

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

**EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL 1996**

**EXPLANATORY MEMORANDUM**

(Circulated by authority of the Minister for Employment, Education, Training and Youth Affairs,  
Senator the Honourable Amanda Vanstone)



# EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL 1996

## OUTLINE

The Education and Training Legislation Amendment Bill 1996 repeals the *Training Guarantee Act 1990* and the *Training Guarantee (Administration) Act 1990* and also amends the *Higher Education Funding Act 1988* and the *States Grants (Primary and Secondary Education Assistance) Act 1992*.

The effect of this legislation will be to abolish the Training Guarantee Scheme, which placed a requirement on employers who failed to provide sufficient structured training to pay to the Australian Taxation Office a Training Guarantee Charge equal to the amount of the shortfall in expenditure.

The Training Guarantee Scheme was introduced in 1990 with the aim of increasing the amount of structured training provided by industry. The Training Guarantee Scheme was suspended for two years from 1 July 1994 to 30 June 1996. Current Government policy is not consistent with the imposition of a blanket requirement for expenditure across most enterprises.

This Bill will repeal the *Training Guarantee Act 1990* and the *Training Guarantee (Administration) Act 1990*. The repeal is contained in **Schedule 1** of the Bill.

The Bill will amend the *Higher Education Funding Act 1988* to make provision for expenditure of funds already allocated for Open Learning in respect of the years 1996, 1997 and 1998.

The *Higher Education Funding Amendment Act (No. 2) 1995* allocated funds for the Open Learning Initiative under subsection 22A(5) for the years 1996, 1997 and 1998. As a result of an oversight, subsection 22A(3) was not amended at the same time to enable the Minister to make determinations approving the expenditure of funding for these years.

The Bill makes a technical amendment to correct this anomaly and to enable the Open Learning Initiative to continue to achieve its objectives.

The Bill also amends the *States Grants (Primary and Secondary Education Assistance) Act 1992* to fulfil a commitment by the previous Government to provide an additional \$20.706 million for the non-government school capital program in 1996. It is proposed that the amount be available for expenditure early in the first six months of the 1996-97 financial year.

The amendments to the *Higher Education Funding Act 1988* and the *States Grants (Primary and Secondary Education Assistance) Act 1992* are contained in **Schedule 2**.

## FINANCIAL IMPACT

No new debts under the Training Guarantee Scheme arising from shortfalls in expenditure by employers will be incurred. To date, collections from shortfalls have totalled around \$2 - \$3 million per year, but this has been offset by the \$3 - \$4 million per year in the cost of the administration functions performed by the Department of Employment, Education, Training and Youth Affairs, the Australian Taxation Office, the former National Training Board and the Department of Finance.

The Australian Taxation Office is unable to estimate the amount of uncollected shortfalls incurred in the 1993-94 financial year. As a result, an estimate of the costs of collection is unavailable.

The amendment to the *Higher Education Funding Act 1988* gives effect to the expenditure of \$12,498,000 in 1996, \$211,000 in 1997 and \$211,000 in 1998 as allocated by the *Higher Education Funding Amendment Act (No.2) 1995*, there will be no additional budgetary implications arising out of the measure.

In respect of the amendment to the *States Grants (Primary and Secondary Education Assistance) Act 1992*, the Bill will add \$20.706 million in 1996 to outlays under the schools program.

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## **NOTES ON CLAUSES**

### **Clause 1 - Short Title**

**Clause 1** provides for this Bill to be cited as the Education and Training Legislation Amendment Bill 1996.

### **Clause 2 - Commencement**

**Clause 2** provides for this Bill to commence on 1 July 1996.

### **Clause 3 - Schedules**

**Clause 3** provides that each Act specified in a Schedule to this Act is amended or repealed in accordance with the applicable item in the Schedule concerned and any other item in a Schedule to this Act has effect according to its terms.

## SCHEDULE 1

### REPEAL OF ACTS

The Training Guarantee Scheme was established with the aim of increasing the amount of structured training provided by industry. The administration of the Scheme is enforced by the *Training Guarantee (Administration) Act 1990*. Any shortfall in the amount spent by employers on training employees was recovered by a charge known as the Training Guarantee Charge. The Charge is legislated for under the *Training Guarantee Act 1990*.

**Item 1** provides that the whole of the *Training Guarantee Act 1990* be repealed.

**Item 2** provides that the whole of the *Training Guarantee (Administration) Act 1990* be repealed.

**Item 3** provides that if an employer was liable to pay Training Guarantee Charge for the year beginning on 1 July 1993 under paragraph 15D(3)(f), (4)(b) or (6)(b) of the *Training Guarantee (Administration) Act 1990*, section 42A of that Act continues to apply in relation to that employer as if that section had not been repealed. Section 15D relates to elections to postpone a training guarantee shortfall in a particular year and section 42A requires an employer to lodge a further training guarantee statement for the year before a certain date if the employer is liable to pay the Training Guarantee Charge under paragraph 15D(3)(f), (4)(b) or (6)(b). Under section 42A, the Commissioner for Taxation has power to allow a later date for the employer to lodge a further training guarantee statement and a saving provision is necessary to preserve the Commissioner's power to do this in respect of any uncollected Training Guarantee Charge.

**Item 4** provides that despite the repeal of the *Training Guarantee (Administration) Act 1990*, Division 3 of Part 6 of that Act continues to apply to an assessment of the Training Guarantee Charge as if that Division had not been repealed. Division 3 of Part 6 of the *Training Guarantee (Administration) Act 1990* provides for the review or appeal generally of assessments of the Training Guarantee Charge.

**Item 5** provides that, despite the repeal of the *Training Guarantee (Administration) Act 1990* by this Act, Parts 8 and 9 of that Act continue to apply in relation to any amounts of Training Guarantee Charge that remain or become due and payable by an employer on or after 30 June 1996 as if those Parts had not been repealed. Parts 8 and 9 of the *Training Guarantee (Administration) Act 1990* provide for the collection and recovery of the Training Guarantee Charge and the imposition of a penalty charge. This saving provision is necessary to enable the Commissioner for Taxation to use the provisions in Parts 8 and 9, in relation to uncollected Training Guarantee Charge or penalties that remain or become due and payable on or after 30 June 1996, where the bare repeal of the *Training Guarantee (Administration) Act 1990* would not have enabled provisions in those parts to be relied upon.

## SCHEDULE 2

### AMENDMENT OF OTHER ACTS

This schedule provides for amendments to the *Higher Education Funding Act 1988* and the *States Grants (Primary and Secondary Education Assistance) Act 1992*.

#### *Higher Education Funding Act 1988*

The *Higher Education Funding Act 1988* is an Act relating to the funding of certain institutions of higher education and associated bodies.

**Item 1** omits "and 1995" and substitutes ",1995, 1996, 1997 and 1998" in **subsection 22A(3)** of the Act. This amendment will allow the Minister to make determinations approving expenditure of funding which has already been allocated, by virtue of the *Higher Education Funding Amendment Act (No. 2) 1995*, in respect of the years 1996, 1997 and 1998 for Open Learning.

#### *States Grants (Primary and Secondary Education Assistance) Act 1992*

The *States Grants (Primary and Secondary Education Assistance) Act 1992* is an Act that relates to the grant of financial assistance to the States, the Australian Capital Territory and the Northern Territory for primary and secondary education.

**Item 2** omits "92,296,000" and substitutes "113,002,000" in **Schedule 3 (column 2)** of the Act. This amendment will provide an additional \$20.706 million for the non-government school capital program in 1996/97.



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