THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HIGHER EDUCATION SUPPORT AMENDMENT (INDEXATION) BILL 2010

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Education, the Honourable Julia Gillard MP)
HIGHER EDUCATION SUPPORT AMENDMENT (INDEXATION) BILL 2010

OUTLINE

The purpose of the Bill is to provide for an amendment to section 198-20 of the Higher Education Support Act 2003 (HESA) to specify the revised indexation arrangements under Part 5-6 of the Act.

Revised indexation arrangements under Part 5-6 of HESA resulted from the Australian Government’s acceptance of recommendations arising from the Review of Australian Higher Education (the final report of the Review was released in December 2008) and involves replacing the Safety Net Adjustment wage price index with the Professional, Scientific and Technical Services wage price index published by the Australian Statistician.

This amendment provides the higher education sector with details of the revised indexation formula and its components and will provide greater clarity on indexation arrangements under Part 5-6 of HESA.

FINANCIAL IMPACT

There is no financial impact associated with this amendment.
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NOTES ON CLAUSES

Clause 1 - Short title

Provides for the Act to be cited as the Higher Education Support Amendment (Indexation) Act 2010.

Clause 2 - Commencement

Provides that the Act commences on 1 January 2011.

Clause 3 - Schedule(s)

Provides that each Act that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule and that any other item in a Schedule has effect according to its terms.

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

Schedule 1— Amendments

**Summary**

This Schedule amends HESA to provide details of the formula to be used for revised indexation arrangements.

**Background**

HESA includes provision for the indexation of amounts under the Act, but does not specify the formula for the calculation of indexation adjustments. With the introduction of revised arrangements for indexation, provisions in HESA are to be revised to provide details of the formula to be used.

**Explanation of the changes**

*Higher Education Support Act 2003*

**Item 1 – Section 198-5**

Repeals and substitutes section 198-5 of HESA, which consists of a table that specifies those amounts under HESA that are to be indexed.

New section 198-5 does not change any of the amounts that are to be indexed. The changes made by Item 1:

- renumber the items in the table; and
- remove the last column in the table which specifies the first year in which indexation occurred.

**Item 2 – Subsection 198-10(1)**

Repeals and substitutes subsection 198-10(1). This is a consequential amendment to Item 1, which removes the last column of the table in section 198-5 referring to the first year of indexation (which was 2005, 2006 or 2007 depending on the amount to be indexed).

Item 2 inserts new subsection 198-10(1) which provides that amounts are to be indexed on 1 January 2012 and on the same date annually thereafter by multiplying them by the indexation factor for the year in question.
Item 3 – Section 198-20

Repeals and substitutes section 198-20 of HESA, which concerns the meaning of index number.

New subsection 198-20(1) provides that the index number (for the purpose of indexing the amounts in the table in section 198-5) is the Higher Education Grants Index number for the relevant year, as published by the Minister in the Gazette.

New subsection 198-20(2) provides that the Higher Education Grants Index number for a year is to be made up as follows:

- 25 per cent of the amount of movement in the All Groups Consumer Price Index for the weighted average of the 8 capital cities. This is to be based on index numbers published by the Australian Statistician for each quarter in the indexation period in question.

- 75 per cent of 90 per cent of the amount of movement in the Professional, Scientific and Technical Services Labour Price Index. This is to be based on index numbers published by the Australian Statistician for each quarter in the indexation period in question.

New subsection 198-20(3) makes provision for the Australian Statistician publishing a replacement index number for a particular quarter. If this happens, subsection 198-20(3) will, subject to subsection 198-20(4), allow regard to be given to the later published index number for the purpose of calculating the Higher Education Grants Index Number for a year.

New subsection 198-20(4) makes provision for the Australian Statistician making changes to the reference base for the All Groups Consumer Price Index or the Professional, Scientific and Technical Services Labour Price Index. If this happens, subsection 198-20(4) provides that, for the purpose of applying subsection 198-20(4) after the change occurs, regard should be had to the index numbers that are published using the new reference base.

The effect of new subsection 198-20(5) is to re-set the indexation clock with respect to the 2012 year by deeming the index number for 2011 to be 1. Thus, when applying section 198-10 to the amounts to be indexed under section 198-15 for the 2012 calendar year, the index number to be used when working out the calculation is 1.

New subsection 198-20(6) provides that a notice in the Gazette specifying an index number is not a legislative instrument. This provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the Legislative Instruments Act 2003.

New subsection 198-20(7) will provide a definition of indexation period for the purpose of section 198-20. Indexation period will mean each calendar year beginning on 1 January 2010 and ending on 31 December of the calendar year before the immediately preceding calendar year. Section 22 of the Acts Interpretation Act 1901 defines ‘calendar year’ as meaning a period of 12 months commencing on 1 January.
Item 4 – Section 198-25

Repeals section 198-25 of HESA, which concerns undertaking a review of indexation mechanism for the Commonwealth funding of universities from 2007/08.

The Review of Australian Higher Education conducted by an independent expert panel, led by Emeritus Professor Denise Bradley AC (the final report of which was released in December 2008), has rendered section 198-25 redundant.

Item 5 – Subclause 1(1) of Schedule 1

Item 5 is a consequential amendment to Item 3 and provides that indexation period has the same meaning as given by new subsection 198-20(7).

Item 6 – Application

Item 6 is an application provision which provides that the amendments made by this Schedule (with the exception of Item 4 concerning the repeal of section 198-25 of HESA) apply to the publication of the Higher Education Grants Index number published by the Minister in the Gazette for 2012 and later years.