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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**HIGHER EDUCATION SUPPORT AMENDMENT (2009 BUDGET
MEASURES) BILL 2009**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Education the Honourable Julia Gillard
MP)

HIGHER EDUCATION SUPPORT AMENDMENT (2009 BUDGET MEASURES) BILL 2009

OUTLINE

Schedule 1 of the Bill will amend the *Higher Education Support Act 2003* (HESA) to revise the maximum funding amounts in:

- section 30-5 for the Commonwealth Grant Scheme;
- section 41-45 for Other Grants; and
- section 46-40 for Commonwealth Scholarships

to reflect supplementation for indexation increases and Budget decisions.

Schedule 1 of the Bill will amend section 30-5 of the *Higher Education Support Act 2003* (HESA) to provide for changes to the maximum grant amounts under the Commonwealth Grant Scheme (CGS) for 2010 and 2011 to take account of indexation and measures in the 2009 Budget. These measures include new grants for performance funding in 2011 onwards, increases to the CGS funding clusters to replace amounts currently provided as grants through Other Grants under Part 2-3 for the purpose of assisting with the cost of providing the practicum component of teacher education and the workplace reform program. The Schedule deletes paragraph 30-5(h) of HESA to remove the maximum amount for 2012 to take account of the 2009 Budget measure to introduce a demand driven system of Commonwealth supported places in 2012 with no overall limit on the number of student places that may be funded under the CGS.

Schedule 1 of the Bill will amend section 41-45 of HESA to vary the maximum payments for grants under Part 2-3 of HESA to take account of indexation and 2009 Budget measures. The maximum amounts under Part 2-3 will be adjusted to reflect cessation of the Learning and Teaching Performance Fund and Workplace Productivity Program, new arrangements for quality and standards, the transfer of funding for the previous Improving the Practical Component of Teacher Education and Workplace Reform programs to the CGS, funding for new programs to support equality of opportunity and structural adjustment, increased funding for continuing research programs and the introduction of two new programs, Sustainable Research Excellence in Universities and Joint Research Engagement.

Schedule 1 of the Bill will amend section 46- 40 of HESA to decrease the maximum grants payable under this part to take account of 2009 Budget measures to replace certain Commonwealth Scholarships with revised student income support arrangements and increase Australian Postgraduate Awards.

Schedule 2 of the Bill will amend section 30-15 and section 33-10 of HESA to include a new funding cluster for 'education'. The amount for the new education cluster will be increased to reflect the transfer of funds from the Improving the Practical Component of Teacher Education Program. The amounts for all funding clusters will

be increased to reflect the transfer of funding from the Workplace Reform Program and to reflect indexation.

Schedule 3 of the Bill will amend section 33-25 of HESA to increase from 5 per cent to 10 per cent the maximum additional funding an eligible higher education provider can receive for over enrolment when calculating the adjustment to its basic grant amount. This gives effect to a 2009 Budget measure.

Schedule 4 of the Bill will amend section 41-10 of HESA to vary the purposes for which Other Grants may be made and the eligibility for those grants to reflect 2009 Budget decisions. The Table in section 41-10 will be amended to remove grants for the purposes of enhancing learning and teaching in higher education to reflect cessation of the Learning and Teaching Performance Fund and to assist with the cost of providing the practicum component of teacher education, funding for which is being transferred to the CGS, and to include grants for the purpose of supporting structural adjustment.

Schedule 5 of the Bill will change the maximum student contribution amounts for 2010 to reflect indexation and the 2009 Budget measure to increase the maximum amount for commencing students undertaking education and nursing from the 'national priority' to the 'band 1' amount.

Schedule 6 of the Bill will amend section 137-15 to give effect to a 2009 Budget measure to remove the OS-HELP loan fee from 2010.

Schedule 7 of the Bill will amend section 198-20 to give effect to a 2009 Budget measure to apply new indexation arrangements to maximum student contribution amounts in 2011, in advance of applying those arrangements more generally in 2012 onwards.

FINANCIAL IMPACT

In relation to the *Higher Education Support Act 2003*, the Bill:

- increases the overall appropriation under section 30-5 by \$416,349,000 for the period 1 January 2010 to 31 December 2011;
- increases the overall appropriation under section 41-45 by \$398,567,000 for the period 1 January 2010 to 31 December 2012 and appropriates funding for 2013 to a limit of \$2,067,383,000; and
- decreases the overall appropriation under section 46-40 by \$355,772,000 for the period 1 January 2010 to 31 December 2012 and appropriates funding for 2013 to a limit of \$275,133,000

The estimated financial impact of measures in the Bill on HELP over the period 2009-10 – 2012-13 is -\$156.132 million on the fiscal balance.

HIGHER EDUCATION SUPPORT AMENDMENT (2009 BUDGET MEASURES) BILL 2009

NOTES ON CLAUSES

Clause 1 - Short title

Provides for the Act to be cited as the *Higher Education Support Amendment (2009 Budget Measures) Act 2009*.

Clause 2 - Commencement

Subclause 2(1) inserts a three column table setting out commencement information for various provisions in the Act. Each provision of the Act specified in column 1 of the table commences (or is taken to have commenced) in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.

The table has the effect of providing for sections 1-3 and any provision in HESA not covered elsewhere in the table, Schedule 1, Schedule 3, Schedule 4 item 2, Schedule 6, and Schedule 7 to commence on Royal Assent; and for Schedule 2, Schedule 4 item 1 and Schedule 5 to commence on 1 January 2010.

Subclause 2(2) provides that column 3 of the table is for additional information which may be added to or edited in any published version of the Act but that information in this column is not part of the Act.

Clause 3 - Schedule(s)

Provides that each Act that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule and that any other item in a Schedule has effect according to its terms.

For ease of description, this explanatory memorandum uses the following abbreviation:

HESA means the '*Higher Education Support Act 2003*.'

Schedule 1—Grants

Higher Education Support Act 2003

Item 1 – Paragraphs 30-5(1)(f) to (h)

Repeals paragraphs 30-5(1)(f), (g) and (h) and substitutes new paragraphs 30-5(1)(f) and (g). Paragraph (h) is deleted to reflect the Government's announcement that there will be no overall limit on the number of places to be funded under the Commonwealth Grant Scheme from 2012 onwards.

Section 30-5 of HESA provides that the Minister must ensure that the total amounts of grants payable under Part 2-2 of Chapter 2 of HESA in respect of a year as a result of allocation to higher education providers under section 30-10 do not exceed the amounts for each year as specified in subsection 30-5(1). New paragraphs (f) and (g) provide that the maximum allocation to higher education providers is \$4,467,881,000 for the year 2010 and \$4,695,755,000 for the year 2011.

Item 2 – At the end of subsection 33-1(1)

Inserts new paragraph (c) into subsection 33-1(1). Section 33-1 explains how grants payable to higher education providers for a year are calculated. New paragraph 33-1(1)(c) provides that, if applicable and the year is 2011 or later, the calculation of a grant for a year also includes the performance funding grant amount for a provider for the year in question.

Item 3 – After subsection 33-1(1)

Inserts new subsection 33-1(1A) which defines *performance funding grant amount* for the purposes of subsection (1). The *performance funding grant amount* for a higher education provider for a year is the amount (if any) worked out under the Commonwealth Grant Scheme Guidelines. The Commonwealth Grant Scheme Guidelines are made by the Minister under section 238-10.

Item 4 – Subsection 41-45(1) (table items 6 to 8)

Repeals items 6 to 8 in the table at subsection 41-45(1) and inserts new items 6 to 9 in the table for the years 2010 to 2013. The table sets out the maximum payment of other grants under Part 2-3 of HESA for a year. Subsection 41-45(1) provides that the total payments under Part 2-3 in respect of a year referred to in the table must not exceed the amount specified next to that year in the table.

Items 6, 7, 8 and 9 provide that the maximum payments for other grants under Part 2-3 are \$1,887,252,000 for 2010, \$2,027,324,000 for 2011, \$1,996,679,000 for 2012 and \$2,067,383,000 for 2013.

Item 5 – Section 46-40 (table items 7 to 9)

Repeals items 7 to 9 in the table at section 46-40 and inserts new items 7 to 10 in the table for the years 2010 to 2013. The table sets out the maximum payments for Commonwealth scholarships for a year.

Items 7, 8, 9 and 10 provide that the maximum payments for Commonwealth scholarships are \$301,136,000 for 2010, \$315,711,000 for 2011, \$303,844,000 for 2012 and \$275,133,000 for 2013.

Schedule 2—Funding clusters

Higher Education Support Act 2003

Item 1 – Section 30-15 (table)

Repeals the table at section 30-15 and substitutes a new table listing the *funding clusters* for the purposes of HESA. The new table provides a separate funding cluster for Education (to separate it from the funding cluster for Mathematics, Statistics, Behavioural Science, Social Studies, Computing, Built Environment and Other Health).

Item 2 – Section 33-10 (table)

Repeals the table at section 33-10 and substitutes a new table listing the *Commonwealth contribution amount* for a place in a funding cluster. In addition to specifying new Commonwealth contribution amounts, the new table provides a separate funding cluster for Education (to separate it from the funding cluster for Mathematics, Statistics, Behavioural Science, Social Studies, Computing, Built Environment and Other Health).

Item 3 – Transitional provision – indexation

Item 3 is a transitional provision which specifies that the amounts in the table in section 33-10 of HESA, as amended by Item 2 of Schedule 2, are not to be indexed on 1 January 2010.

Item 4 – Transitional provision

Item 4 is a transitional provision which specifies that the amendments made by Schedule 2 are to be disregarded for the purposes of working out if and how a higher education provider's basic grant for 2010 or earlier years is to be adjusted under Subdivision 33-C of HESA.

Schedule 3—Adjustment of basic grant amounts

Higher Education Support Act 2003

Item 1 – Paragraph 33-25(7)(b)

Omits “5%” in paragraph 33-25(7)(b) and substitutes “10%”.

Subsection 33-25(6) of HESA provides that the basic grant amount for a year for Table A and Table B providers is increased by an adjustment if the provider’s corrected basic amount for the preceding year was more than the provider’s basic grant amount for the year.

Subsection 33-25(7) provides that the adjustment under subsection 33-25(6) is the lower of the following:

- an amount equal to the difference between the corrected basic amount and the basic grant amount (paragraph 33-25(7)(a)); and
- 5% of the basic grant amount (paragraph 33-25(7)(b)).

This amendment will increase the percentage of the basic grant amount contained in paragraph 33-25(7)(b) to 10%.

Item 2 – Application

Item 2 is an application provision which specifies that the amendment made by Schedule 3 applies to adjustments of basic grant amounts for 2011 and later years.

Schedule 4—Other grants

Higher Education Support Act 2003

Item 1 – Subsection 41-10(1) (table items 3 and 8A)

Repeals items 3 (grants to enhance learning and teaching in higher education) and 8A (grants to assist with the cost of providing the practical component of teacher education) from the table in subsection 41-10(1) of HESA.

Subsection 41-10(1) is a table of eligibility for higher education providers and other eligible bodies for grants for certain specified purposes under Part 2-3 of HESA in respect of 2005 or later years.

Item 2 – Subsection 41-10(1) (after table item 9A)

Inserts new item 9B into the table in subsection 41-10(1) to provide for grants to support structural adjustment. This amendment provides that Table A and Table B providers that are universities would be eligible for this new grant.

Schedule 5—Maximum student contribution amounts

Higher Education Support Act 2003

Item 1 – Subsection 93-10(1) (table)

Repeals the table at subsection 93-10(1) and substitutes a new table. The table lists the *maximum student contribution amount per place* for a unit of study. In addition to specifying new maximum student contribution amounts, the new table provides a separate funding cluster for Education (to separate it from the funding cluster for Mathematics, Statistics, Behavioural Science, Social Studies, Computing, Built Environment and Other Health).

Item 2 – Transitional provision – indexation

Item 2 is a transitional provision which specifies that the amounts in the table in section subsection 93-10(1) of HESA, as amended by Item 1 of Schedule 5, are not to be indexed on 1 January 2010.

Item 3 – Saving provision – maximum student contribution amounts for old funding clusters

Item 3 is a savings provision. The effect of **Item 3** is that the new *maximum student contribution amounts* in the table at subsection 93-10(1) (as inserted by Item 1 of this Schedule) will not apply to a person where the following apply:

- the person started their course of study with a higher education provider before 1 January 2010; and
- the person was a Commonwealth supported student in relation to a unit of study in that course; and
- any of the following apply to the person:
 - the person had not completed the course by 31 December 2009; or
 - in 2009 the person was undertaking an enabling course (as defined in the Dictionary at Schedule 1 of HESA); or
 - the person has completed the related course for an honours course of study and is undertaking the honours course of study; and
- the person is undertaking a unit of study that would have been in Education in the funding cluster of Mathematics, Statistics, Behavioural Science, Social Studies, Education, Computing, Built Environment, Other Health or the funding cluster of Nursing if the amendment made by this Schedule had not been made.

A person covered by the savings provision will be subject to the maximum student contribution amount for a unit of study that would have been in Education in the funding cluster of Mathematics, Statistics, Behavioural Science, Social Studies,

Education, Computing, Built Environment, Other Health or the funding cluster of Nursing if the amendment made by this Schedule had not been made.

Schedule 6—OS-HELP debts

Higher Education Support Act 2003

Item 1 – Subsection 137-15(2)

Repeals and substitutes new subsection 137-15(2). New subsection 137-15(2) provides that the amount of the OS-HELP debt is an amount equal to the amount of the loan. The effect of **Item 1** is to remove the 20% loan fee for OS-HELP debts.

Item 2 – Application

Item 2 is an application provision which specifies that the amendment made by Schedule 6 applies in relation to OS-HELP debts incurred on or after 1 January 2010.

Schedule 7—Indexation

Higher Education Support Act 2003

Items 1 and 2 – Section 198-20

Several amounts referred to in HESA are subject to indexation and Part 5-6 of Chapter 5 sets out how those amounts are to be indexed. Section 198-15 provides that the *indexation factor* for a year is calculated by dividing the *index number* for the relevant year by the *index number* for the immediately preceding year.

Section 198-20 specifies the meaning of *index number* and provides that it is, for a year, the Higher Education Grants Index number for that year published by the Minister in the *Gazette*.

Item 1 omits the word “The” and inserts the words “(1) Subject to subsections (2) and (3), the” at the beginning of section 198-20.

Item 2 inserts new subsections (2) and (3) into section 198-20. New subsection 198-20(2) provides that, for the purpose of applying section 198-10 to the amounts specified in item 2 of the table in section 198-5 for 2011, the *index number* is the Higher Education Student Contribution Amounts Index number for that year published by the Minister in the *Gazette*.

New subsection 198-20(3) provides that, for the purpose of applying section 198-10 to the amounts specified in the items of the table in section 198-5 for 2012, the *index number* for 2011 is taken to be 1.

These subsections vary the method for indexing maximum student contribution amounts for 2011. From 2012 the indexation of maximum student contribution amounts will revert to being in line with the indexation of other amounts (without affecting the indexation that had already been applied in 2011).

Item 2 also inserts a new subsection (4) into section 198-20 which explains that a notice in the *Gazette* specifying an index number is not a legislative instrument. This provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.