689	26.5
Overseas fee-paying	26618	28.6
Australian Postgraduate Awards	21203	22.8
Others	2754	3.0
Total	93057	100.0

Although there has been strong growth in postgraduate fee-paying places for non-overseas students, the total number of Australian postgraduate places has declined slightly over the last six years, as indicated in Table 2 below. This means that the growth in fee-paying places have coincided with a decline in HECS-liable places. Institutions with strong demand for their courses have been able to substitute HECS-liable with fee-paying places and increase their income.

Table 2: Non-Overseas Postgraduate Student Load, 1995-2000

Level of Course	1995 EFTSU	1996 EFTSU	1997 EFTSU	1998 EFTSU	1999 EFTSU	2000 EFTSU
Doctorates	14848	15751	16866	17559	18747	19471
Master's by Research	6881	6341	6456	6213	6066	5703
Master's by Coursework	18760	18834	19758	19707	19669	19160
Other Postgraduate	25215	25829	25642	23677	22006	20663
Total	65704	66755	68722	67156	66488	64997

PELS and HECS

The proposed loan scheme is essentially a modified version of the Higher Education Contribution Scheme (HECS): the Commonwealth will pay the fee for the student, who will repay the amount through the tax system when their income reaches certain levels.[6] Once a PELS debt is incurred, it is treated in the same way as a HECS debt: repayment rates and income thresholds are the same and no interest is payable on the debt, although it is indexed on the basis of the Consumer Price Index. The major differences between the PELS and HECS are:

- the fees payable will not be set by the Commonwealth, as they are with HECS, so institutions will continue to set their own postgraduate fee levels. The loans will only be available for postgraduate non-research course tuition fees, and

- There will be no discount for up-front payments (students who pay their own HECS contribution on enrolment receive a 25 per cent discount).

The Limit on Student Debt to the Commonwealth

The legislation will also enable the Minister to determine a loan limit for students' combined HECS, PELS and Open Learning Deferred Payment Scheme (OLDPS) debts (**proposed section 106ZD**).

Under sections 57 and 106D of the HEFA the Commonwealth is obliged to lend students an amount equivalent to their HECS or OLDPS obligations and to pay that amount to an institution/agency in discharge of the students liability. **Proposed section 98G** in the Bill contains similar provisions with regard to the PELS. The limit on student debt to the Commonwealth will be applied as follows:

- **Proposed section 106ZD** will enable the Minister to determine the maximum permitted debt that can be contracted by any person under the provisions of the HEFA (ie. the combined debt from the HECS, OLDPS and the PELS)
- The Commissioner of Taxation must notify the student and the institutions in which they are enrolled if their indebtedness exceeds the maximum permitted debt - this is called a 'loan limit notice' (**proposed section 106ZE**)
- Under **proposed section 106ZG** the Commonwealth will not have an obligation to lend to any student who has been the subject of a loan limit notice
- If a person who has received a loan limit notice enrols in a HECS course, then the Commissioner must issue a "suspension notice" to the relevant institution which will require it to cancel the enrolment unless the student pays the HECS contribution (**proposed section 106ZH and section 106ZJ**).

Item 3 of Schedule 4 amends s.110(b) to provide that Ministerial determinations of the maximum permitted debt will be disallowable instruments.

Students Assisted by the Scheme

In his Second Reading Speech to the original bill, the Minister stated that it was expected that the loans provided under the scheme would amount to some $995 million over the next five years and would assist about 240 000 students. It should be noted that this is the total of the students who will take out a loan each year, and thus does not represent 240 000 individual students. In the year 2000 there were 80 311 non-overseas students undertaking non-research postgraduate courses. In full-time equivalent terms, these students constituted 40 098 EFTSU. That is, the average student was undertaking half a full-time load. As the full-time duration of these courses is 1-2 years, the average student would take from 2-4 years to complete a course. This would seem to indicate that the number of individual students assisted by the PELS over five years would be in the 100-120 000 range.

Costing the Scheme

The Department has estimated that 45 589 students (22 100 EFTSU) will take out a loan in 2002, and that this number will increase by around 2.6 per cent each year. The average annual loan will be around $4140 per student (or $8550 per EFTSU).[7]

Under accrual accounting, outlays on HECS and PELS are classified as financial assets, which will be repaid over time. They do not, therefore, have a major effect on the budget bottom line. However, the schemes do have some impact: the indexation of debts under the schemes produces some additional revenue, which must be offset against the costs of administration and of those debts that will not be repaid. The Government has estimated that it will receive around $38.8 million in revenue from indexation over five years, with departmental expenses around $2.3 million.[8] The estimate of bad debts is $134.9 million over the five years, or 13.6 per cent of the amount lent to students. The bad debt ratio under HECS has varied from 13.5 to 18.0 per cent over the last five years, with an average of 16.1 per cent.

Possible Impact of the Scheme - the Chapman Submission

Professor Bruce Chapman, in a submission to the Senate higher education inquiry, has produced a series of projections which indicate a wide variation in the rate of subsidy for students under the PELS scheme.[9] The size of the subsidies (which exist because of the absence of a real interest rate) depends upon the initial size of the loan and the length of the repayment period. Of course, these interest subsidies are already a feature of HECS, which also contains other forms of cross-subsidisation. For example, the HECS rate for some courses (medicine, dentistry, veterinary and agricultural science) is a much lower proportion of the cost of the course than that applying for other courses (eg. humanities, economics and law). This means that there is an effective subsidy of the former by the latter. It might also be argued that a PELS type scheme will reduce this kind of cross-subsidy, as fees set by the institutions are more likely to reflect actual course costs than a narrow range of charges set by the Government, as with HECS.

Professor Chapman's submission argues that the subsidies implicit in the PELS scheme will reduce the effective cost for students. This will, he proposes, increase the demand for postgraduate courses which in turn will lead to pressure for universities to increase nominal fees. As the same tendency will apply to all universities, competitive pressures are unlikely to diminish the likelihood of fee increases.

Professor Chapman identifies three possible policy responses:

- capping the total amount a student can borrow
- capping the fee levels, or
- introducing a discount for up-front payments.

Chapman argues that the first option, which the Government has adopted, is the least desirable. This is because the cap will probably be below the level of some fees, and thus an upfront charge would remain for some students. He advocates the third option (up-front discounts) as this would be consistent with HECS. It should be noted that Professor Chapman is a strong supporter of the concept of the scheme, as it will improve access to postgraduate studies and result in a better workforce.

An alternative view is that the current provisions of the HEFA are sufficient to enable the Minister to monitor and prevent excessive fee increases.[10] Section 18(1)(g) already requires institutions to provide the Minister with any relevant information he requests. **Proposed section 98J** will also require institutions to provide information regarding students undertaking courses that are eligible for the PELS. Individual operating grants for universities are not specified in the HEFA, but are provided as the Minister determines, having regard to the educational profile of the institution. Such profiles are the subject of consultation between the institutions and the Department. Thus it would be quite possible for the Minister to reduce the operating grant of any institution that sought to exploit the introduction of the PELS by excessively raising fees.

The Government's preference for a cap on student debt rather than an upfront discount can be explained in fiscal terms. The up-front discount has a direct impact on the budget bottom line, as the Government has to pay 25 per cent of those fees paid up-front to institutions. For example, if ten per cent of the estimated 45 589 PELS recipients for 2002 paid upfront and received a 25 per cent discount, it would cost the Government around $4.7 million.

PELS and HECS-liable Postgraduate Places

Another possible impact of the scheme will be to accelerate the replacement of HECS-liable postgraduate places with full-fee places and thus increase the proportion of higher education costs borne by students.

There are now over 14 700 non-research HECS-liable postgraduate places. The annual HECS contributions in 2001 are $3521, $5015 and $5870 for the three different bands of full-time courses. These amounts are well below the estimate of around $8550 per EFTSU under PELS, so there will now be an incentive for institutions to convert some of their HECS-liable places to postgraduate fee places for new students. This conversion of places may be criticised by students, because it will lead to an increase in charges. However, others may argue that it has the following benefits:

- it will help remove an anomaly from the system, whereby some postgraduate students are funded through HECS and thus have access to the up-front discount, while those paying full-fees through the PELS will not, and

- it may enable an expansion of undergraduate places (because the HECS-liable places taken by postgraduates will be released and institutions should be able to offer them to undergraduates).

It should be noted that institutions will not be able to convert HECS-liable places in courses required for initial registration for general nursing, or teaching, or which would allow provisional registration as a medical practitioner, unless the Government amends the guidelines made under subsection 13(1) of the HEFA.

Economic rationalists might argue that, in the longer term, the replacement of HECS-liable places by PELS places would create a more commercial market for postgraduate education. Prices (or fee levels) would be set by the providers on the basis of cost and demand, rather than by the government. The relative teaching costs of non-research postgraduate courses have been estimated to be up to 40 per cent higher than undergraduate degrees, so the provision of places on a HECS basis represents a considerable under-pricing of some courses.[11] It might also be argued that the availability of these 'cheap' degrees has helped promote 'degree inflation' or credentialism, and that Australia is now producing more postgraduates than it needs.

The alternative viewpoint is that non-research postgraduate education, like higher education in general, must be subsidised to ensure a skilled and adaptable workforce to meet the changing needs of modern society. Deficiencies in the market mean that in certain areas, such as teaching and nursing, subsidies must continue to be provided to ensure that an adequate range of skills are available in the community.

Main Provisions

Item 1 of Schedule 1 substitutes new funding levels for operating grants for 2001 and 2001. **Item 2 of Schedule 1** substitutes new funding levels for superannuation expenses for 2002 and 2003.

Item 5 of Schedule 2 inserts a new Chapter 4A in the HEFA establishing a post-graduate loans scheme.

Item 2 of Schedule 3 inserts a new Chapter 5B in the HEFA enabling the setting of a limit on student debt to the Commonwealth. **Proposed section 106ZD** enables the Minister to make a determination specifying an amount that is the total maximum permitted debt that can be owed by any student under the HECS, PELS and OLDPS.

Item 3 of Schedule 4 inserts a new sections 56C, 56D, 56E in the HEFA enabling institutions and students to communicate electronically with regard to certain requirements of the Act.

Endnotes

1 The Committee's report can be obtained from http://www.aph.gov.au/senate/committee/eet_ctte/ed_innovbills2001/ed_innovbills01.pdf

2 Guidelines, grants and media releases relating to the program can be obtained from http://www.detya.gov.au/highered/programmes/workplace_reform/default.htm

3 The guidelines for postgraduate fees can be obtained from the following page http://www.hecs.gov.au/manual/01/htm/guidelines/feepayin.htm

4 This committee was established by the Minister for Employment, Education, Training and Youth Affairs in November 1994 to assess the impact of the deregulation of postgraduate fees.

5 Department of Education, Training and Youth Affairs, *Selected Higher Education Student Statistics* (annual). EFTSU are equivalent full-time student units.

6 Detailed information on the HECS is available from the Parliamentary Library brief at http://www.aph.gov.au/library/intguide/SP/HECS.htm

7 This costing assumes that the $995 million will be spread over the five years in the same proportion as the estimated number of recipients.

8 Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, Examination of Additional Estimates 2000-01, 21-23 February 2001. Additional Information Received, Education, Training and Youth affairs Portfolio (Vol.2, April 2001), DETYA Question No.E359.

9 Professor Chapman is from the Centre for Economic Policy Research at the ANU. He was a consultant to the Wran Committee, which recommended the introduction of HECS in 1988. Professor Chapman's submission is to the Senate Employment, Workplace Relations, Small Business and Education References Committee Inquiry into the capacity of public universities to meet Australia's higher education needs.

10 For a detailed description of the higher education funding system, see the Parliamentary Library brief at http://www.aph.gov.au/library/intguide/SP/HEfunding.htm

11 The Relative Funding Model weighted undergraduate courses in the range 1.0 to 2.7, while non-research postgraduate courses ranged from 1.4 to 3.0, depending upon the discipline.