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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STUDENT ASSISTANCE AMENDMENT BILL (No.2) 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Higher Education and Employment Services,
the Honourable Peter Baldwin MP)

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OUTLINE

The Student Assistance Act 1973 provides the statutory basis for the AUSTUDY scheme. It also provides a debt management regime for AUSTUDY and the other student assistance schemes administered by the Department of Employment, Education and Training.

The present Bill makes three changes to the Student Assistance Act 1973.

Special appropriations clause

The Bill proposes to insert a section into the Student Assistance Act to appropriate, on a continuing basis, the funds needed to pay allowances under the AUSTUDY, ABSTUDY and Assistance for Isolated Children schemes. This will replace provisions in the normal appropriation legislation. Similar special appropriations provisions appear in the Social Security legislation: s.1363 of the Social Security Act 1991.

The proposed change reflects the fact that student assistance schemes are demand-driven, depending on the number of students receiving assistance. (It may be noted that the level of payments to students is not discretionary, but is determined under the scheme rules.)

Cocos (Keeling) Islands

The Bill will extend the AUSTUDY scheme to students living on the Cocos (Keeling) Islands. This reflects the move to normalise the application of Australian laws to the Territory, including the phasing in of normal income tax arrangements.

Living allowances for English as a Second Language Scheme

The Bill will also change the Living Allowances for English as a Second Language (LAESL) scheme from a current special educational assistance scheme to a former special educational assistance scheme.

The LAESL scheme is a small scheme which provides allowances to migrants undertaking Commonwealth-funded courses in English as a Second Language at TAFE colleges. About 1,400 students were assisted in 1990 at a cost of approximately \$3.7m.

From 1 July 1991, the LAESL scheme will be integrated into the social security payment system, with students receiving job search or newstart allowances under the Social Security Act 1991. However, the scheme will continue past 1 July as a separate Budgetary item; the Department of Employment, Education and Training will continue to administer LAESL and will reimburse the Department of Social Security for outgoings under the scheme.

In view of the new arrangements, the Act will be amended so that the scheme will cease to be defined as a "current special educational assistance scheme". Instead, it will be redefined as a "former special educational assistance scheme"; this will mean that the debt management regime under the Student Assistance Act will continue to apply to payments made under the former LAESL scheme.

FINANCIAL IMPACT

The Bill will have no significant financial impact on overall expenditure, though new accounting procedures will be involved for some schemes.

Cocos (Keeling) Islands

The extension of AUSTUDY to the Cocos (Keeling) Islands will cost about \$20,000 a year.

Automatic appropriations clause

The introduction of a special appropriation clause is cost neutral and involves an improved arrangement for paying the same amount of assistance to students. Payments under the AUSTUDY, ABSTUDY and Assistance for Isolated Children schemes will no longer be authorised by the normal appropriation legislation but will be made under a special provision in the Student Assistance Act (new section 10, inserted by clause 9 of the Bill).

Expenditure under these three schemes came to \$997,353,080 in 1990 calendar year.

Living Allowance for English as a Second Language scheme

As with the special appropriations clause, the provisions relating to the LAESL scheme are cost neutral and involve improved arrangements for paying assistance to students.

Payments under the LAESL scheme will be made by way of a job search or newstart allowance and will accordingly be authorised by the special appropriations provision (s.1323) of the Social Security Act 1991. However, as the scheme will continue to be administered by the Department of Employment, Education and Training, an appropriation will continue to appear under that Department in the normal appropriation legislation. The money so appropriated will be used to reimburse the Department of Social Security for the payments it has made.

Expenditure under the LAESL scheme came to \$3,690,949 in the 1990 calendar year.

NOTES ON CLAUSES

Clause 1: Short title etc.

Clause 1(1) sets out the short title of the proposed Act.

Clause 1(2) identifies the Student Assistance Act 1973 as the Principal Act.

Clause 2: Commencement

Clause 2 provides for commencement of the Bill.

Clause 2(1) provides that clauses 1 and 2 will commence when the Bill receives Royal Assent. These clauses deal with formal matters.

Clause 2(2) provides that clauses 4(a), 4(b) and 4(c) will commence 28 days after the day on which the Bill receives Royal Assent. These clauses deal with the LAESL scheme.

Clause 2(3) provides that the rest of the Bill is to come into effect on 1 January 1992, reflecting the fact that student assistance is administered on a calendar year basis.

Clause 3: Application

Clause 9 will add a special appropriation provision, section 55A, to the Student Assistance Act. Section 55A will commence on 1 January 1992 (see clause 2(3)).

Clause 3 clarifies that the new section 55A will apply to payments that are made after 1 January 1992 but in respect of periods before that date.

Clause 4: Interpretation

Clause 4 amends section 3 of the Student Assistance Act, which defines expressions used in the Act.

Clauses 4 (a) to 4(c) will move the LAESL scheme from the definition of "current special educational assistance schemes" to the definition of "former current special educational assistance schemes".

Clause 4(a) is a purely drafting amendment, consequential on the change to be made by clause 4(b). It will omit the word "or", which will become redundant when clause 4(b) omits paragraph 3(1)(d) of the Student Assistance Act.

Clause 4(b) omits the reference to the Living Allowance for English as a Second Language Scheme (LAESL) from the definition of "current special educational assistance scheme".

This reflects the integrating of the LAESL scheme into the social security payment system from 1 July 1991, so that students will receive job search or newstart allowances under the Social Security Act 1991 instead of LAESL.

Clause 4(c) will add the former LAESL scheme to the definition of "former special educational assistance scheme". This will enable the existing debt management regime to continue to apply in relation to payments made under the former LAESL scheme.

Clause 4(d) will amend section 3(2) of the Student Assistance Act by adding that the Territory of Cocos (Keeling) Islands is to be included in references to Australia. This will enable AUSTUDY to be granted to students who are studying at educational institutions on the Territory. (See also the proposed new section 5A, which will extend the Student Assistance Act to the Territory.)

Clause 5: Extension of the Act

Clause 5 inserts a new section 5A into the Student Assistance Act.

Section 3(2) of the Student Assistance Act will enable AUSTUDY to be paid to students on the Christmas and Cocos (Keeling) Islands. The new section 5A will supplement this by extending the provisions of the Student Assistance Act to the two Territories. Section 5A will mean, for example, that the debt recovery provisions under the Act will apply to those Territories.

Clause 6: Heading to Part 4

Clause 6 will make a drafting amendment, consequential on the repeal of section 10 of the Student Assistance Act, which at present deals with the paying of AUSTUDY.

Clause 7: Repeal of section 10

Clause 7 will repeal section 10 of the Student Assistance Act.

The existing section 10 clarifies that benefits under the AUSTUDY scheme are to be appropriated by other legislation. Section 10 prevents an argument that no additional appropriation legislation is needed because of section 7 of the Act, which provides for the grant of AUSTUDY. (Section 10 refers to "student assistance"; this is defined in section 3(1) of the Student Assistance Act to mean assistance under the AUSTUDY scheme.)

Section 10 will be repealed, consequential on the new section 55A (to be inserted by clause 9 of the present Bill). Section 55A will constitute the authority for paying assistance under AUSTUDY and other student assistance schemes.

Clause 8: Advances on account of benefits

Clause 8 repeals section 11(2) of the Student Assistance Act, consequential on the new section 55A to be inserted by clause 9 of the present Bill.

Section 11 deals with advances under the AUSTUDY scheme. Section 11(2) provides that the provisions of section 10, which deal with the need for appropriation legislation, extend to payments by way of advances. Section 11(2) will in effect be replaced by new section 55A(2).

Clause 9: Appropriation

Clause 9 will insert a new section 55A.

Section 55A(1) will constitute the authority for paying assistance under AUSTUDY, Assistance for Isolated Children and ABSTUDY schemes. This will replace references to these schemes in the normal annual appropriation legislation.

Section 55A(2) clarifies that section 55A(1) extends to payments by way of advances. In effect, section 55A(2) replaces the existing section 11(2).

