Higher Education Support Legislation Amendment (A More Sustainable, Responsive and Transparent Higher Education System) Bill 2017

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  Schedule 4 commences on 1 January 2018.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through the Australian Parliament website.

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the Federal Register of Legislation website.

All hyperlinks in this Bills Digest are correct as at June 2017.
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The Bills Digest at a glance

Purpose of the Bill

• This Bill proposes to amend the Higher Education Support Act 2003 (HESA)\(^1\) to reduce Commonwealth funding of tuition costs for undergraduate courses at universities through increasing the student contribution towards these costs, and reducing the funding universities receive to cover these costs.

• It also seeks to change the funding arrangements for enabling, sub-bachelor and postgraduate coursework places, specifically it will:
  – remove the loading for enabling courses and replace it with a student contribution
  – remove the cap on funding of sub-bachelor degrees for those students without a previous higher education qualification and
  – change the funding arrangements for postgraduate coursework qualifications from allocating places to providing scholarships.

• In order to reduce the level of student loan debt that is unlikely to be repaid, significant changes are proposed to repayment arrangements, meaning that those in the workforce will commence repayment at much lower income levels and at higher rates.

• The Bill also proposes to incorporate the arrangements for the Higher Education Participation and Partnerships Program (HEPPP) into HESA to provide universities with funding certainty for this Program.

Background

• Commonwealth funding for higher education has increased substantially since restrictions on student enrolments in bachelor level courses were removed in 2009.

• In order to limit further increases in funding a range of measures were introduced in the 2014–15 Budget, a number of which have not been legislated. The measures in this Bill were announced in the 2017–18 Budget, replacing those proposals that were not legislated.

• While students notionally contribute more than 40% of the cost of their tuition on average, most pay these contributions through taking out income-contingent loans. The proportion of these loans that is not expected to be repaid has also increased in recent years, to an estimated 23% in 2016–17.

Key issues

• The Government is proposing that students pay a higher proportion of the costs of their tuition, on the basis that they receive significant private benefits from their university education. However, it is unclear whether today’s students will receive the benefits on graduation that earlier cohorts have.

• The efficiency dividend being imposed on universities assumes that current funding levels are excessive, although the Government itself acknowledges that the costs of tuition are not transparent.

• The proposed changes to student loan repayment arrangements will have a substantial impact on those in the workforce on low to moderate income levels. Imposing an additional tax burden on this group may have wider implications for the economy in terms of reduced disposable income and reduced workforce participation.

• Some measures in the Bill seek to expand the opportunity for students from disadvantaged backgrounds to participate in higher education. However, increasing student contributions and more onerous loan repayment arrangements may deter some of these students from participating.

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Purpose of the Bill

The purpose of the Higher Education Support Legislation Amendment (A More Sustainable, Responsive and Transparent Higher Education System) Bill 2017 (the Bill) is to amend the HESA and related legislation to:

- change the funding arrangements for Commonwealth Supported Places (CSPs), in particular by:
  - increasing the student contribution and reducing the government contribution
  - extending the medical student loading to dentistry and veterinary science courses
  - replacing allocated postgraduate coursework CSPs with scholarships
  - replacing the loading for enabling courses with student contributions
  - removing eligibility for CSPs from most New Zealand citizens and permanent residents
  - reserving 7.5% of Commonwealth funding for allocation on a performance basis and
  - funding certain work experience units
- extend eligibility for CSP funding to additional courses including sub-bachelor and preparatory courses
- change the eligibility and repayment arrangements for Higher Education Loan Program (HELP) and other student loans, including extending eligibility for these loans to New Zealand citizens and permanent residents
- give effect to changes to the HEPPP and
- make some minor technical amendments.

Structure of the Bill

The Bill consists of five Schedules.

Schedule 1:

- extends the current additional funding loading for medical student places to dentistry and veterinary science
- reduces the Commonwealth funding contributions per place through the Commonwealth Grants Scheme (CGS) for CSPs in 2021 for each funding cluster, through the application of an efficiency dividend and to compensate for increased student contributions, and specifies the transitional funding amounts for 2018–20
- introduces new maximum amounts for student contributions in 2018 for each funding cluster and provides for these amounts to be increased by 1.824% for each of the years 2019 to 2021 and
- sets the maximum student contribution for enabling courses in 2018 (which is not subject to the increase in for funding clusters in later years).

Schedule 2 proposes to remove the funding loading currently applying to places in enabling courses. This funding will be replaced by student contributions as mentioned above. It also extends Commonwealth funding to work experience in industry units that meet specified requirements, and also to approved sub-bachelor courses, for students who have not previously obtained a higher education award. It also changes the funding arrangements for students in supported post-graduate coursework programs, and provides for up to 7.5% of CGS funding to be allocated on a performance basis.

Schedule 3 Part 1 removes eligibility for CSP places from most permanent residents and New Zealand citizens, but provides them access to HELP and VET Student Loans. Part 2 amends the loan repayment thresholds and rates for student loans. It also changes the basis for indexation of the repayment thresholds, from adult total weekly earnings (AWE) to the Consumer Price Index (CPI).

Schedule 4 establishes the HEPPP as a designated grant program in HESA and specifies the arrangements for loadings for students from low socioeconomic backgrounds and for performance funding under HEPPP, and provides funding for the National Priorities Pool.

Schedule 5 incorporates name changes for two providers and amends the definition of a higher education award.

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2. For information on Commonwealth Supported Places see Australian Government, ‘Commonwealth supported places’, StudyAssist website.
3. Grandfathering arrangements mean that students currently enrolled in CSPs will be able to continue in their current courses on this basis for up to five years. See Schedule 3, Item 46.
Background
In 2009, Government controls on the number of students who could be enrolled in funded undergraduate bachelor programs at public universities were removed. This has led to a government funding increase of some 71%, more than twice the rate of growth of the economy as a whole.4

The 2014–15 Budget saw the Government propose significant changes to the funding of the higher education sector, including a 20% reduction in the Government contribution to undergraduate course costs, and the deregulation of the fees that institutions could charge students.5 In part these measures were driven by a desire to rein in these rising costs. There was also concern about the increasing cost of student loan debt.6

However, despite this increase, according to the Organisation of Economic Co-operation and Development (OECD), in 2013, Australia’s public funding of tertiary education (which includes some vocational education and training (VET) sector funding) was 0.7% of Gross Domestic Product (GDP) compared to an OECD average of 1.1%.7

Few of the 2014–15 Budget measures proposed by the Government were legislated, and, in October 2015 Minister Birmingham announced that the remaining reforms would be delayed until 2017 at the earliest and consultation on them would follow.8 In the 2016–17 Budget, the Government announced it was abandoning its proposal to deregulate fees, and would delay the implementation of other measures for a further year to undertake further consultation.9 It also released a consultation paper on these proposed changes which stated that a revised package of reforms would be finalised in 2016 and legislated no later than mid-2017, to allow for commencement from 2018.10

The package of reforms following this consultation was announced shortly before the 2017–18 Budget.11 In the Budget, the Government announced it was not proceeding with the unlegislated components of the 2014–15 Budget, at a cost of some $3.4 billion over the forward estimates, but proposed replacement measures resulting in savings of approximately $3.8 billion.12 This Bill seeks to legislate these Budget proposals.

The major proposals are:
• an ‘efficiency dividend’ of 2.5% in each of 2018 and 2019 on the government funding for tuition costs for CSPs
• increasing the proportion of these tuition costs paid by students
• increasing the repayment rate of student loans and
• changes to CSP arrangements for lower level courses and postgraduate coursework degrees.

Costs of tuition
Tuition costs in CSPs are funded by a combination of student and government contributions. The contributions of each are determined by the field of study. Fields of study are grouped into ‘clusters’ of like subjects, with the student contributions partially reflecting their likely capacity to repay student debt after graduation, and the

5. For more detail on these measures see C Ey, Higher Education and Research Reform Amendment Bill 2014, Bills digest, 33, 2014–15, Parliamentary Library, Canberra, 8 October 2014.
10. Australian Government, Driving innovation, fairness and excellence in Australian higher education, Department of Education and Training (DET), May 2016, p. 3.
11. Australian Government, Driving innovation, fairness and excellence in Australian higher education, Department of Education and Training (DET), May 2016, p. 3.
government contribution (through the CGS) making up the balance of the assessed tuition cost. Since 2005, student contribution levels have been legislated as ‘maximum’ levels, but all universities have moved to charging the maximum rates.

Medical courses are grouped in the same cluster as dental studies and veterinary studies, but universities also receive additional government funding through a ‘medical student loading’ for students in medical courses, reflecting their higher tuition costs. For 2017 this loading was $1,394.

In assessing whether the levels of funding provided were appropriate, the Base Funding Review in 2011 concluded that the level of tuition funding provided was ‘sufficient on average for the current costs relating to undergraduate teaching and scholarship but may not be enough for a reasonable level of expenditure on base capability research’. This raises the issue of the extent to which research is an essential element underpinning university tuition. In order to achieve ‘university’ status, institutions must (among other things):

- undertake research that leads to the creation of new knowledge and original creative endeavour at least in those broad fields of study in which Masters Degrees (Research) and Doctoral Degrees (Research) are offered
- demonstrate the commitment of teachers, researchers, course designers and assessors to the systematic advancement and dissemination of knowledge and
- demonstrate sustained scholarship that informs teaching and learning in all fields in which courses of study are offered.

This suggests that some basic level of research is deemed a requirement for universities to effectively deliver courses, even at the undergraduate level. In 2011, the Base Funding Review concluded that between 6% and 10% of tuition funding could reasonably be associated with the maintenance of this base research capability.

The Kemp-Norton Review of the demand driven system, which was commissioned by the Abbott Government in 2013 noted that while some universities could find genuine efficiencies, ‘reduced income per student would likely lead to the postponement or cancellation of worthwhile expenditure’.

A recent review of the costs of tuition undertaken by Deloitte Access Economics for the Department of Education and Training found that the teaching cost to CSP funding ratio for 2015 was 0.85, compared to 0.94 for 2010, when the Base Funding Review analysis was undertaken. However, the authors note ‘these figures cannot be compared as direct growth or decline in costs relative to funding over the five years to 2015, given the differences in the sample, and differences in cost collection approaches. Similarly, caution should be taken in drawing inferences about the sufficiency of CGS funding directly from these ratios’. The report also notes that CGS funding is generally viewed as intended to cover some level of base research activity which may not have been included in the teaching and scholarship costs used in the latest study.

Another analysis suggests that savings measures introduced since 2013 have already had an impact on university finances.

Despite these caveats, the Government has taken the Deloitte finding to suggest that universities have become more efficient over time, especially as they have benefited from greater economies of scale. It has therefore

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13. For details see Australian Government, Allocation of units of study to funding clusters and student contribution bands according to field of education codes 2017, DET, Canberra, n.d.
21. Ibid.
22. Ibid.
23. M Warburton, ‘Many Australian universities may be in surplus, but does that mean there’s fat to cut?’, The Conversation, 22 May 2017.
proposed a 2.5% efficiency dividend to be applied to the Commonwealth contribution to CGS funding over each of the two years 2018 and 2019. As this funding only provides a portion of the tuition costs (the remainder being from student contributions) the net effect of this measure is expected to be a reduction in university income for CSPs of 2.8% on average, with the impact on each institution varying slightly depending on their course mix.  

**Commonwealth and student contributions to course costs**

At present, students pay on average around 42% of the costs of their tuition.  

This varies substantially depending on the field of study, ranging from 28.4% for agriculture students up to 83.5% for those studying law, accountancy, administration, economics or commerce.

The Government has referred to research undertaken by Deloitte Access Economics, which at the time of writing was not publicly available, indicating that the private benefits of receiving a university undergraduate degree is around 45% of the total benefit on average. However, this also varies between courses, ranging from 39% for engineering graduates to 51% for those graduating in education.

On this basis, the Government is arguing that as students receive on average a higher proportion of the benefits of their education than they currently contribute, it is proposing to increase amount students contribute to 46% of course costs by 2021.

Given that the underlying research has not been published, it is not possible to assess the basis on which the private benefits of a degree have been calculated. Most analyses which consider the lifetime earnings benefits received by graduates use Census data. This assumes that the returns from undertaking a degree are consistent over time—that is, the increased income earned by someone in their 50s who graduated 30 years ago will be reflected in the earnings of a recent graduate in 30 years’ time.

However, there is some evidence that recent graduates are not faring as well in the labour market as earlier generations. The Government itself has acknowledged that graduate earnings are not increasing at the same rate as average incomes, in noting that HELP repayment thresholds, which are indexed to average weekly earnings, have been rising relative to graduate incomes. This trend seems likely to continue as the starting salaries of bachelor degree graduates aged less than 25 in their first full-time employment have fallen from 100.0% of the annual rate of male average weekly earnings in 1977 to around 75% in the period 2013–15. And while the employment rate of new graduates has always fluctuated depending on economic conditions more generally, rates have been in decline since 2008, meaning that for 2015 graduates, more than 30% of those seeking full-time work were unemployed or underemployed four months after graduation.

These trends are perhaps not surprising when the proportion of those of workforce age with a degree or higher qualification has risen from 7.9% in 1989, when student contributions were first introduced, to 27.7% in 2015. There are also a considerable number of students who never complete their degree, with one recent study suggesting that after nine years, 73.4% of students in CSPs who commenced in 2006 had completed their...
qualification, while a further 4.3% were still enrolled.\textsuperscript{36} This means 22.3% left before graduating. It is not clear whether these students may have gained some benefit from their investment in higher education, but it is unlikely that their returns will be as high as for those who complete a qualification.

Overall, this suggests that on average, the private benefit to students of undertaking higher education is unlikely to be as high as the 46% that the Government is proposing they contribute to the cost of their studies. As noted above, the notional tuition costs appear to also include an element of funding for research (which presumably has a wider community benefit), which means that students would actually be contributing somewhat more than 46% of the direct costs of their tuition.

There is the potential that increasing student contributions will deter some students, and in particular those from disadvantaged backgrounds, from undertaking higher education studies. An analysis undertaken by Deloitte Access Economics in 2011 found that the increases in student contributions and lowering of student loan repayment thresholds in 1997 and 2005 had the effect of reducing demand for higher education by around 8% in each of these years, with students from a low socio-economic status (SES) background most responsive to the changes.\textsuperscript{37} However, it should be noted that the increases in these years were immediate and substantial, increasing by over a third between 1996 and 1997 and by 25% from 2004 to 2005. On the other hand, the Base Funding Review considered the research that had been undertaken on the impact of previous increases in student contributions and found that the evidence was inconclusive.\textsuperscript{38}

**Increasing student loan repayment rates**

*The cost of increasing HELP debt*

Most students in CSPs are able to pay their contribution through a HECS-HELP loan. In addition, a range of other loans are available to students studying in some full-cost courses (such as certain postgraduate coursework degrees) as well as to students in certain courses in the vocational education and training (VET) sector.\textsuperscript{39} All these loans are provided on an income-contingent basis, that is, repayment of the loan only occurs when the debtor’s income is above a certain threshold. For the 2016–17 tax year, the income threshold is $54,489.\textsuperscript{40} It should be noted that the income for HELP purposes includes reportable fringe benefits, total net investment loss (which includes net rental loss), reportable super contributions, and exempt foreign employment income amounts, in addition to taxable income.\textsuperscript{41}

According to the latest figures available, in 2013 around 87.1% of students in CSPs required to pay student contributions took out a HECS-HELP loan.\textsuperscript{42} In addition, in 2013 a discount of 10% applied for upfront payment of the student contribution, providing an incentive for those students who could afford to do so not to acquire a debt. It is likely that with the removal of any incentive for upfront payments the proportion taking out a HECS-HELP loan will have increased.

This factor, combined with the rapid increase in student numbers following the removal of caps on CSP places and the expansion of the HELP loan arrangements to students in non-CSP places and to the VET sector, has seen a dramatic rise in the number of students with a HELP debt. Over the four-year period from 2011–12 to 2015–16, the number of HELP debtors increased by 50%, from 1.7 million to 2.5 million, and the total debt levels increased from $25.5 billion to $47.9 billion.\textsuperscript{43} While the average level of debt only increased from $15,400 to $19,400 (26.0%), the number of debtors with debts over $50,000 increased substantially, from 2,400 to 125,700.\textsuperscript{44}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{36} DET, *Completion rates of higher education students: cohort analysis, 2005–2014*, DET, Canberra, 2017, p. 23.
\item \textsuperscript{37} Deloitte Access Economics, *The impact of changes to student contribution levels and repayment thresholds on the demand for higher education*, report prepared for DEEWR, Deloitte Access Economics, 2011, p. iii.
\item \textsuperscript{38} Higher education base funding review; final report, op. cit., p. 127.
\item \textsuperscript{39} For more detail on the range of student loans and their introduction see C Ey, *Higher Education Loan Program (HELP) and other student loans: a quick guide*, Research paper series, 2016–17, Parliamentary Library, Canberra, 2 May 2017.
\item \textsuperscript{40} Australian Government, ‘*Loan repayment*’, StudyAssist website.
\item \textsuperscript{41} Ibid.
\item \textsuperscript{43} Australian Government, *The higher education reform package*, op. cit., p. 17.
\item \textsuperscript{44} Ibid.
\end{itemize}
\end{footnotesize}
Student loans are treated as an asset in budgetary terms, and hence this increase does not directly reflect in budget outlays. However, a proportion of the loans are not expected to be repaid, and the resulting write down of the value of the loan asset is recorded as an outlay. Debt is not repaid because HELP debts are written off at death. As HELP debt repayment is income contingent, any debtor who has low or no earnings during their lifetime will not repay their debt. The amount of new debt not expected to be repaid has been increasing, reaching an estimated 23% for 2016–17.45

As HELP debt is only indexed at the rate of the Consumer Price Index (CPI) (and hence, in real terms is an interest-free loan) the Government also effectively subsidises the loans as it carries the loan at a real interest rate. The Grattan Institute has estimated this subsidy at $380 million for 2014–15.46 Hence a rapidly increasing loan debt and an increase in the proportion of debt not being repaid both represent budgetary challenges.

Measures to reduce unpaid debt

The Government has already implemented some measures to increase the rate of repayment of HELP debt. One 2014–15 Budget measure which has been legislated introduced a new lower minimum repayment threshold with a reduced repayment level of 2%.47 This measure commences in the 2018–19 tax year but was only expected to produce savings of $3.3 million over four years.48

In addition, debtors who moved overseas and were not Australian taxpayers were previously not required to make any repayments. A 2015–16 Budget measure to recover repayments from debtors resident overseas has also been legislated, with the first payments due for the 2016–17 tax year.49 This measure is expected to produce savings of $26.0 million over four years.50

While these measures are expected to have some effect on reducing the non-repayment of HELP debt, the impact is relatively minor. Therefore this Bill proposes to significantly increase the number of debtors who are required to make a repayment each year, by substantially lowering the minimum earnings threshold at which repayments commence. In 2014–15 there were 2.2 million HELP debtors, of whom 1.6 million lodged a tax return, with less than 340,000 having sufficiently high incomes to repay any of the debt.51 The changes to the repayment thresholds in this Bill are estimated to bring an additional 183,000 debtors into the repayment system in 2018–19.52 In combination with the measures already introduced, this would mean that the proportion of new debt not expected to be repaid will be reduced from 23% to 17% (for 2016–17 and 2017–18 respectively).53

This still leaves a significant proportion of HELP debt not being repaid due to the debt being written off at death, unlike most social security and tax debts. Many of those who will die with unpaid HELP debt are likely to be from wealthy households. For example, the Grattan Institute has estimated that, based on 2011 data, 38% of partnered female graduates earning less than the repayment threshold had partners who earned more than $100,000 a year.54 In addition, a small number of students aged over 60 are studying at universities, with some 6,000 studying courses in 2015 for which HELP loans were available.55 It is likely that many of these students will not have taxable earnings high enough to repay their loans, although they may have significant wealth in superannuation and other assets.

46. A Norton, Mapping Australian higher education 2016, Grattan Institute, Melbourne, 2016, p. 47.
48. Explanatory Memorandum, Budget Savings (Omnibus) Bill 2016, p. 5. The Bill originally proposed the measure be introduced from the 2016–17 tax year.
52. Ibid., p. 16.
54. A Norton and I Cherastidtham, Doubtful debt: the rising cost of student loans, Grattan Institute, Melbourne, April 2014, p. 39.
55. Derived from DET, Higher education statistics: all students 2015, DET, Canberra, 2016, Table 2.2: All Domestic Students by Age Group and Broad Level of Course, Full Year 2015.
The Grattan Institute estimated that recovering debt from estates worth over $100,000 in value would save up to $2.8 billion over three years.\textsuperscript{56} While the Government canvassed this and other options in its consultation paper, it has chosen not to consider the proposal at this stage, but has instead focussed on increasing the repayment levels of those in the labour force.\textsuperscript{57}

The potential impact of changes to HELP repayment arrangements

There have been a number of changes to repayment arrangements since the introduction of the Higher Education Contribution Scheme (HECS) in 1989. Appendix A provides details of the thresholds and rates that have applied from then until the 2016–17 tax year.

The original HECS arrangements were based on the recommendations of the Wran Committee.\textsuperscript{58} In determining the threshold at which students should start repaying their debt, the Committee recommended that the level be set such that even with their repayments, people would be better off than those on average annual earnings.\textsuperscript{59}

In fact, when HECS was first introduced, the minimum payment threshold was somewhat lower than this, at 84.4\% of average weekly ordinary time earnings for adults working full time (AWOTE), with a payment rate of 1.0\%.\textsuperscript{60} Someone earning AWOTE would have had a repayment rate of 2.0\%. After a number of changes in following years, the current arrangements were introduced in 2004–05, with the minimum repayment threshold set at some 68.7\% of AWOTE, with a repayment rate of 4.0\%. Someone earning AWOTE would have had a repayment rate of 6.0\%. Indexation has meant that these relativities have largely remained unchanged. The new lower threshold of $51,957, which has already been legislated for 2018–19 with a repayment rate of 2.0\%, is set at a level of around 62\% of AWOTE.

The Bill proposes to reduce the minimum repayment threshold for the 2018–19 tax year even further to $42,000 (around 50\% of AWOTE), with a repayment rate at this income of 1.0\%. The repayment rate will then increase by 0.5\% for each extra 6.0\% of income, up to a level of 10.0\% to apply to all those earning more than $119,881.\textsuperscript{61} The highest repayment rate under current arrangements is 8.0\% which would be payable on incomes of an estimated $107,214 or higher in 2018–19.\textsuperscript{62} Someone earning AWOTE will have a repayment rate of 7.0\%.

The impact of the proposed changes compared to the legislated arrangements at each income level is shown in Figure 1 below.

\begin{itemize}
\item \textsuperscript{56} Norton and Cherastidhtham, op. cit., p. 44.
\item \textsuperscript{57} Australian Government, \textit{Driving innovation, fairness and excellence in Australian higher education}, op. cit., pp. 21–2.
\item \textsuperscript{58} Committee on Higher Education Funding, \textit{Report of the committee on higher education funding}, (the Wran report), Australian Government, Canberra, April 1988.
\item \textsuperscript{59} Ibid., p. 58.
\item \textsuperscript{60} Calculations in this section are based on the data in Appendix A.
\item \textsuperscript{61} Australian Government, \textit{The higher education reform package}, op. cit., pp. 15–16.
\item \textsuperscript{62} Ibid.
\end{itemize}
HELP debt repayment operates in the same way as the Medicare levy, rather than as an increase in marginal tax rates. Therefore, for the 2016–17 tax year, someone with an income of $54,488 pays no HELP repayment, whereas someone earning $1 more pays $2,179.60 (a 4.0% repayment rate), plus an extra 34.5 cents in additional taxation (and Medicare levy). The introduction of a 2.0% repayment threshold reduces this impact slightly, but still leaves something of a ‘cliff’ effect at the first two income thresholds, meaning that those slightly above each threshold are considerably worse off than those just below them. The proposals in the Bill to introduce a 1.0% repayment at the lowest threshold and then have increments of 0.5% will significantly reduce this effect.

When compared to the existing legislated arrangements, the new proposal has a disproportionate impact on lower income earners but also produces a small group of ‘winners’ at slightly higher income levels (see Figure 2 below). Those on incomes between $50,022 and $51,956 will be the most heavily affected, with an increase in tax of 2.5% over existing arrangements, while those with incomes between $57,730 and $59,576 would actually be 0.5% better off under the new proposals.

Source: Parliamentary Library based on G Jericho, 'Why the Coalition’s university changes are just a great big new income tax', The Guardian, 4 May 2017.
Figure 2: change in tax rate between legislated and proposed repayment arrangements, 2018–19 tax year

Source: Parliamentary Library based on G Jericho, op. cit.

As noted earlier, the Base Funding Review commissioned a study by Deloitte Access Economics on the impacts of the increased student contributions and reduced loan repayment thresholds, which found that the reforms in 1997 and 2005 appeared to be linked to a reduction in the number of university applications, with those from low SES backgrounds more affected.63 As noted above, other studies have not found any sensitivity to increasing student contributions, so there is some concern that the reduction in repayment thresholds is a potential disincentive. The Base Funding Review therefore recommended that ‘the repayment threshold not be lowered to a level that might deter participation’, but did not suggest what such a level might be.64

There is also a potential economic impact of a 1.0% to 2.5% levy on those earning between 50% and 60% of average incomes. Firstly, there is the reduction in disposable income of between $420 for those on $42,000 and $1,299 for those on $51,956. Many earning these lower incomes are in the early stages of their careers and are also trying to save for house purchases or to start a family. Others are second earners in a household, working part-time while caring for children.

It should also be noted that in addition to their HELP debt, many students also acquire private debt while studying to cover living costs. A 2012 study of student finances found that more than 25% of full-time and 30% of part-time domestic students in undergraduate degrees had a private debt.65 The study estimated that on completion of their studies, the average full-time undergraduate had a non-HELP debt of some $7,700, of which $1,400 (17.8%) was interest free (typically debts from family members). For part-time undergraduates the average debt level was $24,200, of which only $700 (3.0%) was interest free. The debt levels of those from low SES backgrounds were considerably higher at $12,200 for full-time students and $34,005 for those studying part time, and a lower proportion of these debts were interest free.

64. Ibid., p. 98.
65. All figures in this paragraph are drawn from E Bexley, S Daroesman, D Arkovdis and R James, University student finances in 2012: a study of the financial circumstances of domestic and international students in Australia’s universities, Universities Australia, Canberra, July 2013, pp. 39 and 41.
Therefore it is probable that many of those starting out their careers on relatively low incomes are also repaying personal debts.

Increasing HELP debt repayments for those on moderate incomes may add to other factors, such as the progressive withdrawal of social security benefits due to income testing, to produce very high effective marginal tax rates. One commentator suggests for example:

... low income couples in which one partner has left university and the other is still studying face effective marginal tax rates north of 97 per cent as they attempt to lift their incomes beyond $37,000. The high rates persist, peaking at 99.2 per cent, almost all the way up to $50,000.66

Such high marginal tax rates may prove a disincentive for workers to increase their hours of work, or for some to return to the workforce, and alternatively provide an incentive to manage tax arrangements. There is already some evidence that debtors manage their tax incomes in order to avoid or lessen HELP repayments.67

Funding of enabling, sub-bachelor and postgraduate coursework courses

The current ‘demand driven’ funding system provides a CSP for every domestic bachelor degree student admitted to a public university, with the only restriction applying in relation to students in medical degrees. Funding is provided for courses at a lower level and for postgraduate coursework places through allocation of designated places to particular institutions for particular courses. The Bill proposes to change the arrangements under which this funding is allocated.

**Enabling courses**

Enabling courses are offered to students who need additional support to reach the standard required for entry to a bachelor level course. At present, funding for allocated places is provided at the same level as for CSPs (that is depending on the field of study), and in addition, a loading is applied in lieu of a student contribution. For 2017, the loading was $3,223.68 The Government is proposing to abolish this loading from 1 January 2018 and replace it with an equivalent student contribution, which students may pay for through a HELP loan.

The rationale for this change is partly that at present students who undertake full fee enabling programs have a higher retention rate than those in programs receiving full government funding.69 Presumably the view is that those students prepared to partially fund their studies may have a higher level of commitment, although there is some suggestion that the full cost courses are meeting a different need and hence this comparison of retention rates is not valid.70 However, given that the target group for enabling programs are students from disadvantaged backgrounds, the prospect of a fee (albeit payable with a HELP loan) may deter some students from participating in such courses.

The Government has also suggested that, like other students, participants in enabling courses should contribute to the cost of their education. However, there is no information on the perceived public and private benefits of undertaking such courses are in order to determine what an appropriate contribution might be.

From 1 January 2019, the Government is also proposing new arrangements for the allocation of funded enabling courses, with places to be allocated through a competitive tender process.71 At this stage there is no information about how this process will operate.

**Sub-bachelor degrees**

As with enabling courses, at present the Government allocates CSPs for sub-bachelor courses (diploma, advanced diploma and associate bachelor level) to public universities for specific courses. While the number of such courses funded by the Government has increased from under 8,000 in 2007 to over 19,000 in 2016, the...

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69. Ibid.
70. A Bennett, A Harvey and S Fagan, ‘Programs that prepare students for university study may no longer be free’, The Conversation, 18 May 2017.
allocation of specific places has meant that some courses may be under-enrolled, while others have unmet demand.\textsuperscript{72}

While courses at this level fulfil a range of functions, including providing shorter qualifications in specialised areas such as languages or music, many are pathway courses, providing those with concerns about their ability to undertake a bachelor level course with a lower risk entry option, which then articulates to a higher level course. One concern in limiting access to these courses is that students who would be better suited to such a pathway but are unable to obtain a CSP, and hence would be required to pay the full cost of their tuition, may instead enrol in a bachelor level course on cost grounds.\textsuperscript{73}

Although it had some concerns about the potential for cost-shifting from the VET sector, which also provides courses at this level, the Kemp-Norton Review recommended extending the demand driven system to sub-bachelor higher education courses.\textsuperscript{74} This measure was included in the 2014–15 Budget proposals but not legislated.

The current Bill proposes to extend eligibility for CSP funding to all students in approved sub-bachelor courses who have not previously completed another higher education qualification. Courses must also have been developed with a focus on industry needs and fully articulate into related bachelor programs.\textsuperscript{75} These limitations seek to address the concerns about the potential overlap with VET courses, while removing the disincentives for underprepared students to use such courses as an entry point to higher education.

**Postgraduate coursework degrees**

CSPs for postgraduate coursework degrees are also allocated to particular universities for particular courses, leading to similar problems with allocations not responding to demand. In addition, the Kemp-Norton Review noted that this had led to the situation where students undertaking a particular course at one university may be allocated a CSP while someone undertaking the same course at another university in the same city would be required to pay full cost for the course.\textsuperscript{76}

To address this problem, the Government is proposing that, from 2019, instead of allocating CSPs, the places will be awarded to students in the form of postgraduate scholarships, which they can then use to study at the university of their choice, so long as the institution is approved to offer CSPs. There are no details as yet as to how these scholarships will be awarded, but the Government has suggested it will target areas of national priority in its allocation of these scholarships.\textsuperscript{77}

The Government has noted that this arrangement will require the negotiation of transition arrangements with the University of Melbourne and the University of Western Australia, both of which have moved to a model of a broad bachelor degree to be followed by a specialist masters course, rather than the specialist undergraduate degrees offered by other universities in most fields.\textsuperscript{78}

**Changed arrangements for permanent residents and New Zealand citizens**

At present, most Australian permanent residents and New Zealand citizens are eligible for CSPs, but not for HELP loans. Hence, while they receive subsidised tuition on the same basis as domestic students, they are required to pay the student contribution upfront. The Government notes that this presents a significant barrier to higher education for many students.\textsuperscript{79}

Therefore, the Bill proposes extending access to HELP loans to students in this situation, but at the same time removing access to CSPs. Therefore, they will effectively be treated the same as domestic full-fee paying


\textsuperscript{73} Kemp and Norton, *Review of the demand driven funding system: report*, op. cit., p. 57.

\textsuperscript{74} Ibid., p. 60.


\textsuperscript{76} Kemp and Norton, *Review of the demand driven funding system: report*, op. cit., p. 64.


\textsuperscript{79} Ibid., p. 18.
students. Students already in a CSP will remain covered by the existing arrangements for the duration of their course.\(^{80}\)

As FEE-HELP loans (which are those available to full-fee paying students) attract a 25% loan charge this will mean that these students would pay considerably more for the cost of their education than at present, but are able to defer payment until their income reaches the repayment threshold.\(^{81}\)

For example, a permanent visa holder studying engineering in 2017 is required to pay an upfront student contribution of $9,050. If the proposed arrangements had applied in 2017, they would be required to either pay $27,021 upfront, or take out a FEE-HELP loan for $33,776 (the upfront fee with a 25% loan fee).\(^{82}\)

While access to FEE-HELP does remove the barrier that upfront payment of student contributions now imposes, the significantly higher costs of education, albeit with delayed repayment, may prove an even greater disincentive for many students.

**Committee consideration**

**Senate Education and Employment Legislation Committee**

The Bill has been referred to the Senate Education and Employment Legislation Committee for inquiry and report by 9 August 2017. Details of the inquiry are available from the inquiry homepage.\(^{83}\)

**Senate Standing Committee for the Scrutiny of Bills**

On 14 June 2017, the Committee reported that it had no comment on the Bill.\(^{84}\)

**Policy position of non-government parties/independents**

Labor has described the proposed changes to student fees and loan arrangements as ‘[saddling] young Australians with a big uni debt at the same time as they are trying to buy a house, or start a family’, and stated ‘Labor will never support this’.\(^{85}\) Similarly, the Australian Greens ‘have pledged to use their power in the Parliament to protect Australia’s higher education sector from any further funding cuts’.\(^{86}\)

Senator Hanson previously introduced amendments to the VET Student Loans Bill 2016 seeking to reduce the HELP repayment threshold to $22,000 and limiting loan amounts to less than the course fees so that students would be required to pay some contribution upfront.\(^{87}\) More recently she has reiterated her proposal to reduce the payment threshold to $22,000.\(^{88}\)

On the other hand, Senator Lambie has been reported as expressing the view that the $42,000 threshold is too low.\(^{89}\) Also, in her response to the 2016–17 Budget, she stated that ‘[i]f the JLN holds the balance of power after the 2 July election, I will fight for every Australian to have a free first degree and I would push to uncap the number of two-year associate degrees in this country’.\(^{90}\)

Senator Hinch has also been reported as saying that he considers the $42,000 threshold appears to be too low, but has also expressed concern at the high level of write-down of HELP debt.\(^{91}\)

\(^{80}\) Ibid., p. 18.
\(^{81}\) For more information on the range of HELP loans see C Ey, *Higher Education Loan Program (HELP) and other student loans: a quick guide*, op. cit.
\(^{82}\) Based on Australian Government, *Allocation of units of study to funding clusters and student contribution bands according to field of education codes 2017*, op. cit.
\(^{84}\) Senate Standing Committee for the Scrutiny of Bills, *Scrutiny digest*, 6, 2017, 14 June 2017, p. 29.
\(^{85}\) T Plibersek (Shadow Minister for Education), *Liberal budget 2017: uni students to pay for $50 billion big business tax cut*, media release, 10 May 2017.
\(^{86}\) S Hanson-Young, *The Australian Greens stand with Australia’s students and universities*, media release, 24 April 2017.
\(^{88}\) J Hare, *Make students pay back debt at $22,000, says Hanson*, *The Australian*, 24 May 2017, p. 30.
\(^{89}\) Ibid.
\(^{91}\) J Hare, op. cit.
Position of major interest groups

The peak body for universities, Universities Australia, initially expressed concern at the cuts to revenue for universities, but welcomed the proposals relating to HEPPP, the extension of the demand-driven system to sub-bachelor degrees and the funding for work experience units. However, after further consideration an ‘overwhelming majority of Vice-Chancellors agreed they could not recommend that the Senate crossbench pass the legislative package.’

The Innovative Research Universities (IRU), Australian Technology Network (ATN) and Regional Universities Network (RUN) have made submissions to the Senate inquiry into the Bill. IRU raises concerns about the efficiency dividend, student fee increases, performance funding, and the introduction of the postgraduate coursework scholarship system, stating ‘perversely, the proposal is to cut Commonwealth Grant Scheme funding for university students by ten percent—literally to decimate it.’ ATN gives qualified support for the Bill’s emphasis on industry linkages, educational outcomes and accessibility, but notes ‘serious concerns about asking students to pay more at the same time as asking universities to deliver more with less, because ultimately this will lead to diminishing returns’. RUN contends that the Bill could result in perverse consequences for its members, universities, including ‘further lowering the participation rate of regional students in higher education; and detrimental economic and social impact in regional Australia.’

While the Group of Eight (Go8) have not made a submission to the inquiry, in his National Press Club Address on 28 June Go8 Chair Peter Hoj said of the Bill ‘the Go8 board comprising all eight Vice-Chancellors and the Chief Executive therefore sees this overall package as detrimental to Australia’s interests, and urges the Senate to block it’.

Universities have also expressed concern over how the arrangements for postgraduate coursework scholarships would operate, including a lack of detail over who would assess the students and award the scholarships, and whether there would be a set number of scholarships in each discipline.

Peak bodies for non-university higher education providers, the Council of Private Higher Education (COPHE) and Australian Council for Private Education and Training (ACPET), have also made submissions to the Senate inquiry. Both recommend amendments to the Bill to align Commonwealth tuition support for their students with that available to students at public universities.

The National Tertiary Education Union (NTEU) also condemned the cuts and increase in student fees, stating ‘Australian students already pay amongst the highest fees, and yet our public investment in higher education is the second lowest according to the OECD’s latest data’. The NTEU also considered the cuts ‘will not only compromise the quality of teaching, research and community service our universities can offer, they will also...’

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92. Universities Australia, Uni cuts aren’t clever, but merit in new uni equity and work placement measures, media release, 1 May 2017.
93. Universities Australia, Statement on higher education proposals, media release, 16 May 2017.
contribute to de-professionalising academic work, and placing our much-envied international reputation at risk.

The National Union of Students (NUS) has responded negatively to the proposed reforms, holding a national day of protest on 17 May. The NUS has also suggested that women, young people, and students from low socio-economic status backgrounds will be disadvantaged by the changes.

Financial implications

The Government has not provided a breakdown of the financial implications of each of the measures. The Explanatory Memorandum notes that the Bill implements the revised higher education package, which will deliver savings of $3.8 billion in fiscal balance terms over the period 2016–17 to 2020–21. It also states that the underlying cash saving is $2.8 billion over 2017–18 to 2020–21.

The proposals contained in the Bill were grouped into two measures in the 2017–18 budget papers. Extending the demand driven system to sub-bachelor degrees for those who have not completed another higher education qualification, introducing a scholarship for postgraduate coursework places, and expanding the CGS to cover specified work experience units is expected to provide savings of $94.0 million over the forward estimates. It appears the savings come from an associated reduction of around 3,000 in the number of postgraduate coursework places being funded, in line with current utilisation—a measure that does not require legislation.

The proposed introduction of a performance and reward system using funds from the CGS and reforming the HEPPP involve reallocation of existing funding, although the introduction of a loading for low SES students as part of the revised HEPPP may have funding implications depending on enrolment levels.

The proposed changes to the student and government contributions to course funding, ceasing the government loading for enabling courses and replacing them with a student contribution payable through HELP, revising the repayment arrangements for HELP and changing the access to CSPs and HELP for most permanent visa holders and New Zealand citizens are expected to achieve savings of $3.8 billion over five years.

Statement of Compatibility with 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.

Parliamentary Joint Committee on Human Rights

The Committee examined the Bill in its report of 14 June 2017. It sought the advice of the Minister about the compatibility of the key measures in Schedules 1-4 with the right to education under Article 13 of the International Covenant on Economic, Social and Cultural Rights. In particular, the Committee sought the advice of the Minister about the evidence base supporting the proposed measures, and their rational connection and proportionality to a legitimate objective for the purposes of human rights law (including details of whether any alternative measures were considered). It also sought the advice of the Minister as to how the key measures contribute to the implementation of the right to education.

101. NTEU, University budget cuts mean 10% less in real public investment per student and more job uncertainty for staff, media release, 2 May 2017. See also NTEU, Submission to the Senate Education and Employment Legislation Committee, Inquiry into the Higher Education Support Legislation Amendment (A More Sustainable, Responsive and Transparent Higher Education System) Bill 2017, 7 June 2017.


104. Ibid.


108. The Statement of Compatibility with Human Rights can be found at page pp. 6–10 of the Explanatory Memorandum to the Bill.


comply with Australia’s obligation to use the maximum of its available resources to progressively introduce free higher education.\textsuperscript{111}

Further, the Committee sought the Minister’s advice about the compatibility of some proposed measures with the rights to equality and non-discrimination under Articles 2 and 26 of the \textit{International Covenant on Civil and Political Rights}.\textsuperscript{112} The Committee was concerned about the differential treatment of Australian permanent residents and New Zealand citizens (apparent direct discrimination on the basis of nationality) and women (potential indirect discrimination, as the changes in indexation may have a disproportionate effect on women).\textsuperscript{113}

At the time of writing, the Committee had not reported on a response from the Minister.\textsuperscript{114}

\textbf{Key issues and provisions}

\textit{Schedule 1—costs of higher education}

This \textit{Schedule} seeks to increase the costs to students of undertaking courses in CSPs, and applies an efficiency dividend to the funding received by universities for these places. In addition, it extends the current medical student funding loading to dental and veterinary science students.

\textbf{Additional loading for high cost courses}

The study of tuition costs undertaken by Deloitte found that while many courses received more funding than the costs of tuition, both dentistry and veterinary science courses were significantly underfunded.\textsuperscript{115} Therefore the Government is proposing to address this shortfall, by extending the current medical student loading to dentistry and veterinary science courses from 2018. \textit{Items 1 and 2 of Schedule 1} replace ‘medical student loading’ with ‘medical, dental and veterinary science student loading’ in the relevant sections of the Act to give effect to this proposal.\textsuperscript{116}

\textbf{Changes to funding arrangements for Commonwealth supported places (CSPs)}

\textit{Item 3} proposes new Commonwealth funding levels for each cluster for 2021 and later years.\textsuperscript{117} These levels reflect both the reduction in Commonwealth funding due to increasing the student contribution, and also the 2.5\% efficiency dividend in each of 2018 and 2019, plus the expected level of indexation for 2018. This proposal necessitates a change to the definition of ‘Commonwealth contribution amount’, which is at \textit{item 8}.

The maximum student contribution levels for each cluster proposed for 2018 (except for students in enabling courses) are set out in \textit{item 4}. These levels represent a 1.8\% increase above those applying for 2017, as well as incorporating an expected level of indexation. It should be noted that universities are not required to charge the full student contribution, as the legislation only specifies these as the maximum level of contribution. However, in general these are the levels charged by universities in order to meet course costs. Again there is a consequential change in the definition of ‘maximum student contribution’ from this proposal (\textit{item 9}).

\textit{Item 5} introduces a new maximum student contribution for places in enabling courses at $3,271 for 2018, regardless of the field of study.\textsuperscript{118} As noted above, students are currently not required to contribute to their tuition costs for these courses, and instead the courses receive a loading in addition to the standard Commonwealth contribution. These student contributions for enabling courses will not be subject to the 7.5\% (over four years) increase applying to other student contribution levels (\textit{proposed subsection 93-10 (5)}).

\textsuperscript{111} PJCHR, op. cit., pp. 24–28.
\textsuperscript{113} PJCHR, op. cit., pp. 26–27 and 28–30.
\textsuperscript{114} The Committee’s website indicates that it had sought a response from the Minister by 30 June 2017. See: PJCHR, \textit{Correspondence register}, PJCHR website, table 1 (outstanding correspondence).
\textsuperscript{116} See proposed sections 30–25(3)(c), 33-1(1)(b)(ii) and \textit{item 11}.
\textsuperscript{117} \textit{Proposed section 33-10}.
\textsuperscript{118} \textit{Proposed subsection 93-10(3)}. Note the census date must be after 1 January 2018 (per \textit{item 18}). The definition of enabling course is contained in \textit{item 13}.
Proposed subsection 93-10 (4) applies an increase of 1.824% each year for 2019, 2020 and 2021 to the maximum student contribution for other CSPs. Together with the increase incorporated into the proposed levels for 2018, this represents an increase of 7.5% over four years.

Part 2 of Schedule 1 specifies proposed transitional arrangements, which includes, at item 12, the Commonwealth contribution levels (amounts) which will apply for 2018, 2019 and 2020, and that indexation will only apply to any of the amounts specified (including the student contribution levels) from 2019 (but not for 2018) (item 14).

Schedule 2—Commonwealth Grant Scheme

Part 1—enabling and sub-bachelor courses and work in industry

Items 1, 2 and 7 propose removing the references in the HESA to the loading for enabling courses, reflecting the changed funding arrangements for these courses proposed in Schedule 1, item 5 (see above).

Under current arrangements, universities do not receive funding for students who are undertaking work experience in industry (WEI) units as part of a Commonwealth supported qualification. This affects around 2,600 students per annum. The Government has recognised that these courses are valuable in developing employability skills and in enabling employers to provide feedback to universities on student learning and preparedness for employment. On this basis, it is proposing to extend funding to WEI units that meet certain criteria as specified in the Administration Guidelines, including that WEI units cannot exceed one sixth of the total load (item 3).

As discussed above, the proposed extension of Commonwealth funding to sub-bachelor courses (items 4 and 6), where students have not previously obtained a higher education award, is designed to facilitate students from educationally disadvantaged backgrounds to undertake an introductory higher education course, prior to enrolling in a bachelor-level program.

Part 2—amendments generally applying from 1 January 2019

Items 15, 16 and 18 propose that eligibility for the CGS and HECS-HELP assistance be extended to students studying at the Australian branch of a Table C provider. Table C providers are approved overseas universities with branches in Australia. At present the only Table C providers are Carnegie Mellon University and the University College London (HESA, section 16-22). Under this proposal, these providers would not be part of the demand driven system for bachelor level courses, but may receive allocated places for designated courses, such as enabling units or for recipients of the proposed postgraduate coursework scholarships.

Item 17 seeks to ensure that students in receipt of one of the proposed scholarships for postgraduate coursework study (see discussion above under ‘Background’) are not discriminated against in university selection processes. This is to ensure that where a university’s full cost fees are higher than the amount they would receive through CSP funding, they cannot reject applications from scholarship holders on this basis.

Currently funding is only provided to approved higher education providers who are not public universities for allocated places that meet national priorities. Item 19 proposes to extend eligibility for funding for enabling courses and non-medical postgraduate coursework places to these institutions, reflecting the proposed changes to funding applying to these courses. Items 20 to 28 propose consequential amendments to give effect to these changes.

The Government proposes to withhold 7.5% of CGS cluster funding, to be allocated on a performance basis. While the total Commonwealth CGS cluster funding will remain the same, universities will only be guaranteed 92.5% of the amount derived from the cluster funding formula. Access to the remaining funds will be linked to performance. For 2018, to be eligible for these funds universities will be required to participate in a reform of admissions information and a project on the cost of teaching and research. From 2019, there will be

120. Ibid.
121. Administration Guidelines 2012.
122. Explanatory Memorandum, op. cit., p. 25.
123. Ibid.
124. Ibid.
additional performance metrics applied according to a formula to be developed in consultation with the sector during 2017–18. No details have been provided on the types of measures that may be included in this formula.

**Items 29 to 32 and item 34** therefore propose the concepts of ‘unadjusted’ and ‘adjusted’ grant amounts, to replace ‘basic’ grant amounts, where unadjusted grant amounts are calculated according to the existing formula for basic grant amounts. Adjusted grant amounts take into consideration the performance of the provider against criteria specified in the Commonwealth Grant Scheme Guidelines, and may be more or less than the unadjusted grant amount. However, the adjusted grant amount cannot be less than 92.5% of the unadjusted amount (proposed paragraph 33-7(3)(b)).

**Items 36 to 42** propose changes to introduce a scholarship places scheme to replace the current CSP arrangements for certain postgraduate coursework programs as described above. The details of the proposed scheme are to be specified in the Commonwealth Grant Scheme Guidelines. **Items 48 and 49** propose amendments to the *Income Tax Assessment Act 1997* to exempt grants payable under this scheme from income tax.

**Part 3** specifies the dates from which the provisions relating to work experience units, enabling courses, sub-bachelor degrees, performance funding and the scholarship places scheme apply, and transitional arrangements where required. Most of the provisions commence on 1 January 2018, except those relating to postgraduate coursework places, which commence on 1 January 2019. **Item 54** specifies the arrangements for performance contingent funding for 2018.

**Schedule 3—Higher Education Loan Program**

**Changes to entitlements to Commonwealth supported places and the Higher Education Loan Program**

**Part 1** proposes a number of changes to the entitlements of certain permanent visa holders and New Zealand citizens. Under current arrangements, all permanent visa holders and New Zealand citizens are eligible for CSPs. However, only permanent humanitarian visa holders, and New Zealanders holding a special category visa (SCV), who arrived in Australia as a child and meet other residency requirements are eligible for HELP loans. Therefore, as noted above, most permanent visa holders and New Zealand citizens are required to pay their student contributions up front when enrolling in higher education courses.

The Government is proposing to remove eligibility for CSPs from most permanent visa holders and New Zealand citizens, but provide them with access to HELP loans to pay for their fees. This will mean that these students will have to pay the full cost for their courses, but will be eligible for a FEE-HELP loan rather than being required to pay their contributions up front.

The Bill (items 1 to 7) proposes that eligibility for a CSP be restricted to those residing in Australia for the duration of their unit who fall within one of the following categories:

- permanent humanitarian visa holders
- persons who commenced their course of study of which the unit is a part as a permanent humanitarian visa holder and now hold a permanent visa for the duration of the unit or
- New Zealanders holding an SCV, who began residing in Australia as a dependent child at least ten years previously, and have resided in Australia for at least:
  - eight of the last ten years and
  - 18 months of the most recent two-year period.

There is grandfathering (that is, continued eligibility under the current arrangements) for persons who were eligible under the current citizenship and residency requirements when they commenced their course prior to 1 January 2018, while they remain in the same course, up until 1 January 2023 (item 46).

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125. Ibid.
126. Commonwealth Grant Scheme Guidelines 2012.
**Item 8** proposes extending the eligibility for HECS-HELP loans to those in enabling courses, as under the provisions of **Schedule 2** these students would be charged a student contribution.

The proposed criteria for eligibility for HECS-HELP loans are set out in **items 9 to 14**, and reflect the eligibility requirements for CSPs. It is also proposed that these students are eligible for OS-HELP, which provides loans to students undertaking study overseas as part of their course (**items 21 to 24**).

Changes to eligibility for FEE-HELP loans are proposed in **items 15 to 20** to ensure that students who meet any of these criteria are also eligible for FEE-HELP, while **items 25 to 30** propose extending eligibility to SA-HELP loans, which provide loans to pay for student services and amenities fees. In addition, eligibility for both these loans is proposed to be extended to all permanent visa holders and New Zealand citizens who are resident in Australia for the duration of their unit of study.

VET Student Loans provide income-contingent loans to students studying approved courses in the VET sector. **Items 31 to 33** propose amendments to the **VET Student Loans Act 2016** to align eligibility for these loans to the eligibility for FEE-HELP loans.

**Student loan repayment arrangements**

Part 2 proposes amendments to the arrangements for the repayment of HELP and VET Student Loan debts, to reduce the income level at which repayment commences, and to introduce new repayment rates for each income level. As Trade Support Loans and Student Start-up Loans all use the same repayment schedules as are in HESA, these proposed changes will also affect those with other student loans.

As noted above, previous legislation reduced the minimum repayment threshold to $51,957 for the 2018–19 tax year, with a repayment rate of 2.0%. **Item 35** proposes a new minimum repayment income of $41,999 for the 2018–19 income year, while **item 36** proposes a new table of the applicable repayment percentage for each band of repayment income.

The current repayment income thresholds are indexed each year in line with changes in the seasonally adjusted AWE for all employees. As noted earlier, the Government has stated that the ‘thresholds have been rising relative to [graduate] earnings. Relatively fewer people are now making repayments than in the past’. Therefore the Government is proposing to change the indexation to align with changes in the CPI (**items 37 and 38**). This would also bring indexation of the repayment threshold in line with indexation arrangements applying to other sections of HESA. Therefore the specific indexation arrangements for the HELP amounts contained in **section 140-15** of HESA are no longer required (**item 34**).

Historically wages have generally increased at a faster rate than prices (as measured by the CPI), and hence moving to indexation by the CPI would be expected to provide a slower rate of growth in the repayment thresholds. However, more recently wages growth has slowed, with the latest figures showing the AWE increasing by only 1.6% for the year to November 2016, compared to annual CPI growth of 2.1%. Therefore there is a possibility that in the short term, until wage growth picks up, this change in indexation will actually reduce the number of payees even further.

**Schedule 4—other grants**

The HEPPP provides funding to universities to implement strategies to increase the access, retention and completion rates of students from low SES backgrounds. It consists of three components:

- participation, under which universities receive funding based on the number of enrolments from students from a low SES background

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129. For more details see Australian Government, "VET Student Loans", StudyAssist website.

130. **VET Student Loans Act 2016**.

131. See Section 39 of the **Trades Support Loans Act 2014** and Section 1061ZVAA of the **Social Security Act 1991**.

132. **Budget Savings (Omnibus) Act 2016**, **Schedule 1**.


• partnerships funding, for projects which aim to raise the aspirations and build capacity of low SES students through partnerships with schools, VET providers, other universities, state and territory governments, or community groups and
• the National Priorities Pool, which provides funding for projects which seek to increase the effectiveness of HEPPP and support for low SES students more generally.

At present this funding is provided under Division 41—Other grants of HESA and the guidelines for its operation are contained in the Other Grants Guidelines (Education) 2012. Under these Guidelines, a total funding pool is allocated for participation and partnerships, with 25% allocated to the partnerships component. Participation funding is determined on a pro-rata basis to universities, depending on the proportion of the total low SES student load at each university. For 2016, $155.1 million was distributed in participation funding. Funding for the National Priorities Pool is determined on an annual basis.

An evaluation of the HEPPP was undertaken in 2016–17, which found that overall the program appeared to have been successful and recommended that it continue, but suggested increasing incentives around retention and completion rates. In response, the Government is proposing to reform HEPPP into two components: the Access and Participation Fund, and the National Priorities Pool. The Access and Participation funding is proposed to be provided in two streams:
• a loading per low SES student and
• performance funding, which will be allocated to universities that improve their average success rate for low SES or Indigenous students.

Universities will be required to allocate a minimum amount of this funding to partnership activities.

In Schedule 4 the Government is proposing to specifically legislate for HEPPP to provide greater funding certainty for universities and to establish these revised funding arrangements.

Items 1 to 16 propose amendments to Division 41 of HESA, which relates to other grants, to specifically reference the proposed Division 42 which deals with HEPPP and also include references to the proposed HEPPP Guidelines.

Proposed section 42-10 sets out the three different forms of funding available under HEPPP (the Program), specifies the objectives of the Program and provides that the HEPPP Guidelines may specify matters including eligibility and conditions for grants under the Program. The arrangements for the low SES loadings component are described in proposed section 42-20, including that the loading amount will be $985. Proposed section 42-25 provides for performance payments for improved outcomes, and specifies funding of $13.3 million for this purpose, and the National Priorities Pool funding of $9.5 million is provided for in proposed section 42-30. All amounts are to be indexed as per other amounts in HESA, that is, linked to the CPI (item 18).

Other provisions
Schedule 5 contains minor technical amendments to HESA including reflecting name changes for the University of Technology Sydney and the University of Divinity.

Concluding comments
The Government remains concerned at the rising cost of funding students in CSPs, both through increased direct funding and an increasing amount of student loan debt being written off. If implemented, the measures in this Bill are expected to produce savings of $3.8 billion over five years.

These savings are largely through increasing the proportion of education costs that students pay, and reducing the funding available to universities for tuition costs by some 2.8% on average.

137. DET, 2010–2016 higher education participation and partnerships program (HEPPP) participation allocations, DET, Canberra, 2016.
140. Ibid.
141. Ibid., p 22.
While other measures in the Bill seek to increase the access to, and success in, higher education by those from disadvantaged backgrounds, there is some evidence that this may be offset by the negative impact of increasing fees and repayment requirements.

The worst affected by these changes are those in the workforce with a student debt who are on relatively low incomes (50% to 60% of AWE), some of whom will have marginal tax rates at around 100%.

It is interesting that the Government has chosen to claw back funding from this group rather than implement changes to recover unpaid student loan debts from estates worth over $100,000—a measure which has been estimated could save up to $2.8 billion over three years.142

142. Norton and Cherastidtham, op. cit., p. 44.
### Appendix A: HELP repayment thresholds and rates and Average Weekly Earnings (AWOTE): 1988–89 to 2016–17

#### 1988–89 to 2003–04

<table>
<thead>
<tr>
<th>Income year</th>
<th>AWOTE $pa(b)</th>
<th>1%</th>
<th>2%</th>
<th>3%</th>
<th>3.5%</th>
<th>4%</th>
<th>4.5%</th>
<th>5%</th>
<th>5.5%</th>
<th>6%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988–89(c)</td>
<td>26 057</td>
<td>21 999</td>
<td>24 999</td>
<td>34 999</td>
<td>35 000+</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1989–90</td>
<td>27 318</td>
<td>23 582</td>
<td>26 798</td>
<td>37 518</td>
<td>37 519+</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990–91</td>
<td>29 026</td>
<td>25 468</td>
<td>28 941</td>
<td>40 519</td>
<td>40 520+</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1991–92</td>
<td>30 319</td>
<td>27 097</td>
<td>30 793</td>
<td>43 112</td>
<td>43 113+</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1992–93</td>
<td>30 800</td>
<td>27 747</td>
<td>31 532</td>
<td>44 146</td>
<td>44 147+</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1993–94</td>
<td>31 764</td>
<td>26 402</td>
<td>30 004</td>
<td>42 005</td>
<td>42 006+</td>
<td></td>
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<tr>
<td>1994–95</td>
<td>33 236</td>
<td>26 852</td>
<td>30 516</td>
<td>42 722</td>
<td>42 723+</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>1995–96</td>
<td>34 710</td>
<td>19 999(c)</td>
<td>27 674</td>
<td>31 449</td>
<td>44 029</td>
<td>44 030+</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>1996–97(d)</td>
<td>35 942</td>
<td>20 593(d)</td>
<td>28 494</td>
<td>30 049</td>
<td>32 381</td>
<td>37 563</td>
<td>43 335</td>
<td>47 718</td>
<td>51 293</td>
<td>51 293+</td>
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<tr>
<td>1997–98(e)</td>
<td>37 344</td>
<td>20 700</td>
<td>21 830</td>
<td>23 524</td>
<td>27 288</td>
<td>32 934</td>
<td>34 665</td>
<td>37 262</td>
<td>37 263+</td>
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<tr>
<td>1998–99(e)</td>
<td>38 922</td>
<td>21 333</td>
<td>22 498</td>
<td>24 244</td>
<td>28 123</td>
<td>33 942</td>
<td>35 726</td>
<td>38 402</td>
<td>38 403+</td>
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</tr>
<tr>
<td>1999–00(f)</td>
<td>40 037</td>
<td>21 983</td>
<td>23 183</td>
<td>24 982</td>
<td>28 980</td>
<td>34 976</td>
<td>36 814</td>
<td>39 572</td>
<td>39 573+</td>
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</tr>
<tr>
<td>2000–01(f)</td>
<td>42 039</td>
<td>22 345</td>
<td>23 565</td>
<td>25 393</td>
<td>29 456</td>
<td>35 551</td>
<td>37 420</td>
<td>40 223</td>
<td>40 224+</td>
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</tr>
<tr>
<td>2001–02(f)</td>
<td>44 270</td>
<td>23 241</td>
<td>24 510</td>
<td>26 412</td>
<td>30 638</td>
<td>36 977</td>
<td>38 921</td>
<td>41 837</td>
<td>41 838+</td>
<td></td>
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<tr>
<td>2002–03(f)</td>
<td>46 667</td>
<td>24 364</td>
<td>25 694</td>
<td>27 688</td>
<td>32 118</td>
<td>38 763</td>
<td>40 801</td>
<td>43 858</td>
<td>43 859+</td>
<td></td>
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<tr>
<td>2003–04(f)</td>
<td>48 571</td>
<td>25 347</td>
<td>26 731</td>
<td>28 805</td>
<td>33 414</td>
<td>40 328</td>
<td>42 447</td>
<td>45 628</td>
<td>45 629+</td>
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### 2004–05 to 2016–17

<table>
<thead>
<tr>
<th>Income year</th>
<th>AWOTE $pa&lt;sup&gt;(b)&lt;/sup&gt;</th>
<th>Repayment rate ($ per annum)</th>
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<tbody>
<tr>
<td></td>
<td>Nil</td>
<td>4%</td>
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<tr>
<td><strong>2004–05</strong>&lt;sup&gt;(f)&lt;/sup&gt;</td>
<td>50 929</td>
<td>35 000</td>
</tr>
<tr>
<td><strong>2005–06</strong>&lt;sup&gt;(g)&lt;/sup&gt;</td>
<td>52 978</td>
<td>36 184</td>
</tr>
<tr>
<td><strong>2006–07</strong>&lt;sup&gt;(g)&lt;/sup&gt;</td>
<td>55 143</td>
<td>38 148</td>
</tr>
<tr>
<td><strong>2007–08</strong>&lt;sup&gt;(g)&lt;/sup&gt;</td>
<td>57 673</td>
<td>39 824</td>
</tr>
<tr>
<td><strong>2008–09</strong>&lt;sup&gt;(g)&lt;/sup&gt;</td>
<td>60 991</td>
<td>41 598</td>
</tr>
<tr>
<td><strong>2009–10</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>64 399</td>
<td>43 151</td>
</tr>
<tr>
<td><strong>2010–11</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>67 077</td>
<td>44 911</td>
</tr>
<tr>
<td><strong>2011–12</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>69 662</td>
<td>47 195</td>
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<tr>
<td><strong>2012–13</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>73 239</td>
<td>49 095</td>
</tr>
<tr>
<td><strong>2013–14</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>75 169</td>
<td>51 308</td>
</tr>
<tr>
<td><strong>2014–15</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>76 963</td>
<td>53 345</td>
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<tr>
<td><strong>2015–16</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>78 429</td>
<td>54 123</td>
</tr>
<tr>
<td><strong>2016–17</strong>&lt;sup&gt;(h)&lt;/sup&gt;</td>
<td>54 869</td>
<td>61 119</td>
</tr>
</tbody>
</table>

**Notes:**

(a) Highest income level at which rate is payable.
(b) Average weekly ordinary time earnings for adults working full time (calculated as average weekly ordinary time earnings for the two quarterly survey estimates multiplied by 52 weeks).
(c) Introduced from 1 January 1989, so repayment rates were at half the level of later years (i.e. 0.5%, 1% and 1.5%).
(d) Repayment at 2% rate was voluntary.
(e) Taxable income plus net rental losses.
(f) As per (e) plus total reportable fringe benefits amounts.
(g) As per (f) plus exempt foreign employment income.
(h) As per (g) plus any total investment loss (which includes net rental losses), and reportable super contributions.

Source: Australian Taxation Office (ATO), ‘HELP, SSL, ABSTUDY SSL, TSL and SFSS repayment thresholds and rates’, ATO website, 9 May 2017; and ABS, *Average Weekly earnings, cat. no. 6302.0, Table 3*, cat. no. 6302.0, ABS, Canberra, 23 February 2017, Table 3.