

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

VOCATIONAL EDUCATION AND TRAINING FUNDING LAWS AMENDMENT  
BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by the authority of the  
Minister for Employment, Education and Training,  
the Hon Kim C. Beazley MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY THE  
HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED

**VOCATIONAL EDUCATION AND TRAINING FUNDING LAWS AMENDMENT  
BILL 1993**

**OUTLINE**

The Bill amends the *Vocational Education and Training Funding Act 1992* and the *Australian National Training Authority Act 1992* to give the Commonwealth Minister the power to direct the Australian National Training Authority not to pay, or to limit the payment of, funds provided under the *Vocational Education and Training Funding Act 1992* to any State or Territory which does not comply with the Statement on the National Vocational Education and Training System which was agreed by the Commonwealth, States and Territories. This power would be available to the Minister only in respect of funding for 1994 and 1995.

The Bill also adjusts Commonwealth funds for vocational education and training for the 1993-95 triennium by way of amendments to the *States Grants (TAFE Assistance) Act 1989* and the *Vocational Education and Training Funding Act 1992* to reflect movements in price indices applying to these grants.

**FINANCIAL IMPACT STATEMENT**

The Bill provides for the appropriation of an additional \$10.872m for capital purposes in 1993 and for a total of \$638.960m in 1994 and \$719.741m in 1995.

Should the Minister exercise the power to direct the Australian National Training Authority not to pay or to limit the payment of funds to a State or Territory, and not revoke that direction, savings to the Commonwealth could result.

## NOTES ON CLAUSES

### PART 1 - PRELIMINARY

#### Clause 1 - Short title

1. Provides for the Act to be cited as the *Vocational Education and Training Funding Laws Amendment Act 1993*.

#### Clause 2 - Commencement

2. Provides that, except for Division 1 of Part 1A, section 4 and Schedule 2, the Act shall come into effect on the day on which it receives the Royal Assent.

3. Division 1 of Part 1A, section 4 and Schedule 2 shall commence on the day on which Part 3 of the *Vocational Education and Training Funding Act 1992* commences or the day on which the *Vocational Education and Training Funding Laws Amendment Act 1993* receives the Royal Assent, whichever is the later. However, if Part 3 of the *Vocational Education and Training Funding Act 1992* does not commence before 1 January 1994, Division 1 of Part 1A, section 4 and Schedule 2 would be repealed on that day.

### PART 1A - AMENDMENTS ALLOWING MINISTER TO WITHHOLD CERTAIN VOCATIONAL EDUCATION AND TRAINING FUNDING

#### Division 1 - Amendment of the Vocational Education and Training Funding Act 1992

##### Clauses 2A and 2B - Principal Act and Interpretation

4. Formal.

#### Clause 2C - Funds for allocation by the Authority

5. Amends the *Vocational Education and Training Funding Act 1992* to omit subsection 9(2) of that Act which requires that funds provided for allocation among the States and Territories must be allocated among all States and Territories. This provision is necessary to enable the Minister to direct the Australian National Training Authority (the Authority) not to allocate or pay any, or more than a specified amount, of these funds to a specified State or Territory under the provisions of the proposed Division 2 of Part 1A.

#### Division 2 - Amendment of the Australian National Training Authority Act 1992

##### Clause 2D - Principal Act

6. Formal.

##### Clauses 2E and 2F- Allocation of funds by the Authority and Payment of funds by the Authority

7. Amends the *Australian National Training Authority Act 1992* to make sections 13 and 14 of the Act, which deal with the allocation and payment of funds by the Authority, subject to the proposed section 14A.

**Clause 2G - Commonwealth Minister may restrict amount payable to a State**

8. Amends the *Australian National Training Authority Act 1992* to insert a new section 14A.

9. The purpose of the proposed section 14A is to give the Minister the power to direct the Authority to withhold certain Commonwealth-sourced funds from any State or Territory which does not comply with the Statement on the National Vocational Education and Training System (the Statement), a copy of which is set out in the Schedule to the *Australian National Training Authority Act 1992*. The Statement was agreed on by the Commonwealth, States and Territories and outlines, among other things, the obligations of each party.

10. Proposed subsection 14A(1) provides that the Minister may give a notice under section 14A only in respect of 1994 and 1995.

11. Proposed subsection 14A(2) permits the Minister to give a written notice to the Authority directing it not to allocate or pay to a specified State or Territory any, or more than a specified amount, of the funds provided under the *Vocational Education and Training Funding Act 1992*. A notice would have to be given before the commencement of the year to which it would apply.

12. Proposed subsection 14A(3) provides that the Minister could give a notice only if, in the opinion of the Minister, a State or Territory had not complied with the Statement.

13. By virtue of subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister would be able to amend, vary or revoke a notice given under the proposed section 14A. However, proposed subsection 14A(4) would prohibit the Minister from amending or varying a notice so as to reduce the amount specified in the notice.

14. Proposed subsection 14A(5) prohibits the Authority from allocating or paying funds contrary to a notice.

**PART 2 - AMENDMENTS RELATING TO CHANGES IN FUNDING LEVELS**

**Clauses 3 and 4 - Amendment of the *States Grants (TAFE Assistance) Act 1989* and Amendment of the *Vocational Education and Training Funding Act 1992***

15. Provides for the appropriation of amounts from the Consolidated Revenue Fund for the purpose of making payments under the Acts. Appropriated amounts available are:

An additional \$10.872m - 1 January 1993 to 31 December 1993  
\$638.960m - 1 January 1994 to 31 December 1994  
\$719.741m - 1 January 1995 to 31 December 1995

