



Higher Education Legislation Amendment (2005 Measures No. 1) Bill 2005

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Higher Education Legislation Amendment (2005 Measures No. 1) Bill 2005

Date Introduced: 17 February 2005

House: House of Representatives

Portfolio: Education, Science and Training

Commencement: Royal Assent except for item 2 of Schedule 2 which commences immediately after the commencement of items 3 to 17 of Schedule 2 and Schedule 5 which commences retrospectively on 1 January 2004.

Purpose

The Bill will amend three acts. The amendments to the *Higher Education Support Act 2003* (HESA) are mainly concerned with giving effect to a number of budget and election commitments, and making technical amendments to clarify the intent of certain provisions of HESA. These amendments include:

- increasing the funds available for the Commonwealth Grants Scheme to provide for the promised increase in university places in radiation therapy, aged care nursing and medicine
- extending the eligibility for capital pool development funding to private universities
- additional capital funding for promised infrastructure development at James Cook University and Charles Darwin University and
- minor amendments to the operation of student assistance arrangements.

The Bill will also make minor amendments to two other acts. The amendments to the *Higher Education Funding Act 1988* (HEFA) will make minor changes to the operation of the Higher Education Contribution Scheme (HECS) to ensure conformity with the HESA. The amendments to the *Maritime College Act 1978* will ensure the College's compliance with the National Governance Protocols for universities.

Background

From 1 January 2005 Commonwealth funding for the higher education sector is provided by the *Higher Education Support Act 2003* (HESA). HESA, which enacted the Government's higher education reform package announced in May 2003 as [*Our Universities: Backing Australia's Future*](#), largely replaces the HEFA.¹

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The financial impact of the Bill is that it will increase the overall appropriation under the HESA by \$48.726 million for the years 2005 to 2008.

Main Provisions

Schedule 1 contains amendments to the HESA relating to the funding and operation of Commonwealth grants for higher education assistance.

Item 1 of Schedule 1 increases the level of the grants under the Commonwealth Grants Scheme to provide additional funding for 100 new university places for radiation therapy; a further 40 aged care nursing places; additional medical places for James Cook University; and the transfer of funding from the Commonwealth Grants Scheme to Other Grants (National Institute Funds) to allow the Australian Maritime College to utilise funds for infrastructure development at Point Nepean that had previously been intended for new places in 2005.²

Comment:

- The new university places for radiation therapy honour the government's election commitment contained in its election policy document [Strengthening Cancer Care](#). This funding will increase the allocation for its 2002–03 Budget measure, the *Better Treatment for Cancer Patients – Radiation Oncology Services* programme, by \$10.5 million.
- The 40 new aged care undergraduate nursing places add to the government's 2004–05 Budget commitment to increase the number of aged care nursing places, first provided in the 2004–05 Budget.³ A total of 1,203 of these new aged care nursing places will be created from 2005 to 2008.⁴ This commitment reflects the findings and recommendations of the Hogan Review of Pricing Arrangements in Residential Aged Care. The Review highlighted the general shortage of trained nursing staff because of poor wages and working conditions, lack of professional development opportunities and an ageing workforce.⁵
- The 12 additional medical places for James Cook University, amounting to \$2.2 million over four years, give effect to a 2004–05 Budget commitment.
- In April 2004 the Government announced funding to the Australian Maritime College (AMC) to help establish a National Centre for Marine and Coastal Conservation to be located on former Department of Defence land at Point Nepean in Victoria. The \$9.7 million package provided \$600,000 for 40 higher education places at the Centre in 2005.⁶ Funding for these places in 2005 will now be available for infrastructure development at Point Nepean.

Item 2 of Schedule 1 has the effect of extending the eligibility for Other Grants to support the capital development of projects of higher education providers to Table B providers.

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Comment: Table B providers are the private providers: Bond University, University of Notre Dame Australia and Melbourne College of Divinity. These private institutions will now be eligible for capital development grants previously restricted to the Table A providers as listed in [s. 16-15 of the HESA](#).

Item 3 of Schedule 1 amends Table B to set new aggregate funding levels for Other Grants for the years 2005–2008.

Comment: Increased funding levels will honour two election commitments: \$12 million to establish a new school of veterinary science and agriculture at James Cook University in Townsville, with a link to its Cairns campus, and \$2 million in infrastructure funding to improve information technology at Charles Darwin University.⁷ In addition \$16.5 million will be provided to the Australian National University for National Institute funding to cover supplementation arrangements.

Schedule 2 contains amendments to the HESA relating to student assistance.

Items 1 to 7 of Schedule 2 amend the definitions and exemptions of the tuition assurance requirements.

Items 8 to 14 of Schedule 2 deal with the provisions for re-crediting a person's Student Learning Entitlement (SLE) and FEE-HELP balances when a private provider is unable to deliver higher education units.⁸

Comment: Tuition assurance requirements for higher education providers are aimed at protecting students. They ensure that if a private provider is unable to provide a course of study a student is able to enrol in a similar course with another provider, receive full credit towards the qualification for successfully completed units of study, and receive payment of any student contribution or tuition fee paid for the undelivered unit of study.⁹ The Schedule 2 amendments are described in the second reading speech as 'technical adjustments'. They clarify the tuition assurance requirements and, in items 8 to 14, clarify the re-crediting of a person's SLE or FEE-HELP balance. Under the general provisions of the HESA a person may apply for re-crediting in special circumstances. The amendments ensure that there is an automatic re-crediting in circumstances where a provider is no longer able to deliver a unit of study.

Items 15 to 17 of Schedule 2 apply the amendments made in items 3-7 of Schedule 2.

Schedule 3 amends the HEFA to clarify that there are no longer refunds of voluntary HECS payments from 1 January 2005.

Comment: Currently the HEFA may be interpreted to allow a person to seek a refund from the Australian Taxation Office of any voluntary HECS–HELP repayments. This is inconsistent with the HESA which reflects the Government's policy intent to revoke this facility. The basis of the voluntary repayment provision is to encourage people to make

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voluntary repayments if they are financially able to do so. It is not intended to be an account from which they can then redraw.

Schedule 4 amends the *Maritime College Act 1978* to ensure that the AMC complies with the National Governance Protocols. The Protocols set out the Commonwealth Government's model for institutional governance. The funding increases introduced by the HESA are contingent upon institutions complying with the Protocols.¹⁰

Schedule 5 amends the HEFA to make the definition of HECS debt consistent with the HESA.

Endnotes

- 1 For further information about the reforms and the new Commonwealth Grants Scheme see Kim Jackson, 'Higher Education Support Bill 2003', *Bills Digest*, no. 56, Parliamentary Library, Canberra, 2003–04, <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd056.pdf>, accessed on 1 March 2005.
- 2 The different categories of Commonwealth grants for higher education assistance are described in Chapter 2 of the HESA.
- 3 Other related 2004–05 Budget measures provided funding for aged care workers to upgrade their qualifications and enrolled nurses to obtain training in medication management. For further information see the Budget fact sheet, *Better Skills for Better Care*, [http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-budget2004-abudget-afact5-cnt.htm/\\$FILE/afact5.pdf](http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-budget2004-abudget-afact5-cnt.htm/$FILE/afact5.pdf), accessed on 1 March 2005.

For information about other recent Commonwealth Government initiatives to improve the aged care nursing workforce see the 2003–04 *Report on the Operation of the Aged Care Act 1997*, pp. 45–46, [http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/ageing-reports-acarep.htm/\\$FILE/roaca2003-04%20final.pdf](http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/ageing-reports-acarep.htm/$FILE/roaca2003-04%20final.pdf), accessed on 1 March 2005.
- 4 Funding for the first 400 of these undergraduate nursing places with a focus on aged care was provided in the *Higher Education Legislation Amendment (No. 2) Act 2004*, <http://scaleplus.law.gov.au/cgi-bin/download.pl?/scale/data/comact/12/6875>, accessed on 1 March 2005. These places are general nursing undergraduate places with a focus on applicants and students working in the aged care industry and compliance with certain benchmarks relating to aged care undergraduate nursing curricula.
- 5 W. P Hogan, *Review of Pricing Arrangements in Residential Aged Care: Final Report*, [Dept of Health and Ageing], Canberra, 2004, pp. 219–235, http://www7.health.gov.au/investinginagedcare/report/pdf/full_report.pdf, accessed on 1 March 2005.
- 6 B. Nelson (Minister for Education, Science and Training), *\$9.7 million for Point Nepean Marine and Conservation Centre*, media release, 6 April 2004, <http://www.dest.gov.au/Ministers/Media/Nelson/2004/04/n672060404.asp>, accessed on 1

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- March 2005 ; and *Australian Maritime College Point Nepean Campus*, media release, 11 May 2004, http://www.dest.gov.au/ministers/nelson/budget04/bud17_04.htm, accessed on 1 March 2005.
- 7 The Coalition also promised funding of \$13 million for new undergraduate places in veterinary science and tropical agriculture at James Cook University but this does not seem to have been realised in the Bill. See J. Howard (Prime Minister), *Supporting North Queensland*, media release, 21 September 2004, <http://parlinfoweb.aph.gov.au/piweb/repository1/media/pressrel/uhud61.pdf>, accessed on 1 March 2005.
- 8 For further information about SLE see the *Going to Uni* website at <http://www.goingtouni.gov.au/Main/FeesLoansAndScholarships/Undergraduate/Default.htm>, accessed on 1 March 2005. For an explanation of the new system of Commonwealth university student loans, previously know as HECS and now the Higher Education Loan Programme (HELP) which includes HECS–HELP and FEE–HELP see the same website at <http://www.goingtouni.gov.au/Main/FeesLoansAndScholarships/Undergraduate/CommonwealthSupportForYourPlaceAndHECS-HELP/BeingEligibleStudentEntitlement.htm>, accessed on 1 March 2005.
- 9 See the *Higher Education Provider Guidelines*, http://www.backingaustraliasfuture.gov.au/guidelines/documents/hep_guide.pdf, accessed on 1 March 2005.
- 10 For further information about the Protocols see the Department of Education, Science and Training’s website at http://www.dest.gov.au/highered/governance/docs/nat_gov_prot.pdf, accessed on 1 March 2005.

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