Higher Education Support Amendment (Asian Century) Bill 2013

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Higher Education Support Amendment (Asian Century) Bill 2013

Date introduced: 14 February 2013

House: House of Representatives

Portfolio: Tertiary Education, Skills, Science and Research

Commencement: Sections 1–3 commence on Royal Assent. Schedule 1 commences on the day after Royal Assent.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill's home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose of the Bill

The purpose of the Higher Education Support Amendment (Asian Century) Bill 2013 (the Bill) is to amend the Higher Education Support Act 2003 to broaden student eligibility for the Overseas Higher Education Loan Program (OS-HELP) and in particular to increase incentives for Australians to study in Asia.¹

Background

OS-HELP

Australia’s Higher Education Loan Program (HELP) provides loans to tertiary students, allowing them to defer the costs of study until their taxable income reaches a repayment threshold. These income-contingent loans have been available since the late 1980s.

In 2003, a new loan known as OS-HELP was introduced for students wishing to undertake part of their studies (usually one semester) overseas. It can be used for airfares, accommodation and other costs of study overseas. OS-HELP is available to students whether or not the overseas portion of their study is covered by a formal exchange agreement between the domestic and overseas higher education providers.

Students are able to apply for OS-HELP on two occasions, and each loan period lasts six months. Unlike HECS-HELP (where the Government pays the student’s tuition fees directly to the approved provider), under OS-HELP the higher education provider pays the loan amount directly to the student and is subsequently reimbursed by the Government.

OS-HELP loans have proven popular. Over the period 2007–08 to 2011–12 the number of loans issued has doubled from 24542 to 5035.3

Further information about OS-HELP is located at the Australian Government’s Study Assist website.4

Asian Century White Paper

The Bill is part of the response to the Government’s Asian Century White Paper.5 In his second reading speech, Minister Bowen noted that:

The Prime Minister released the Australia in the Asian Century white paper on 28 October 2012, to serve as a roadmap for navigating the Asian century. The white paper identified a need for a larger number of Australian university students to be studying overseas and for a greater proportion of them to be undertaking part of their degree in Asia.6

Education is Australia’s fourth largest export industry, worth $15.7 billion in 2011, almost two-thirds of which is attributed to international students undertaking higher education.7 Eighty per cent of Australia’s international students come from Asia, and the top five source countries are China, India, South Korea, Vietnam and Malaysia.8

Asia is becoming a more popular choice for Australian students heading overseas. A survey of Australian universities showed that, of the students who undertook international study in 2011, one-third (32.7 per cent) went to Asia, and five of the top twelve destination countries were Asian (China, Malaysia, India, Japan and Indonesia).9

8. Ibid., p. 20.

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There are many more Asian students visiting Australia (219,313 in 2011\textsuperscript{10}) than Australian students visiting Asia (67,591 in 2011\textsuperscript{11}). When relative population is taken into account, Australian students have higher mobility than Asian students. Nevertheless, the Bill aims to further increase opportunities for outbound study and create more of a two-way exchange. It contains proposed new incentives to encourage Australian students to study anywhere overseas, but with additional incentives for those choosing to study in Asia, and for those studying an Asian language before they go.

The measures that are specific to Asia are part of a broader push for Australian students to study in Asia known as AsiaBound\textsuperscript{12}, costing $37 million over three years.\textsuperscript{13}

**Committee consideration**

**House Standing Committee on Education and Employment**

The Bill has been referred to the House Standing Committee on Education and Employment for inquiry and report. Details of the inquiry are at:


Fifteen submissions were received by 14 March 2013. The submissions are broadly supportive of the proposed amendments, although around half of them urge the Government to go a step further and extend OS-HELP to students who are not in receipt of a Commonwealth supported place in higher education. This would extend the scheme to fee-paying students, students attending private universities and potentially students of non-university higher education providers.

Two submissions argue that the requirement that students complete at least one unit of study on return to Australia is unjustified.\textsuperscript{15}

\textsuperscript{10} Ibid., p. 9.
\textsuperscript{11} Ibid., p. 18.
\textsuperscript{12} C Evans, (Minister for Tertiary Education, Skills, Science and Research), *More than 10,000 Australian students AsiaBound*, media release, 31 October 2012, viewed 4 March 2013, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F2014369%22
Senate Standing Committee for the Scrutiny of Bills

The Senate Standing Committee for the Scrutiny of Bills has advised that it has no comment on the Bill. 16

Parliamentary Joint Committee on Human Rights

As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bill is compatible, as it will ‘further advance the right to education’ contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). 17

However, the Parliamentary Joint Committee on Human Rights has expressed concern that the differential treatment of students studying in Asia with those studying in other parts of the world may engage Article 2(2) of the ICESCR, which requires parties to ensure that the rights set out in the ICESCR are exercised without discrimination. 18 The Committee states:

The differential treatment of two groups whose members are apparently in the same situation may therefore amount to discrimination in the enjoyment of the right to education guaranteed by article 13. 19

As a result, the Committee has written to the Minister, seeking advice as to:

why students studying in different overseas countries are to be treated differently and to ask for a justification as to how such differential treatment can be seen to be reasonable and objective. 20

At the time of writing this Digest, the Minister’s response had not been published by the Committee.

Policy position of non-government parties/independents

At the time of writing, non-government parties and independents have not responded to the Bill.

17. The Statement of Compatibility with Human Rights can be found at page 4 of the Explanatory Memorandum to the Bill.
20. Ibid.
Position of major interest groups

Higher education providers that offer Commonwealth supported places are likely to welcome the increased flexibility and funding that the Bill makes available, although the changes will create some additional administration work. Universities Australia has stated that the *AsiaBound* program would help make a study experience in Asia ‘the norm’ for Australian students.21

The Australian Council for Private Education and Training has reiterated calls for OS-HELP to be extended to private providers of higher education.22 Currently, OS-HELP is restricted to students who are offered a Commonwealth supported place by a higher education provider—apart from a few exceptions, the vast majority of OS-HELP assistance flows through Australia’s public universities.

This issue was highlighted in a number of submissions to the inquiry (see Committee consideration, above). For example, Universities Australia recommends that OS-HELP be extended to all postgraduate students (including fee-paying students).

The position of student groups depends on their current access to OS-HELP. While the National Union of Students commends the Bill, the Bond University Student Association notes ‘not a single student of Bond University is eligible’.23

Financial implications

The Explanatory Memorandum states that the proposed amendments will result in an expense of $10.59 million over four years (2013–14 to 2016–17). As the new provisions would commence in the 2014 academic (calendar) year, the estimated cost of the measures in the first financial year ($1.55 million in 2013–14) is around half the cost of the measures in the second year ($3.15 million in 2014–15).

The additional expenses estimate reflects both additional numbers of students expected to take out loans and the increased value of those loans. The Bill proposes a higher maximum OS-HELP loan amount of $7500 for a six-month period as well as supplementary loans of up to $1000 for students who study an Asian language prior to going abroad. (The maximum amount for overseas study in non-Asian countries will reach $6250 by 2014.)

The measures contained in this Bill are part of the $37 million *AsiaBound* program announced by the Government in late 2012, funded using a mix of ‘new and existing’ funding.24


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Key issues and provisions

The Bill proposes a number of changes to the OS-HELP system, commencing from 1 January 2014:

- it removes the requirement that a student study overseas at a higher education institution
- it extends eligibility to postgraduate students for the first time
- it reduces the amount of study that must remain at the conclusion of the overseas portion
- it provides for a higher maximum loan for students whose destination is Asia and
- it creates a supplementary loan amount for intensive Asian language study prior to departure.

Further information on each of these proposed changes follows.

Options for study

Currently, sections 65-1, 115-1 and 118-10 of the Higher Education Support Act 2003 (HESA) restrict OS-HELP assistance to a student who, as part of his or her course of study, is to undertake study at an ‘overseas higher education institution’. The proposed amendments to these sections, at items 1-2 and 8–9 of Schedule 1 to the Bill, remove references to overseas higher education institutions in favour of ‘overseas study’.

Section 118-10 of HESA describes the overseas study requirements that must be met for OS-HELP. Item 8 of Schedule 1 of the Bill proposes to amend paragraph 118-10(a) so that the only requirements are that the student be undertaking full-time study, and will be outside Australia while doing so.

Item 9 of Schedule 1 of the Bill adds a note to the end of section 118-10:

For paragraph (a), the study need not be at a higher education provider’s overseas campus or with an overseas higher education institution.

This means that, as long as the overseas portion is recognised by the Australian institution that the student is enrolled in, it need not be at a higher education institution. For example, it could be an ‘overseas work placement’ or ‘clinical placements or other study programs that contribute to their Australian university course’.

While this increases flexibility, it does place responsibility on the domestic higher education provider to verify that the student’s overseas time qualifies as study and to make necessary changes to

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26. C Evans, More than 10 000 Australian students AsiaBound, op. cit.
course descriptions and requirements. If a student’s overseas study portion was found to be contributing little to their course and to their academic development, it could have an impact on quality.

Postgraduate study

Currently, paragraph 118-1(1)(c) of HESA states that a student is entitled to OS-HELP if the student is enrolled in an undergraduate course of study. Item 4 of Schedule 1 of the Bill proposes to amend this by removing the reference to ‘undergraduate’. This means that postgraduate coursework students would also be eligible for OS-HELP.

Figures from the Department of Industry, Innovation, Science, Research and Tertiary Education show that the number of OS-HELP loans provided to students was 4086 in 2010–11 and 5035 in 2011–12.27 That represents a 23 per cent increase over a 12 month period. The addition of postgraduate students into the pool of potential applicants is likely to increase the number of loans made under the program.

Units remaining in course

OS-HELP requires that students complete the final portion of their studies in Australia. This is so that the overseas study experience takes place in the middle of a course, with the student returning to Australia afterwards to complete their studies and graduate.

Paragraph 118(1)(f) of HESA currently requires that the student, at the completion of the overseas study, still has to complete units of study that have a total Equivalent Full Time Student Load (EFTSL) of at least 0.5 (roughly one semester full-time). Item 6 of Schedule 1 of the Bill proposes to reduce this requirement from 0.5 to 0.125 EFTSL, ‘generally the equivalent of one unit of study’.28

Paragraph 118(7)(b) of HESA requires the student applying for OS-HELP to have already completed 1.0 EFTSL (or about one year full-time) in the course of study. For a three-year, full-time bachelor degree student, this means that the overseas portion can take place from the start of second year up to, but not including, the final unit of third year.

Study in Asia

The Bill proposes a premium OS-HELP rate for overseas study undertaken in Asia. The proposed new section 121-5 provides for a maximum OS-HELP assistance of $7,500 for study undertaken in Asia (paragraph 121-5(1)(a)) and $6250 in any other case (paragraph 121-5(1)(b)). These amounts represent an increase on the current (indexed) maximum amount of $6051.

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Asia is not defined in the Bill, however the OS-HELP Guidelines may specify whether overseas study is classified as undertaken in Asia (subsection 121-5(2)). The Guidelines are a legislative instrument and would have to be amended accordingly.\(^{29}\)

Given the relative proximity of Asia to Australia—including cheaper airfares—and the lower cost of living in many Asian countries, the more generous loan amount would present an added incentive for students to choose Asia as their study destination.

Study of Asian language

There is a proposed new section 118-2 that makes provision for a supplementary loan amount for Asian language study. The supplementary amount is $1000.

To qualify, the student must undertake intensive study in an Asian language prior to undertaking overseas study in Asia (subsection 118-2(1)). Application must be made before the student has completed the intensive language study (subsection 118-2(2)).

The Bill does not propose a definition of intensive study in an Asian language, however it does provide that the OS-HELP Guidelines may specify the circumstances in which the supplementary amount becomes payable (subsection 118-2(3)).

Other provisions

Proposed new subsection 124-1(2A) allows for a student to receive the OS-HELP loan amount and the Asian language supplementary amount (if eligible) at different times. This is in recognition of the fact that the Asian language training must be completed before the overseas study commences. If payments occur at different times, each amount is taken to be a separate OS-HELP debt (proposed subsection 124-1(2B)).

Part 2 of Schedule 1 of the Bill describes the application of the amendments. Item 29 specifies that 1 January 2014 is the effective date of commencement for the new provisions.

Concluding comments

Overseas study by Australian students has grown significantly in recent years, as has the OS-HELP scheme. It will be interesting to see to what extent the amendments, if passed, result in changes in enrolment patterns and further growth in Asian studies.

The Asian Century White Paper is evidence of the increasing importance of the region to Australia. Education is a major export industry for Australia and Asian students represent the bulk of that market. The Bill aims to foster engagement with the region by providing more incentives for Australian university students to immerse themselves in Asia—and get credit for it.

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