

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 17 November 1981

*(Minister for Education)*

**A BILL**

FOR

**An Act to amend the *States Grants (Tertiary Education Assistance) Act 1981***

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title, &c.**

5     **1. (1)** This Act may be cited as the *States Grants (Tertiary Education Assistance) Amendment Act (No. 2) 1981*.

**(2)** The *States Grants (Tertiary Education Assistance) Act 1981*<sup>1</sup> is in this Act referred to as the Principal Act.

**Commencement**

10     **2.** This Act shall come into operation on the day on which it receives the Royal Assent.

**Interpretation**

**3.** Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(8) For the purposes of this Act, a requirement that an educational institution charge students tuition fees shall, in a case where the institution is not a body corporate but is administered by the State in which it is situated or by another body, be taken to be a requirement that that State or other body charge those tuition fees and any tuition fees paid to that State or other body by students in respect of studies undertaken at that institution shall be taken to have been paid to that institution in respect of the undertaking of those studies.”

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4. After section 5 of the Principal Act the following section is inserted:

**Determinations with respect to fees**

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“5A. (1) Subject to this section, the Minister may, by instrument in writing signed by him, determine that each student who, after the instrument takes effect, undertakes at a relevant tertiary education institution studies of a kind specified in the determination should be charged by the institution, for each year in respect of which he undertakes studies of that kind, tuition fees at such rate (not exceeding \$1,000 per annum), or of such amount (not exceeding \$1,000), as is specified in, or calculated in accordance with, the determination.

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“(2) The Minister shall not, in an instrument signed by him under sub-section (1), specify studies unless they are studies of a kind that are, or that could be, required or permitted to be undertaken for the purposes of—

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- (a) a course of study of a university or college of advanced education that is situated in a State;
- (b) a course of advanced education that is provided at a technical and further education institution that is situated in a State;
- (c) a course of advanced education that is provided at an institution that is situated in the Northern Territory; or
- (d) a course of teacher education that is provided by a non-government teachers college that is situated in a State.

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“(3) A determination under sub-section (1) in relation to the undertaking of studies of a particular kind by students shall be so expressed as not to apply in respect of—

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- (a) the undertaking in a particular year of studies by students who, at the time of their enrolling to undertake those studies in that year, do not hold—
  - (i) a degree or diploma of a university or college of advanced education that is situated in Australia; or
  - (ii) an award of any educational institution that is deemed by a determination in force under sub-section (4) to be equivalent to such a degree or diploma;
- (b) the undertaking, at any time, of studies that lead to a particular degree, diploma or award by students who first commenced to undertake

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studies leading to that degree, diploma or award before 1 January 1982; or

- 5 (c) the undertaking in a particular year of studies by students who, in respect of any studies undertaken, or to be undertaken, during that year, have paid, or are liable to pay, charges imposed by the *Overseas Students Charge Act 1979*, or would have paid, or been liable to pay, such charges but for the discharge of their liability under section 7 of the *Overseas Students Charge Collection Act 1979*,

10 and may be expressed so as not to apply in respect of the undertaking of studies of a particular kind by students in such other circumstance as is, or such other circumstances as are, specified in the determination.

15 “(4) The Minister may, by instrument in writing signed by him, determine, for the purposes of determinations in force under sub-section (1), that a specified award or an award included in a specified class of awards (not being a degree or diploma of a university or college of advanced education that is situated in Australia) shall, or shall in such circumstances as are specified in the determination, be deemed to be equivalent to a specified degree or diploma granted by such a university or college.

20 “(5) Where, at any time after 1 January 1982, the Minister makes a determination under sub-section (1), or varies a determination in force under that sub-section, so as to make tuition fees chargeable in respect of the undertaking, at a relevant tertiary education institution, of studies of a particular kind, being studies of a kind in respect of the undertaking of which tuition fees were not chargeable before the instrument of determination or of variation takes effect, the instrument shall be so expressed as not to apply in respect of the undertaking, at any time, of studies that lead to a particular degree, diploma or award by a student who was enrolled at that relevant tertiary education institution to undertake, and who first commenced to undertake, studies that lead to that degree, diploma or other award before the instrument takes effect.

30 “(6) A copy of each instrument signed by the Minister under this section shall be published in the *Gazette* and the instrument takes effect on the date of publication or, where another date is specified in the instrument, on the date so specified.

35 “(7) A person who has completed all the requirements specified by an institution for the conferring on him by that institution of a degree, diploma or other award but has not had the degree, diploma or other award conferred on him shall be deemed, for the purposes of this section, to hold that degree, diploma or other award.

40 “(8) In this section, unless the contrary intention appears—  
'relevant tertiary education institution' means—

- (a) a university or college of advanced education that is situated in a State;

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- (b) a technical and further education institution that is situated in a State and at which courses of advanced education are provided;
- (c) an institution that is situated in the Northern Territory and at which courses of advanced education are provided; or
- (d) a non-government teachers college that is situated in a State and at which courses of teacher education are provided;

‘State’ does not include the Northern Territory.”.

**Grants for expenditure on university purposes**

**5. Section 7 of the Principal Act is amended—**

- (a) by adding at the end of sub-section (1) “reduced by such amount (if any) as the Minister determines under sub-section (1A) to be the total of the appropriate tuition fees charges of that university in respect of that year”;
- (b) by inserting after sub-section (1) the following sub-sections:

“(1A) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of a year to which this Act applies, satisfied that a particular university has, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of that year in respect of studies undertaken by those students at that university during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges of that university in respect of that year.

“(1B) Without derogating from the operation of section 42, nothing in this section shall be taken to empower the Minister to reduce the amount specified in Schedule 1 in relation to a university and to a year by an amount that would have the effect of causing the State in which the university is situated to become liable to repay an amount to the Commonwealth under this Act.”;

- (c) by omitting paragraphs (2) (b) and (c) and substituting the following paragraphs:

“(b) the State will ensure that the amount expended by the university for university purposes in respect of that year is not less than the sum of—

- (i) the amounts of financial assistance paid to the State under sub-section (1) in relation to the university in respect of that year; and

- (ii) the amount (if any) that the Minister has determined under sub-section (1A) to be the total of the appropriate tuition fees charges of that university in respect of that year;

5 “(c) the State will ensure that each university situated in the State charges, in respect of that year, each student who, during that year or a part of that year, undertakes at that university studies of a kind to which a determination in force under sub-section 5A (1) applies, such tuition fees (if any) as that student should be charged by virtue of the terms of that determination in respect of his undertaking those studies;

10 “(ca) the State will ensure that each university situated in the State does not, otherwise than in accordance with the condition set out in paragraph (c), charge any student fees in respect of that year or a part of that year;” and

(d) by adding at the end thereof the following sub-section:

15 “(11) In sub-sections (5) and (7), references to the amount expended by a university for university purposes in respect of a year shall, if that year is the year 1982 or 1983, be read as references to the amount so expended in respect of that year less the amount (if any) determined by the Minister under sub-section (1A) to be the total of the appropriate tuition fees charges of that university in respect of that year.”.

20 **Grants for expenditure by colleges of advanced education on college purposes**

**6. Section 15 of the Principal Act is amended—**

25 (a) by adding at the end of sub-section (1) “reduced by such amount (if any) as the Minister determines under sub-section (1A) to be the total of the appropriate tuition fees charges of that college in respect of that year”;

(b) by inserting after sub-section (1) the following sub-sections:

30 “(1A) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of a year to which this Act applies, satisfied that a particular college of advanced education has, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of that year in respect of studies undertaken by those students at that college during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges of that college in respect of that year.

40 “(1B) Without derogating from the operation of section 42, nothing in this section shall be taken to empower the Minister to reduce the amount specified in Part I of Schedule 8 in relation to a college of advanced education and to a year by an amount that would have the effect of causing the State in which the college is situated to become liable to repay an amount to the Commonwealth under this Act.”; and

(c) by omitting paragraphs (2) (b) and (c) and substituting the following paragraphs:

“(b) the State will ensure that the total amount expended by the college for college purposes in respect of that year is not less than the sum of—

(i) the amounts of financial assistance paid to the State under sub-section (1) in relation to the college in respect of that year; and

(ii) the amount (if any) that the Minister has determined under sub-section (1A) to be the total of the appropriate tuition fees charges of that college in respect of that year;

“(c) the State will ensure that each college of advanced education situated in the State charges, in respect of that year, each student who, during that year or a part of that year, undertakes at that college studies of a kind to which a determination in force under sub-section 5A (1) applies, such tuition fees (if any) as that student should be charged by virtue of the terms of that determination in respect of his undertaking those studies;

“(ca) the State will ensure that each college of advanced education situated in the State does not, otherwise than in accordance with the condition set out in paragraph (c), charge any student fees in respect of that year or a part of that year;”.

**Grants for expenditure in connection with the provision of courses of advanced education at technical and further education institutions**

7. Section 16 of the Principal Act is amended—

(a) by adding at the end of sub-section (1) “reduced by such amount (if any) as the Minister determines under sub-section (1A) to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at technical and further education institutions in that State in respect of that year”;

(b) by inserting after sub-section (1) the following sub-sections:

“(1A) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of a year to which this Act applies, satisfied that technical and further education institutions situated in a State specified in Part II of Schedule 8 have, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of studies undertaken by those students at those institutions during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at technical and further education institutions in that State in respect of that year.

5 “(1B) Without derogating from the operation of section 42, nothing in this section shall be taken to empower the Minister to reduce the amount specified in Part II of Schedule 8 in relation to a State and to a year by an amount that would have the effect of causing the State to become liable to repay an amount to the Commonwealth under this Act.”; and

(c) by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

10 “(a) the State will ensure that the total of the amounts expended by the State and by instrumentalities of the State by way of recurrent expenditure in connection with the provision of courses of advanced education at those institutions is not less than the sum of—

15 (i) the amounts of financial assistance paid to the State under sub-section (1) in respect of that year; and

(ii) the amount (if any) that the Minister has determined, under sub-section (1A) to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at those institutions;

20 “(b) the State will ensure that each technical and further education institution situated in the State at which courses of advanced education are provided charges, in respect of that year, each student who, during that year or a part of that year, undertakes at that institution studies of a kind to which a determination in force under sub-section 5A (1) applies, such tuition fees (if any) as the student should be charged by virtue of the terms of that determination in respect of his undertaking those studies;

25 “(ba) the State will ensure that each technical and further education institution situated in the State at which courses of advanced education are provided does not, otherwise than in accordance with the condition set out in paragraph (b), charge any student fees in respect of that year or a part of that year;”.

30 **Carry-forward of amounts specified in Schedule 8**

35 **8.** Section 17 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(13) In this section—

40 (a) a reference to the amount expended by a college of advanced education upon college purposes in respect of a year shall, if that year is the year 1982 or 1983, be read as a reference to the amount so expended in respect of that year less the amount (if any) determined by the Minister under sub-section 15 (1A) to be the total of the

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appropriate tuition fees charges of that college in respect of that year;  
and

- (b) a reference to the amount expended by a State and by the instrumentalities of that State in connection with the provision, in respect of a year, at technical and further education institutions situated in the State of courses of advanced education shall, if that year is the year 1982 or 1983, be read as a reference to the amount so expended in respect of that year less the amount (if any) determined by the Minister under sub-section 16 (1A) to be the total of the appropriate tuition fees charges in respect of the provision of courses of advanced education at technical and further education institutions in that State in respect of that year.”

**Grants to Northern Territory for recurrent expenditure in respect of courses of advanced education, &c.**

9. Section 22 of the Principal Act is amended—
- (a) by adding at the end of sub-section (1) “reduced by such amount (if any) as the Minister determines under sub-section (1A) to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at institutions in the Northern Territory in respect of that year”;
- (b) by inserting after sub-section (1) the following sub-sections:
- “(1A) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of a year to which this Act applies, satisfied that institutions situated in the Northern Territory have, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of studies undertaken by those students at those institutions during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at institutions in the Northern Territory in respect of that year.
- “(1B) Without derogating from the operation of section 42, nothing in this section shall be taken to empower the Minister to reduce the amount specified in Schedule 10 in relation to a year by an amount that would have the effect of causing the Northern Territory to become liable to repay an amount to the Commonwealth under this Act.”;
- (c) by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:
- “(a) the Northern Territory will ensure that the total of the amounts expended by the Northern Territory and by instrumentalities of the Northern Territory, in connection with the provision, in respect of that year, of courses of

advanced education at institutions in the Northern Territory is not less than the sum of—

- 5 (i) the amounts of financial assistance paid to the Northern Territory under sub-section (1) in respect of that year; and
- 10 (ii) the amount (if any) that the Minister has determined under sub-section (1A) to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at institutions in the Northern Territory in respect of that year;

15 “(b) the Northern Territory will ensure that each institution situated in the Northern Territory at which courses of advanced education are provided charges, in respect of that year, each student who, during that year or a part of that year, undertakes at that institution studies of a kind to which a determination in force under sub-section 5A (1) applies, such tuition fees (if any) as the student should be charged by virtue of the terms of that determination in respect of his undertaking those studies;

20 “(ba) the Northern Territory will ensure that each institution situated in the Northern Territory at which courses of advanced education are provided does not, otherwise than in accordance with the condition set out in paragraph (b), charge any student fees in respect of that year or a part of that year;” and

25 (d) by adding at the end thereof the following sub-section:

30 “(16) In sub-sections (7) and (9), references to the amount expended by the Northern Territory and instrumentalities of the Northern Territory in connection with the provision, in respect of a year, of courses of advanced education at institutions in the Northern Territory shall, if that year is the year 1982 or 1983, be read as references to the amount so expended in respect of that year less the amount (if any) determined by the Minister under sub-section (1A) to be the total of the appropriate tuition fees charges in relation to the provision of courses of advanced education at institutions in the Northern Territory in respect of that year.”

**Grants for courses of teacher education provided by non-government teachers colleges**

40 **10.** Section 23 of the Principal Act is amended—

(a) by inserting after sub-section (2) the following sub-sections:

“(2A) If the Minister determines under sub-section (2B) an amount to be the total of the appropriate tuition fees charges in respect of the provision of courses of teacher education at a non-government

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teachers college referred to in sub-section (2) in respect of a year referred to in that sub-section, the amount specified in paragraph (2) (a) or (b) in relation to that non-government teachers college in respect of that year shall be deemed to be reduced by the amount so determined. 5

“(2B) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of a year to which this Act applies, satisfied that a particular non-government teachers college has, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of studies undertaken by those students at that college during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges in relation to the provision of courses of teacher education at that college in respect of that year.”; 10 15

(b) by omitting sub-paragraphs (3) (b) (i) and (ii) and substituting the following sub-paragraphs:

“(i) the approved authority of the college will ensure that the amount applied for the purpose of meeting recurrent expenditure incurred, in respect of that year, by the college in the provision in that year of courses of teacher education is not less than the sum of— 20

(A) the amounts paid to the approved authority under this section in relation to the college in respect of that year; and 25

(B) the amount (if any) that the Minister has determined under sub-section (2B) to be the total of the appropriate tuition fees charges in relation to the provision of courses of teacher education at the college in respect of that year; 30

“(ii) the approved authority of the college will ensure that the college charges, in respect of that year, each student who, during that year or a part of that year, undertakes at the college studies of a kind to which a determination in force under sub-section 5A (1) applies, such tuition fees (if any) as the student should be charged by virtue of the terms of that determination in respect of his undertaking those studies; 35

“(iia) the approved authority of the college will ensure that the college does not, otherwise than in accordance with the condition set out in sub-paragraph (ii), charge any student fees in respect of his undertaking studies of a kind referred to in that sub-paragraph;” 40

(c) by inserting in sub-paragraph (3) (b) (iv) “, (iia)” after “(ii)”;

(d) by inserting in sub-section (4) “less the amount (if any) determined by the Minister under sub-section (2B) to be the total of the appropriate 45

tuition fees charges in relation to the provision of courses of teacher education at the college in respect of that year” after “such courses in that year”; and

- 5 (e) by inserting in sub-section (6) “less the amount (if any) determined by the Minister under sub-section (2B) to be the total of the appropriate tuition fees charges in relation to the provision of those courses of teacher education at the college in respect of that year” after “in respect of that year” (first occurring).

**Further recurrent grants in relation to advanced education**

10 **11.** Section 26 of the Principal Act is amended—

- (a) by inserting after sub-section (1) the following sub-section:

15 “(1A) Where, on the basis of information supplied to him by the Commission, the Minister becomes, in respect of the year 1982, satisfied that a relevant college of advanced education has, or should have, in accordance with a determination in force under sub-section 5A (1), charged students tuition fees amounting in the aggregate to a particular amount in respect of that year in respect of studies undertaken by those students at that college during that year, the Minister may determine that amount to be the total of the appropriate tuition fees charges of that college in respect of that year.”;

- 20 (b) by adding at the end of sub-section (2) “, or, if the Minister has made a determination or determinations under sub-section (1A), that amount reduced by the amount, or the aggregate of the amounts, so determined by the Minister”; and

- 25 (c) by omitting sub-section (3) and substituting the following sub-section:

“ (3) Financial assistance is granted to a State under sub-section (1) in relation to a relevant college of advanced education in respect of the year 1982 on the same conditions as would, under sub-section 15 (2), have applied to that grant of financial assistance if—

- 30 (a) the amounts paid under sub-section (1) of this section had been paid under sub-section 15 (1); and  
(b) the amount (if any) determined under sub-section (1A) of this section to be the total of the appropriate tuition fees charges of that college had been determined under sub-section 15 (1A).”.

35 **Grants for recurrent expenditure**

**12.** Section 28 of the Principal Act is amended by adding at the end thereof the following sub-section:

40 “(3) In determining whether a State has complied with a condition set out in paragraph (2) (b), any tuition fees charged by a technical and further education institution in compliance with the conditions attaching to a grant to that institution under section 16 or 22 shall be disregarded.”.

**Report by Minister**

**13.** Section 52 of the Principal Act is amended by omitting from paragraph (a) "9 (2), 26 (1)" and substituting "7 (1A), 9 (2), 15 (1A), 16 (1A), 22 (1A), 23 (2B), 26 (1), 26 (1A)".

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**NOTE**

1. No. , 1981.