

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

EMPLOYMENT, EDUCATION AND TRAINING AMENDMENT BILL 1996

EXPLANATORY MEMORANDUM

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

1. The first part of the paper is devoted to the study of the

properties of the function $f(x)$.

2. In the second part, we consider the case when the function $f(x)$ is continuous. We show that in this case the function $f(x)$ is differentiable at every point of its domain.

3. In the third part, we consider the case when the function $f(x)$ is not continuous. We show that in this case the function $f(x)$ is not differentiable at any point of its domain.

4. In the fourth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain.

5. In the fifth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous.

6. In the sixth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

7. In the seventh part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

8. In the eighth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

9. In the ninth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

10. In the tenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

11. In the eleventh part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

12. In the twelfth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

13. In the thirteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

14. In the fourteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

15. In the fifteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

16. In the sixteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

17. In the seventeenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

18. In the eighteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

19. In the nineteenth part, we consider the case when the function $f(x)$ is continuous and differentiable at every point of its domain, but the derivative is not continuous and the function is not twice differentiable.

EMPLOYMENT, EDUCATION AND TRAINING AMENDMENT BILL 1996

OUTLINE

The *Employment, Education and Training Act 1988* ("the Act") established the National Board of Employment, Education and Training ("the Board") to provide the Minister with advice on matters relating to employment, education and training. The Act establishes Councils, and provides for committees and counsellors to be appointed to assist the Board and the Minister.

Currently, the Australian Language and Literacy Council, the Australian Research Council, the Employment and Skills Council, the Higher Education Council and the Schools Council report to the Minister through the Board. The arrangements have become cumbersome and the Board and its Councils no longer provide the focus of advice that the Government requires.

This Bill provides for the abolition of the Board, the Australian Language and Literacy Council, the Employment and Skills Council and the Schools Council and for the provision of a final report on their operations. The Higher Education Council and the Australian Research Council will continue as independent Councils, with similar functions, reporting directly to the Minister. Following consultation with the relevant sectors, new legislation will be presented to establish successors to the Higher Education Council and the Australian Research Council.

The Bill provides for amendments required to continue mechanisms for the appointment of committees and counsellors which will assist the Higher Education Council and the Australian Research Council. Other technical and consequential amendments are also included.

FINANCIAL IMPACT

The Bill will have no financial impact.

EMPLOYMENT, EDUCATION AND TRAINING AMENDMENT BILL 1996

NOTES ON CLAUSES

Clause 1 - Short Title

This clause would provide for the Act to be cited as the *Employment, Education and Training Amendment Act 1996*.

Clause 2 - Commencement

This clause would provide for the Act to commence on the day on which it receives the Royal Assent.

Clause 3 - Schedule(s)

This clause would provide that each Act which is specified in a Schedule to this Bill would be 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

AMENDMENTS OF THE EMPLOYMENT, EDUCATION AND TRAINING ACT 1988

PART 1 - AMENDMENTS

Items 1 to 6 - Subsection 3(1)

Subsection 3(1) of the *Employment, Education and Training Act 1988* (“the Act”) contains definitions used within the Act. Certain defined terms would no longer be required because of the effect of the proposed amendments. Items 1, 4, 5 and 6 would repeal the definitions of “Board”, “curricula”, “educational materials”, “parent body”, “school” and “school system”, respectively. Items 2 and 3 would be a consequence of the repeal of the definition of “school”.

Item 7 - Part II

This item would repeal Part II of the Act which presently provides for the establishment, functions, powers, constitution and meetings of the National Board of Employment, Education and Training (“the Board”).

Item 8 - Paragraphs 23(a), (c) and (e)

Section 23 of the Act provides for the establishment of Councils. This item would repeal those paragraphs which establish the Schools Council, Employment and Skills Council and the Australian Language and Literacy Council, as such Councils are proposed to be abolished.

Item 9 -Section 24

This would repeal section 24 of the Act which presently provides for the functions of the Schools Council as this Council is proposed to be abolished.

Item 10 - Paragraph 25(1)(a)

This item would substitute a new paragraph which removes references to the Board and provides for the Higher Education Council to provide information and advice directly to the Minister on:

- any matter relating to higher education that is referred to the Council by the Minister; or
any other matter that may reasonably be required by the Minister in conjunction with such information or advice.

Items 11 to 14 - Paragraphs 25(1)(b) and 25(1)(c)

These items would omit references to “Board” and substitute references to “Minister” and provide for technical amendments to paragraphs 25(1)(b) and 25(1)(c) of the Act. The amendment would provide that information and advice, provided by the Council on its own motion under paragraph 25(1)(b) or reports under paragraph 25(1)(c) (which relates to reports on education profiles, Commonwealth priorities in higher education and the Higher Education Contribution Scheme) are now to be given to the Minister.

Item 15 - At the end of Subsection 25(1)

This item would amend subsection 25(1) of the Act to provide for the Higher Education Council to:

- prepare reports for the Minister under section 30;
- publish reports, papers and periodicals on matters dealt with by the Council; and
- collect, assess and disseminate information on matters dealt with by the Council.

Item 16 - After Subsection 25(1)

This item would provide for the insertion of a new subsection 25(1A) to require consultation between the Minister and the Higher Education Council Chairperson before any higher education matters are referred to the Council.

Item 17 - Subsection 25(3)

This item would substitute a new subsection 25(3) of the Act to require the Minister to table in both Houses of Parliament, within 15 sitting days, reports of the Higher Education Council under paragraph 25(1)(c) (which relates to reports on education profiles, Commonwealth priorities in higher education and the Higher Education Contribution Scheme).

Item 18 - At the end of Section 25

This item would add a new subsection 25(4) that lists specific matters which may be referred to the Higher Education Council, which include:

- the general development of higher education in Australia;
- the establishment of priorities for dealing with the needs of institutions providing higher education;
- the funding, planning and implementation of programs aimed at meeting such identified priorities;
- the granting of financial assistance by the Commonwealth to institutions providing higher education;
- the identification of national objectives, needs and priorities in the field of higher education;
- provision of assistance for persons having difficulty obtaining higher education;
- the encouragement of the involvement of business and industrial sectors;
- the creation and development of educational materials and curricula;
- the overall allocation of financial assistance by the Commonwealth;

- the granting of financial assistance for innovative or curriculum projects; and the promotion of informed public debate on matters relating to higher education by involving employers, trade unions and the community.

Item 19 - Section 26

This item would repeal section 26 of the Act which presently provides for the functions of the Employment and Skills Council as this Council is proposed to be abolished.

Item 20 - Paragraph 27(1)(a)

This item would make it clear that any recommendation made by the Australian Research Council to the Minister is to be in writing.

Item 21 - At the end of Subparagraph 27(1)(a)(ii)

This item would make a technical amendment to the provision which deals with the functions of the Australian Research Council.

Item 22 - Paragraph 27(1)(b)

This item would substitute a new paragraph 27(1)(b) of the Act which removes references to the Board and provides for the Australian Research Council to provide information and advice to the Minister on:

any matter relating to national research priorities or the co-ordination of research policy that is referred to the Council by the Minister; or
any other matter that may reasonably be required by the Minister in conjunction with such information or advice.

Item 23 - Paragraph 27(1)(c)

This item would omit the reference to “Board” and substitute “Minister”, thereby providing that information and advice, provided by the Council on its own motion, is to be given to the Minister.

Item 24 - At the end of Subsection 27(1)

This item would amend subsection 27(1) of the Act to provide for the Australian Research Council to:

- prepare reports for the Minister under section 30;
publish reports, papers and periodicals on matters dealt with by the Council; and
collect, assess and disseminate information on matters dealt with by the Council.

Item 25 - Subsection 27(2)

This item would substitute a new subsection 27(2) to require consultation between the Minister and the Australian Research Council Chairperson before any matters relating to the distribution of resources allocated to any research scheme or relating to national research priorities, are referred to the Council.

Item 26 - At the end of Section 27

This item would add a new subsection 27(4) that lists specific matters which may be referred to the Australian Research Council, which include:

- the support to be given to fundamental research and to research that will contribute directly to the economic or social development of Australia;
- the development of research programs and the establishment of special research centres or key centres of teaching and research by institutions;
- the allocation of funds to achieve an appropriate concentration of research effort by institutions;
- measures aimed at enhancing the training of research personnel;
- measures aimed at improving interaction among the higher education sector, the private research sector, the government research sector and the industrial sector;
- identification of priority areas for research;
- encouraging and facilitating the application and utilisation of research outcomes in a manner beneficial to Australia;
- identification of areas of research that will contribute directly to the economic or social development of Australia;
- stimulating a greater awareness of the necessity for research;
- making a more effective use of the skills and resources available in the community for research;
- the overall allocation of financial assistance by the Commonwealth to research;
- policies relating to the grant of scholarships, fellowships, and other research grants under schemes administered by the Minister; and
- the granting of financial assistance for innovative or curriculum projects.

Item 27 - Section 27A

This item would repeal section 27A of the Act which presently provides for the functions of the Australian Language and Literacy Council as this Council is proposed to be abolished.

Item 28 - Section 28

This item would substitute a new section 28 to provide for cooperation between the two Councils which will continue in existence under the Act as amended.

Item 29 - Subsection 29(1)

This item would omit the reference to “Board” and substitute “Minister”, with the effect that the Minister may give directions or guidelines to the Councils.

Item 30 - Subsection 29(2)

This item would repeal subsection 29(2) of the Act as a consequence of the abolition of the Board.

Item 31 - After Subsection 29(3)

This item would insert a new subsection 29(3A) to provide for the tabling of any direction or guideline given by the Minister to any of the two Councils before both Houses of Parliament.

Item 32 - Section 30

This item would substitute a new section 30 of the Act which deals with reports to be given to the Minister by Councils.

New subsection 30(1) would require each Council, as soon as practicable after the end of a financial year, to give to the Minister a report on its operations during that year. Subsection 30(2) would provide that such an annual report must include information about matters referred to a Council by the Minister as well as matters on which the Council gave information and advice to the Minister on its own motion.

Subsection 30(3) would provide that a Council must also provide reports on the performance of its functions as the Minister requires and such other reports as the Council thinks fit.

Subsection 30(4) would provide that a Council must give reports to the Minister on matters referred to it by the Minister and at such times, or in respect of such periods, as the Minister directs.

Subsection 30(5) would provide that the Minister must cause a copy of reports required to be provided under this section to be tabled in each House of Parliament within 15 sitting days.

Subsection 30(6) would provide that, if a report under subsection (1) relates to the financial year in which the *Employment, Education and Training Amendment Act 1996* commenced, it need not deal with the part of the financial year preceding that commencement.

Item 33 - Paragraph 31(2)(a)

This amendment would be a consequence of the abolition of the Board.

Item 34 - Subsection 32(3)

This item would substitute a new subsection 32(3) of the Act with the effect that the Minister (instead of the Board) may appoint an officer or employee of the Australian Public Service to be a member of a Council.

Item 35 - Section 34

This item would repeal section 34 (which deals with the attendance of the Chairperson of the Board at Council meetings) and is a consequence of the abolition of the Board.

Item 36 - Section 36

This item substitutes a new section 36 of the Act (which deals with the establishment and dissolution of committees) with a new section that no longer refers to the Board or recommendations made by the Board.

Item 37 - Subsection 37(1)

This item substitutes a new subsection 37(1) of the Act to provide for the appointment of committee members subject to the approval of the Minister.

Items 38 & 39 - Paragraph 37(2)(a) and subsections 37(4) and (5)

These items would omit redundant references to a "parent body" and "the Board" and replace them with references to the Councils.

Item 40 - Section 38

This item would substitute a new section 38 (which deals with the functions of committees) and has the effect of removing redundant references to the "parent body" of a committee and replaces them with references to the Councils or their Chairpersons as the case requires.

Item 41 - Subsection 55(1)

This item would provide for a consequential amendment by removing the present reference to the Board.

Item 42 - Subsection 55(2)

This item would provide for a consequential amendment by removing a reference to the Chairperson of the Board and inserting a reference to the Chairperson of each of the Councils.

Item 43 - Subsection 55(3)

This item would provide for a consequential amendment by removing the present reference to "Board" and substituting "Councils".

Item 44 - At the end of Section 55

This item would add a subsection 55(4) at the end of section 55 (which deals with Staff), providing for the Minister to resolve any conflicts concerning the policies determined, and any directions given to the Director by the Councils.

Item 45 - Subsection 57(1)

This item would substitute a new subsection 57(1), which concerns the appointment of counsellors. It provides for counsellors to be appointed by the Minister, after consultation with the Chairperson of a Council (rather than the Chairperson of the Board).

Item 46 - Subsection 57(2)

This item would provide for a consequential amendment by removing the present reference to "Board" and substituting "Council".

Items 47 to 50 - Section 60

These items would provide for consequential amendments to section 60 of the Act (which deals with disclosure of interests) by substituting provisions which refer the Minister, a Council or a committee as appropriate.

Items 51 to 56 and item 58- Sections 61 and 62

These items would provide for consequential amendments to section 61 of the Act (which deals with provision of information by the Department) by omitting references to the Board and, as appropriate, substituting references to a Council.

Item 57 - At the end of section 62

This item would insert a new subsection 62(3) of the Act to provide for the Minister to delegate his or her power under proposed subsection 55(4) (which deals with resolution of conflict between Councils) to the Secretary of the Department.

PART 2 - TRANSITIONAL PROVISIONS

Item 59 - Definition

This item would insert provide for two definitions to apply in respect of the transitional provisions:

“amended Act” means the *Employment, Education and Training Act 1988* as would be amended by Part 1 of the Schedule; and

“commencement” means the commencement of this Part (which would be upon Royal Assent).

Item 60 - Report on operations of the Board and Councils

This item would provide for a report on the operations of the Board and the Councils to be prepared for the Minister and which will cover a period from the end of the last period in respect of which a report has been provided until the commencement of this Part (ie when the Board and some Councils are abolished). These reports are to be tabled by the Minister in both Houses of Parliament within 15 sittings days of the receipt of the report.

Item 61 - Existing matters referred to the Higher Education Council

This item would provide that a matter referred to the Higher Education Council before the commencement of this Part is to continue as if it was referred after the commencement date.

Item 62 - Existing matters referred to the Australian Research Council

This item would provide that a matter referred to the Australian Research Council before the commencement of this Part is to continue as if it was referred after the commencement date.

Item 63 - Existing Chairperson of the Higher Education Council

This item would provide that the current Chairperson of the Higher Education Council, who is appointed to the Council on a part-time basis and appointed to the Board on a full-time basis, is to continue as the full-time Chairperson of the Higher Education Council under the existing terms and conditions of the full-time appointment to the Board.

Item 64 - Existing Chairperson of the Australian Research Council

This item would provide that the current Chairperson of the Australian Research Council, who is appointed to the Council on a part-time basis and appointed to the Board on a full-time basis, is to continue as the full-time Chairperson of the Australian Research Council under the existing terms and conditions of the full-time appointment to the Board.

Item 65 - Existing committees to assist Higher Education Council

This item would provide that a committee established to assist the Higher Education Council which existed immediately before the commencement of this Part is to continue to be a committee assisting the Higher Education Council as if it was appointed after the commencement date.

Item 66 - Existing committees to assist Australian Research Council

This item would provide that a committee established to assist the Australian Research Council which existed immediately before the commencement of this Part is to continue to be a committee assisting the Australian Research Council as if it was appointed after the commencement date.

Item 67 - Existing members of the committee for the Higher Education Council

This item would provide that a current member of a committee to assist the Higher Education Council who was appointed before the commencement of this Part, is to continue as a member of the committee to assist the Higher Education Council for the remainder of the original appointment period and under the existing terms and conditions as if they were appointed after the commencement.

Item 68 - Existing members of the committee for the Australian Research Council

This item would provide that a current member of a committee to assist the Australian Research Council who was appointed before the commencement of this Part, is to continue as a member of the committee to assist the Australian Research Council for the remainder of the original appointment period and under the existing terms and conditions as if they were appointed after the commencement.

Item 69 - Existing Counsellors for the Higher Education Council

This item would provide that a current counsellor appointed to give advice to the Higher Education Council who was appointed before the commencement of this Part, is to continue as a counsellor for the Higher Education Council for the remainder of the original appointment period and under the existing terms and conditions as if they were appointed after the commencement.

Item 70 - Existing Counsellors for the Australian Research Council

This item would provide that a current counsellor appointed to give advice to the Australian Research Council who was appointed before the commencement of this Part, is to continue as a counsellor for the Australian Research Council for the remainder of the original appointment period and under the existing terms and conditions as if they were appointed after the commencement.

SCHEDULE 2

AMENDMENT OF OTHER ACTS

Bounty (Books) Act 1986

The *Bounty (Books) Act 1986* is an Act to provide for the payment of bounty on the production of certain books.

Item 1 - Subsection 4(1) (paragraph (b) of the definition of *recognised educational institution*)

This item would repeal the paragraph and insert a new paragraph as “school” is no longer defined in the *Employment, Education and Training Act 1988*.

Item 2 - Subsection 4(1)

This item would insert a definition of school for the purposes of this Act.

Overseas Student (Refunds) Act 1990

The *Overseas Student (Refunds) Act 1990* is an Act to facilitate the refunding of payments made by overseas students unable to undertake or complete courses of study in Australia.

Item 3 - Section 3

This item would insert a definition of school for the purposes of this Act.

Item 4 - Subparagraph 4(1)(b)(iii)

This item would omit “within the meaning of that Act” referring to the *Employment, Education and Training Act 1988* which no longer defines “school”. This Act, through item 3, would have its own definition of “school”.



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