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1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 2) 1996**

**EXPLANATORY MEMORANDUM**

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



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## **HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 2) 1996 OUTLINE**

### ***The Higher Education Funding Act 1988***

The *Higher Education Funding Act 1988* makes provision for the granting of financial assistance to higher education institutions and other bodies for higher education purposes, establishes the Higher Education Contribution Scheme (HECS) and the Open Learning Deferred Payment Scheme (OLDPS) and makes provision for the repayment of monies lent by the Commonwealth to students under those schemes.

### **The Higher Education Funding Amendment Bill (No.2) 1996**

The Higher Education Funding Amendment Bill (No.2) 1996 amends the *Higher Education Funding Act 1988* to:

- repeal sections 25A and 25B so that funds are not payable for the 1997 or any later program year under the Student Organisation Support (SOS) Program. Under the SOS program the Federal Government could provide funds to student organisations and institutions where funds were reduced because of an action of a State. The *States Grants (General Purposes) Act 1994* was amended when sections 25A and 25B were inserted in the Higher Education Funding Act 1988 so that section 15 provides that the Treasurer may choose to recover funds paid to student organisations from State Grants.

The Higher Education Funding Amendment Bill (No.2) 1996 makes a consequential amendment to the *States Grants (General Purposes) Act 1994* to:

repeal section 15 of that Act so that funds paid to student organisations under sections 25A and 25B of the *Higher Education Funding Act 1988* can no longer be recovered by the Treasurer from State Grants. The Government does not support the SOS program and is opposed to the former Government's funding of student organisations with taxpayers' money; money which otherwise would have been spent on areas such as health and schools.

## **FINANCIAL IMPACT**

There is a nil financial impact from this Bill.

# **HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 2) 1996**

## **NOTES ON CLAUSES**

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

**Clause 1** is a formal provision providing for the citation of the Bill, once enacted.

### **Clause 2 - Commencement**

**Clause 2** provides for the provisions of the Bill to commence on the day it receives the Royal Assent.

### **Clause 3 - Schedules**

**Clause 3** provides that the Acts specified in the Schedule to this Bill are amended in accordance with the applicable items in the Schedule.

## SCHEDULE 1

### AMENDMENT OF ACTS

#### ***Item 1 - Repeal of section 25A and 25B of the Higher Education Funding Act 1988***

**Item 1** provides that sections 25A and 25B of the *Higher Education Funding Act 1988* be repealed.

Sections 25A and 25B of the *Higher Education Funding Act 1988* allow for the operation of the Student Organisation Support program. The Student Organisation Support program for Federal financial assistance to student organisations and institutions affected by State legislation providing for voluntary student unionism.

#### ***Item 2 - Effect of repeal of sections 25A and 25B***

**Subitem (1)** provides that, despite any provision of any other Act, financial assistance is not payable under sections 25A and 25B in respect of any program year after 1996.

**Subitem (2)** provides that if before the repeal day the Minister has authorised a payment by way of financial assistance to a student organisation in respect of a year before 1997 under section 25B, then that section continues to apply, despite its repeal, to that student organisation in respect of that payment. This transitional provision allows payments which have been authorised under section 25B to be adjusted in accordance with Student Organisation Support program guidelines which provide that initial funding be adjusted for final student numbers and voluntary contributions and indexed for calendar year price movements. The transitional provision also ensures that student organisations who have already received funding under the program acquit those funds as required under the Act.

**Subitem (3)** clarifies the Commonwealth's rights to recovery of an amount paid under section 25B, as in force immediately before the repeal day or as that section is continued in force under subitem (2), that should not have been paid. Subitem (3) gives the Commonwealth a legislative right to recover any such monies making the amount a debt due to the Commonwealth and recoverable in a court of competent jurisdiction.

**Subitem (4)** provides that expressions used in Item 2 have the same meaning as in the *Higher Education Funding Act 1988*, subject to subitem (5).

**Subitem (5)** is a definitional provision providing that **repeal day** means the day on which Item 1 commences. Subitem (5) also provides that **student organisation** has the same meaning as in section 25B of the *Higher Education Funding Act 1988*. Section 25B provides that "student organisation" means an organisation that has as one of its objects or purposes the furthering of the interests generally of students at an institution and that is (a) a financial or trading corporation within the meaning of paragraph 51(xx) of the Constitution; or (b) an incorporated body or an unincorporated body of any other kind.

***Item 3 - Section 119***

Under section 119 of the *Higher Education Funding Act 1988* the Minister is required to cause a report to be laid before each House of Parliament setting out particulars of any amounts determined by the Minister under a number of sections including section 25A. As no payments have been made to date under section 25A the requirement for a report will longer exist after the repeal of section 25A and reference to this section can be omitted from section 119.

***Item 4 - Amendment to States Grants (General Purposes) Act 1994 : Repeal of Section 15***

This item provides that section 15 of the *States Grants (General Purposes) Act 1994* be repealed. That section provides that funds made available under the Student Organisation Support program can be recovered from States Grants payments.



