Higher Education Funding Amendment Bill (No.2) 1995

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Higher Education Funding Amendment Bill (No. 2) 1995

Date Introduced: 30 June 1995
House: House of Representatives
Portfolio: Employment, Education and Training
Commencement: The amendments commence on 1 January 1996, except for those dealing with the HEC repayment thresholds which commence on 1 July 1996.

Purpose

The major amendments proposed by the Bill to the Higher Education Funding Act 1988 will:

• vary levels of grants funding for certain higher education institutions;

• provide discounts for the repayments of certain Higher Education Contribution Scheme (HEC) debts;

• introduce a voluntary threshold for the repayment of HEC debt;

• set four new income thresholds at which a person becomes liable to repay their HEC debt and the percentage of their income payable in respect of that debt;

• introduce mandatory up-front payment of HEC for certain New Zealanders and non-citizens; and

• remove the HEC exemption scholarships for the professional development of teachers.
Higher Education Funding Amendment Bill (No. 2) 1995

Background

The aspects of the Bill that have attracted the most comment concern the introduction of mandatory up-front payments of HEC for certain New Zealanders and non-citizens, and the removal of the exemption scholarships for teachers. The exploitation of HECS (and AUSTUDY) by non-citizens was the subject of considerable discussion in 1994 following the publication of an article by Bob Birrell and Ian Dobson of Monash University\(^1\). The article noted that although the HECS deferral rate for overseas-born residents was only marginally higher than that of students born in Australia (around 75 per cent), this still meant that a majority of overseas-born students could avoid their HECS obligations by leaving the country. The article concluded that such students should be required to pay their HEC up-front.

The individual measures are discussed in more detail below.

1. Mandatory up-front payment of HEC by certain non-citizens

The Bill will require certain Australian permanent residents (ie. non-citizens) who have met the residency requirements for Australian citizenship but met those requirements one year or more prior to enrolment to pay their HEC contributions up-front. This move is estimated to save $1.7m in 1995-96, $3.5m in both 1996-97 and 1997-98, and $3.6m in 1998-99. DEET estimates that in 1996 there will be around 2200 permanent residents who will be required to pay up-front.

The removal of the right to defer HEC payments for non-citizens represents a change to the usual eligibility criteria for Commonwealth Government benefits. Permanent residency is generally all that is required for the receipt of Social Security benefits (although some require long residence periods). There is even some capacity in the Social Security system for temporary residents to receive Special Benefits.

However, it should be noted that non-citizens who are permanent residents still receive a benefit through HECS unavailable to foreigners, who are required to pay overseas student fees. The Commonwealth Government requires universities to set these fees at a level that will cover the full average cost of the course, whereas HECS represents about 20% of the average cost of a place. For example, in 1994 the HEC was $2355 while the indicative minimum fees for overseas students ranged from $7650 (Law, Business, Arts) to $15750 (Medicine, Dentistry).

2. Mandatory up-front payment of HEC by certain New Zealanders

The Bill will require certain New Zealand citizens (other than those who are also Australian citizens or who hold a permanent visa) who have met the residency requirements for Australian citizenship but met those requirements one year or more prior to enrolment to pay their HEC contributions up-front. The Budget
estimates the savings from this measure at $0.1m in 1995-96, $0.3m in 1996-97, $0.5m in 1997-98 and $0.6m in 1998-99. According to DEET, 400 students from New Zealand will be affected by this measure.

Main Provisions

Grants

Item 2 of the Schedule - Section 17 of the Higher Education Funding Act 1988 (the Principal Act) sets out the total grants payable to institutions as recurrent grants for operating purposes. Item 2 varies the maximum grant payable to tertiary education institutions for 1996 and inserts the maximum grant amounts for 1997 and 1998. Item 2 varies the maximum grant payable for 1996 from $3,755,378,000 to $3,781,575,000 and inserts the maximum grants payable for:

1997 - $3,834,297,000; and
1998 - $3,844,309,000.

Item 3 of the Schedule - Section 20 of the Principal Act sets out the maximum grants payable to tertiary education institutions for superannuation expenses. Item 3 inserts the maximum grants payable for:

1997 - $73,009,000; and
1998 - $73,009,000.

Item 4 of the Schedule - Section 22A sets out the maximum grants payable to open learning organisations. Item 4 inserts the maximum grants payable for:

1997 - $211,000; and
1998 - $211,000.

Item 5 of the Schedule - Section 23C of the Principal Act varies the maximum grants payable in 1995 and 1996 to maintain or enhance the quality of higher education, projects of national priority, special research assistance, advanced engineering, and inserts the maximum grants payable for 1997 and 1998. Item 5 varies the maximum grants payable for:

1995 $499,269,000 to $441,397,000;
1996 $471,941,000 to $492,195,000; and inserts the maximum grants payable for:

1997 $476,196,000; and
1998 $453,482,000.
Item 6 of the Schedule - Section 24 of the Principal Act limits grants in respect of teaching hospitals. Item 6 inserts the grant limits for:

1997 $4,734,000; and
1998 $4,734,000.

Item 7 of the Schedule - Section 27A of the Principal Act deals with grants for special capital projects. Item 7 varies the maximum grant payable for:

1996 $36,328,000 to $36,893,000; and inserts the maximum grants payable for:
1997 $36,893,000; and
1998 $36,893,000.

Discount on Voluntary Payments of Debts

A new section 106PA, dealing with the repayment of certain HEC debts, is inserted in the Principal Act by item 11 of the Schedule.

Basically, proposed section 106PA provides discounts for the repayments of certain HEC debts, other than a HEC assessment debt. Specifically, where the amount of a debt is between $435 and $500, the debtor will be taken to have paid off all the debt if they pay $435 [proposed subsection 106PA(2)].

A discount will also be available where a person has a debt or $500 or more. Where this situation applies, a person will be taken to have paid off all the debt if they pay an amount in accordance with the formula set out in proposed subsection 106PA(3). The formula reduces a debt by 15%.

Proposed subsection 106PA(4) provides that where a person pays an amount of $500 or more in part settlement of a debt, the remaining debt is to be reduced by an amount worked out in accordance with the formula set out in proposed subsection 106PA(4). Basically, the formula reduces the total outstanding debt of a person by 15%.

Voluntary Repayments of Accumulated HEC Debt

A new Division 1A, dealing with the repayments of HEC debt, is inserted in Part 5A of the Principal Act by item 15 of the Schedule.

Basically, the proposed Division allows a person who has made an election to make payments in reduction of their accumulated HEC debt. Where such an election is made they will be liable to pay in reduction of their relevant debt an amount equal to a maximum of 2% of their HEC repayment income. The term 'relevant debt' is defined by proposed subsection 106PC(3) to mean a person's accumulated HEC debt, or amount remaining after reduction. A person's 'HEC repayment income' is defined by item 13 of the Schedule to mean either: for
the financial year ending 30 June 1996 or any preceding financial year, their taxable income; or for the financial year ending 30 June 1997 or any subsequent year, their taxable income, less certain deductions (eg. the deduction on interest on money borrowed to finance rental property investments).

The maximum 2% repayment option will only apply to a person who:

- has made an election;
- has not revoked the election;
- the HEC repayment income for a financial year exceeds the prescribed amount for that year, but does not exceed the minimum prescribed amount; and
- on 1 June preceding an assessment of their income for the year, the person had an accumulated HEC debt (proposed subsection 106PC(1)).

The term 'prescribed amount' is defined by proposed subsection 106PC(5) to mean $20,000 for the year income ending 30 June 1996, or in the case of subsequent years an amount worked out using the specified formula.

Proposed subsection 106PC(2) provides that the first time a person becomes liable to pay a maximum of 2% of HEC repayment income, an amount equal to 10% of their relevant debt is taken to been paid in reduction of that debt (proposed subsection 106PC(2)).

Mandatory Up-Front Payment of HEC for Certain New Zealanders and Non-Citizens

A new subsection 41(2) is inserted in the Principal Act by item 23 of the Schedule which prohibits a higher education institution from enrolling an excepted student unless the student has paid the full HEC.

Currently, subsection 41(3) of the Principal Act defines an 'excepted student' as:

- a student who is a New Zealand citizen enrolled as an external student resident outside Australia, or who has been resident in Australia for less than two continuous years; or

- a student who is entitled to stay in Australia, or enter and stay in Australia, without any time limits, and will be resident outside Australia for the duration of their course for a reason other than a requirement of the course.

This definition is replaced by a new definition of 'excepted students' inserted in the Principal Act by item 33 of the Schedule. The effect of the proposed definition, in conjunction with proposed subsection 41(2) [see item 23] is to require the following students to pay HEC upfront:

- a student who on enrolment is a New Zealand citizen, other than a New Zealand citizen who:
- is also an Australian citizen; or
- is the holder of a permanent visa and does not on enrolment satisfy the prescribed residency requirements, or on enrolment day satisfied the prescribed residency requirements and did so within the 12 months preceding enrolment; or

• a student (other than a New Zealand citizen) who:
  - is a permanent resident; and
  - on enrolment satisfies the prescribed residency requirements, and did so more than one year before enrolment; or

• a student (other than a New Zealand citizen) who:
  - is a permanent resident; and
  - will be resident outside Australia for the duration of their course for a reason other than a requirement of the course.

The term 'prescribed residency requirements' is defined by item 34 of the Schedule to mean that the person on a particular day:

• should have been a permanent resident for a period of, or periods amounting to, not less than one year in the two years immediately preceding that day; and
• should have been a permanent resident for a period of, or periods amounting to, not less than two years during the five years immediately preceding that day.

In plain 'English' item 34 of the Schedule requires an aggregate residency period of two years during the last five years, and also one years residency during the immediate past two years. These residency requirements are identical to those required under section 13 of the Australian Citizenship Act 1948.

**Repayment Thresholds**

Section 106Q of the Principal Act sets income thresholds at which a person becomes liable to repay their HEC debt and the percentage of their income payable in respect of that debt. The main effect of item 18 of the Schedule is to insert a new table in the Principal Act which sets four new income thresholds and percentages of income payable. The new income thresholds are worked out using the formulas proposed by item 19 of the Schedule. The new percentages are 2.5%, 4.5%, 5.5% and 6%.
HEC Exemption Scholarships for Professional Development of Teachers

Subsection 35(7) of the Principal Act sets out who are exempt students. Exempt students do not have to pay the HEC. The effect of item 31 of the Schedule is to remove the exemption applying to students who are the holders of a Commonwealth scholarship for the professional development of teachers.

The Bill will remove the exemption from HEC for holders of scholarships for the professional development of teachers. Under this program 4000 scholarships were made available each year since 1989 to teachers employed in Australian schools. The program was reviewed in 1994 and it was decided that funding for 4000 scholarships in 1995 would be provided but that the future of the program would be determined in the 1995-96 Budget. It was announced in the Budget that the program would be ended from 1996 with a saving of $4.82m each financial year.

Endnotes