

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**HIGHER EDUCATION FUNDING LEGISLATION AMENDMENT BILL 1994**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Employment, Education and Training, the  
Hon Simon Crean, MP)



## HIGHER EDUCATION FUNDING LEGISLATION AMENDMENT BILL 1994

### OUTLINE

The *Higher Education Funding Act 1988* makes provision for grants of financial assistance to higher education institutions and other bodies for higher education purposes, establishes the Higher Education Contribution Scheme (HECS) and the Open Learning Deferred Payment Scheme (OLDPS) and makes provision for the repayment of monies lent by the Commonwealth to students under those Schemes.

The purpose of this Bill is to amend the *Higher Education Funding Act 1988* to implement the Budget decision to make changes to the Higher Education Contribution Scheme - HECS - to bring forward the repayment of HECS liabilities by introducing a pro-rata payment threshold at which students who leave full-time education for the first time are required to begin repaying those liabilities.

The Bill's provisions thus include an amendment to repayment arrangements for certain students under HECS. The measure, which will come into effect on 1 January 1995, will require that people who leave full-time education for the first time have their HECS debt for that financial year calculated on a pro-rata basis in accordance with the proportion of the year spent in the work force.

This provision, which is estimated to bring forward \$15 million in HECS revenue in the period 1995-96 to 1997-98 alone, will shorten the repayment period for affected students without increasing the size of the debt for any person.

The Bill also amends the *Higher Education Funding Act 1988* to:

- remove the restriction on the number of units for which an eligible client under the Open Learning Deferred Payment Scheme (OLDPS) may defer payment in the first semester of study;
- clarify that the amount of basic charge payable by students under OLDPS for a study unit in the December/March semester is the amount payable in the following semester;
- amend the maximum level of grant funding available under certain provisions of the Act to reflect the revised amount available following verification of relevant HECS information and to provide for the transfer of funds to the *Aboriginal Education (Supplementary Assistance) Act 1989*; and
- make a minor change to the definition of "overseas student" to ensure that members of foreign armed forces studying in Australia pay full fees rather than HECS.

The Bill also makes technical amendments to the *Higher Education Funding Amendment Act (No. 2) 1992* and the *Higher Education Funding Amendment Act 1994*.

### FINANCIAL IMPACT

The amendment to section 17(e) to increase the maximum level of grant funding which can be provided by the Commonwealth is offset by a lower than anticipated Commonwealth contribution required to discharge student liabilities in 1993 enabling a transfer from the Higher Education Trust Fund. The savings from the introduction of the pro-rata threshold for HECS are estimated to be \$5m for each of the years 1995-96, 1996-97 and 1997-98. The other amendments are not expected to have a significant financial impact.

## NOTES ON CLAUSES

### PART 1 - PRELIMINARY

#### Clause 1 - Short Title

**Clause 1** sets out the short title of the proposed Act.

#### Clause 2 - Commencement

**Clause 2** sets out the dates on which various provisions of the Act commence.

Under **Clause 2(1)**, Parts 1 and 2 (other than Clauses 5(b) and 5(c)), Clause 12 and Clause 19 of the Act commence on the day on which the Act receives Royal Assent. **Clause 2(2)** provides for Clauses 5(b) and 5(c) to commence on 1 January 1995.

**Clauses 2(3) to 2(6)** provide for the retrospective amendment of various provisions of the Bill. The provisions concerned correct minor drafting anomalies in amendments contained in previous Acts which have amended the *Higher Education Funding Act 1988*. For example, the provisions correct misdescriptions of provisions being amended. The amendments commence retrospectively to ensure the correct operation of the original amending provisions.

### PART 2 - AMENDMENTS OF THE HIGHER EDUCATION FUNDING ACT 1988

#### Clause 3 - Principal Act

**Clause 3** identifies the *Higher Education Funding Act 1988* as the Principal Act for the purposes of Part 2.

#### Clause 4 - Definitions

Section 3 of the Principal Act contains definitions of terms used in that Act.

**Clause 4** amends the definition of "overseas student" in section 3 of the Principal Act. In Chapter 4 of the Principal Act, which provides for the Higher Education Contribution Scheme, subsection 39(1) of the Act requires certain higher education institutions to require each contributing student to pay a contribution towards the student's cost of study. The definition of "contributing student" in subsection 34(1) excludes an 'exempt student' from this requirement. Subsection 35(4) makes an overseas student an exempt student.

Paragraph (f) of the definition of "overseas student" in section 3 excludes from that definition "a member of the armed forces of the Crown who has entered Australia in the course of his or her duties".

The armed forces of the Crown are the armed forces of those countries which are members of the Commonwealth and acknowledge the Queen as Head of State, and

members of these armed forces are regarded for migration purposes as temporary residents.

As it would be more appropriate to regard students falling within paragraph (f) of the definition of "overseas students" as full fee-paying students, rather than as HECS liable students, **Clause 4** removes paragraph (f) from the definition of "overseas student".

### **Clause 5 - Maximum grants**

Section 17 of the Principal Act sets out the minimum levels of grant funding which can be paid to certain higher education institutions for expenditure for operating purposes under sections 15 and 16 of that Act.

**Clause 5(a)** amends section 17(e) to increase the amount of maximum grant available for operating purposes in 1993. This increase reflects the revised amount available to be provided to institutions following verification of the HECS information provided by institutions upon which the level of grant funding is based.

**Clause 5(b) and Clause 5(c)** respectively amends section 17(g) and 17(h) to transfer amounts appropriated under the *Higher Education Funding Act 1988* to the *Aboriginal Education (Supplementary Assistance) Act 1989* to increase Commonwealth funding of the Aboriginal Education Strategic Initiatives Program for 1995 and 1996 to support tertiary education provision in remote areas.

### **Clause 6 - Eligible Clients**

Chapter 5 of the Principal Act provides for the Open Learning Deferred Payment Scheme.

The Open Learning Deferred Payment Scheme is available to Australian citizens (section 101(1)(d)(i) of the Principal Act) and Australian permanent residents living in Australia who are entitled to stay in Australia without any limitation as to time (section 101(d)(ii)). It was intended that New Zealand citizens only be entitled to participate in the Scheme if they have been living in Australia for a continuous period of at least two years (section 101(d)(iii)). The period of residence rule also applies in relation to HECS and was introduced in 1993 to reduce the possibility of New Zealand citizens returning home after their studies without paying their HECS contribution.

Section 101(1)(d)(iii) is intended to set out the only rule relating to eligibility of New Zealand citizens. However section 101(1)(d)(ii), as currently worded, would make it possible for a New Zealand citizen to claim he or she fits the category of permanent resident i.e., "a person who is present in Australia and is entitled to stay in Australia, without any limitation as to time" and as a result avoid the minimum period of residency rule set out in section 101(1)(d)(iii).

**Clause 6** amends section 101 of the Principal Act to ensure that New Zealand citizens must satisfy the residency rule in order to be eligible for the scheme.

**Clauses 7, 9, 10 and 11 - Amendment of the Open Learning Deferred Payment Scheme to clarify the amount of basic charge payable by students under OLDPS for a unit in the December/March semester**

Under the Open Learning Deferred Payment Scheme (OLDPS), students must undertake units over two consecutive study periods, called "a semester" for the purposes of the Scheme. As there are four intakes in a year in the Open Learning program - in March, June, September and December, it is possible for students to apply for the deferred payment scheme for the December/March "semester".

The level of charge for units of study is set on a calendar year basis. As a result, the level of charge to be applied in a semester which spans two calendar years, i.e., the September/December and December/March "semesters", is the charge applying in the first of the two years.

This arrangement as it affects the December/March semester is contrary to the manner in which the HECS Scheme operates, which provides that the HECS liability for summer schools spanning two calendar years is calculated at the HECS rate applying in the later year. The amendments made by **Clauses 7, 9, 10 and 11** are intended to bring the OLDPS arrangement into line with the HECS practice in recognition that most of the Open Learning study in the December/March semester is undertaken in the second year.

**Clause 7** repeals section 102 as a consequence of the amendment made by Clause 9(1).

Section 104 of the Principal Act sets out the rules for determining the basic charge under OLDPS.

**Clause 9(1)** repeals section 104 and substitutes a new section 104. New section 104(1) defines "Agreement" for the purposes of the section to mean the Agreement between the Commonwealth and the Agency referred in section 100 of the Act, or, where the Agreement has been or is amended, that Agreement as amended and in force from time to time.

New section 104(2) provides that a reference in this Part to the basic charge in respect of a unit of study for which an eligible client of the Agency is enrolled in a study period is a reference to an amount that, under the Agreement, the Agency may charge, in respect of the unit of study, for the materials, services and experiences that the Agency must provide to enable the client to enrol for, and complete the unit of study.

New section 104(3) provides that the Minister must cause to be published in the Gazette, before the beginning of December in each year, the basic charges applicable for the March, June and September study periods of the following year, and in relation to the December study period of that year (paragraph 104(3)(c)), the basic charge for eligible clients:

- (i) who are participating in the deferred payment scheme and for whom the

December study period is the second study period in a semester (paragraph 104(3)(a)); or

- (ii) who are participating in the deferred payment scheme and for whom the December study period is the first study period in a semester (paragraph 104(3)(b)).

In effect, the basic charge for eligible clients for whom the December study period is the second study period of the semester will be the same as that which applied in the previous study period. The basic charge for eligible clients for whom the December study period is the first study period of the semester will be the same as that which applies to the following, March, June, and September study periods.

**Clause 9(2)** is a transitional provision which provides that if the Minister had not, before the commencement of the Clause, caused to be published in the Gazette under section 104(3) of the Principal Act the basic charge (within the meaning of that Act) in respect of the semesters in the year 1994, the Minister must cause that charge to be so published as soon as practicable after that commencement.

**Clauses 10 and 11** respectively make consequential changes to sections 106 and 106D of the Principal Act as a consequence of the amendment made by Clause 9(1).

**Clause 8 - Amendment to the Open Learning Deferred Payment Scheme to remove the restriction on the number of units for which an eligible client may defer payment in the first semester**

Under the Open Learning Deferred Payment Scheme, an eligible client may defer payment of the basic charge for units of study up to the standard study load (section 106).

The 'standard study load' is defined in section 103(2) to be 4 study units for the first semester for which the client enrolls and 8 study units for any 2 consecutive semesters (section 103).

**Clause 8(1)** amends section 103 by inserting a new section 103(2) which provides that the standard study load of an eligible client of the Agency in respect of a semester for which the client enrolls is the number of units of study for which the client enrolls, together with the number of units of study for which the client was enrolled in the previous semester (if any) which equals 8 units, thereby removing the rule in relation to the standard study load of an eligible client for the first semester for which he or she enrolls.

**Clause 8(2)** is an application provision which provides that the amendment made by Clause 8(1) applies to an eligible client of an Agency in respect of the first semester for which he or she enrolls after the commencement of this section and in respect of all later semesters.

## Clause 12 - Insertion of new Division

**Clause 12(1)** inserts new Division 2A into the Principal Act to bring forward the repayment of HECS liabilities by introducing a pro-rata payment threshold at which people leaving full-time education for the first time are required to begin repaying Higher Education Contribution Scheme debts, in accordance with the proportion of the year spent in the workforce.

Section 106Q provides for the calculation of compulsory payments on a "stepped basis" in respect of an accumulated Higher Education Contribution Scheme (HECS) debt where the taxable income of a person in respect of a year of income exceeds the minimum prescribed amount determined in accordance with section 106Q(4).

Division 2A will apply to people leaving full-time education for the first time from 1 January 1995 and will mean that, subject to certain provisions related to earnings before ceasing full-time education, the amount required to be paid by a person in respect of an accumulated HEC debt under section 106Q of the Act in a year of income in which he or she first ceases full-time education will be calculated on a proportionate basis having regard to the period that the taxpayer is effectively a member of the workforce. The measure will be consistent with the provisions of sections 16 - 20 of the *Income Tax Rates Act 1986*.

### General Outline

Pro-rating of the amount required to be paid by a person in respect of an accumulated HEC debt will apply in a year of income where a person first ceases to be enrolled or undertaking a designated course of study on a full-time basis at an institution. However, a person will still be considered to be engaged in a designated course of study if he or she is on a vacation break in that course, or is enrolled or undertakes a designated course of study on a full-time basis that starts within 4 months of finishing an earlier course.

Where a person ceases to be enrolled in or undertaking a designated course of study on a full-time basis within 4 months of the end of a year of income, and is therefore not otherwise enrolled in or undertaking such a course at the end of the year of income, he or she will, nevertheless, not be subject to pro-rating in the relevant year of income if he or she enrolls or undertakes another designated course of study on a full-time basis within 4 months of the cessation of the earlier course. In this way, pro-rating will not apply to persons who cease to be enrolled in or undertaking a designated course of study on a full-time basis near the end of a year of income but who enrol in, or undertake another course again on a full-time basis for the next semester that may start after the end of the year of income.

However, persons who complete a designated course of study on a full-time basis will be subject to pro-rating if they are not engaged in a further course at the end of the year of income and do not satisfy the 4 month rule, even though they may commence a further course of full-time education at some later date.



Where pro-rating applies to a person who ceases to be enrolled in or undertaking a designated course of study on a full-time basis in a year of income, the taxable income threshold above which a person will be required to make a payment in respect of an accumulated HEC debt will be one-twelfth of the minimum prescribed amount determined in accordance with subsection 106Q(4), multiplied by the number of months the person was not engaged in a course of full-time education in the year of income. Pro-rating will also apply in relation to the intermediate and maximum prescribed amounts. For this calculation, the month in which a person ceases to be enrolled or undertaking a designated course of study will be taken as a month when he or she was not enrolled in or undertaking a course of study on a full-time basis.

This adjusted threshold, otherwise available for the year of income, is to be increased where the person received income during the year that relates to the period when he or she was enrolled in or undertaking a designated course of study on a full-time basis. Generally, the level of the threshold otherwise available will be increased by the amount, up to the level of the balance of the annual threshold, equal to the part of the taxable income of the year of income that relates, or is deemed to relate, to the period while in full-time education.

Pro-rating of the threshold as a consequence of ceasing full-time education will only occur once in a person's lifetime. Where at any time in an earlier year of income a person has fulfilled the tests for the operation of pro-rating, he or she will not be subject to their application in a subsequent year of income.

#### New section 106QA: Interpretation

New section 106QA defines a number of terms used in new Division 2A. Apart from the definitions which are self-explanatory, these are:

"beneficiary" is defined in relation to a trust estate to include a person who is capable of benefiting under the trust. The definition is relevant to new section 106QC (see later notes on that provision) and the determination of the period in a year of income when a person is a beneficiary of a trust estate.

"partial threshold month" is a term that will identify the month or months during a year of income that are to be taken into account in determining the HECS threshold. It will mean a month in the year of income in which the whole or a part of a part-year workforce period (see note on new section 106QB) in relation to a person in relation to a year occurs.

"related deductions" is a term used in new section 106QC for the purpose of calculating the amount (if any) of pre-workforce income (see notes on that provision) that may contribute to the amount of a person's HECS threshold determined under new section 106QD. By the definition, a related deduction, in relation to a particular kind of assessable income of a person of a year of income, means:

deductions allowed or allowable under the *Income Tax Assessment Act 1936* to the person in the year of income that relate exclusively to assessable income of that kind; and

- so much of any other deduction allowed or allowable under that Act to the person in the year of income as may appropriately be related to assessable income of that kind.

"salary or wages" is defined for the purposes of the operation of new section 106QC in determining pre-workforce income. See notes on new section 106QC. It means assessable income that is salary or wages for the purposes of the PAYE tax instalment deduction provisions of the *Income Tax Assessment Act 1936*.

"study period" is defined for the purposes of the operation of section 106QC in determining pre-workforce income. It means the period in a year of income commencing at the start of the year and ending on the day on which a person first ceases a designated course of study on a full-time basis at an institution, such as to satisfy the terms of new section 106QB in calculating a "part-year workforce period".

New subsection 106QA(2) is an interpretative provision relevant to the operation of section 106QB and will assist in determining whether a person has ceased to be engaged in a designated course of study on a full-time basis or is still engaged in a course at the end of the year of income. New paragraph 106A(2)(a) specifies that a person will be taken to be engaged in a course of full-time education where he or she is on a vacation break in the particular course. New paragraph 106A(2)(b) stipulates that a person enrolled in a course of education is deemed to be engaged in that course.

#### New section 106QB: Part-year workforce period

New section 106QB contains the rules for calculating a "part-year workforce period" in relation to a person in relation to a year of income. The pro-rated part of the taxable income threshold above which a person begins to repay their HECS debt is to be calculated having regard to the number of months in the year of income ("partial threshold month" defined in new subsection 106QA(1)) where a "part-year workforce period" subsists.

New subsection 106QB(1) provides that a "part-year workforce period" in relation to a person occurs in a year of income where:

- on an occasion (or on two or more occasions) in the income year the person ceased to be enrolled in or undertaking a designated course of study at an institution on a full-time basis (paragraph (a));
- the person was not engaged in such a course at the end of the year of income (paragraph (b)); and

where the occasion, or the last of the occasions referred to in (a) (i.e., the cessation of full-time education) occurs in the last 4 months of the year of income, the taxpayer is not at any time in the 4 month period after that occasion engaged in a designated course of study at an institution on a full-time basis (paragraph (c)).

A "part-year workforce period" will generally occur in a year of income where a person ceases a designated course of study for the first time and is not engaged in such a course at the end of the year, that is, after ceasing education the person is in employment, is unemployed, or is on holidays prior to commencing employment.

A "part-year workforce period" will not arise because the circumstances in paragraphs (a) and (b) are satisfied but only if paragraph (c) also applies. As a result, a "part-year workforce period" will not occur in a year of income if a person ceases a course within the last 4 months of a year of income and commences another such course within 4 months of the cessation of the earlier course.

Where a "part-year workforce period" for a person occurs in a year of income, the period will run from the first day of the month in which the taxpayer ceased to be enrolled or undertaking a designated course of study, or if he or she ceased to be engaged in such a course on more than one occasion during the year, the first day of the month in which the last occasion occurs (paragraph (d)) until the end of the year of income (paragraph (e)).

New subsection 106QB(2) will operate where pro-rating of the threshold on account of ceasing full-time education would have applied to a person in a preceding year of income, i.e., a "part year workforce period" occurred in an earlier period of income (whether either before or after the commencement of this Division). In such a case, a "part year workforce period" shall be deemed not to have occurred in the current year of income - in effect, where a person is subject to pro-rating in an income year because of ceasing education or would have been subject to pro-rating if the provisions had operated at the time when he or she first ceased full-time education, pro-rating for that reason will not apply to a person in the later income year.

New subsection 106QB(3) provides that pro-rating because of ceasing education will not apply if the period of a "part-year workforce period" in a year of income is the whole of a year of income. In practice this would be where the person ceased education in July of the relevant income year. However, the full-year period must still be treated as a "part-year workforce period" so that pro-rating will not apply in a later year.

#### New section 106QC: Pre-workforce income

New section 106QC sets out the basis for calculating the amounts of "pre-workforce income" derived by a person in a year of income. Such income will only be derived in a year of income where there is a part-year workforce period in the year of income, i.e., the person ceased full-time education in that year. The total of the amounts of pre-workforce income derived by a person in a year of income, i.e., the income deemed to be derived by a person in the study period in that year of income, is relevant for

determining the amount of the HECS taxable income threshold for a particular year. In effect, the "pre-workforce income", subject to an upper limit, will be added to the threshold otherwise available to a person because of pro-rating on account of "partial threshold months" to obtain the total taxable income threshold to be used to calculate his or her compulsory payment in respect of their accumulated HEC debt under section 106Q.

In the calculation of "pre-workforce income", assessable income of a particular kind will be reduced by deductions that relate exclusively to, or may be appropriately related to, that kind of income. These deductions are defined in new section 106QA as "related deductions" - see earlier notes on this provision.

New section 106QC will allocate the income of a person for a year of income to his or her study period in the income year to determine the amount of "pre-workforce income" derived in the study period. The term "study period" is also defined in section 106QA and, broadly, is the period in a year of income before the person ceased full-time education.

The following amounts will be pre-workforce income in a year of income -

assessable income derived by way of salary or wages in the study period  
reduced by any related deductions (new subsection 106QC(2));

assessable income derived by way of the proceeds of a business carried  
on by the person alone during the study period, calculated in  
accordance with the formula

$$\frac{\text{Reduced assessable income}}{\text{Business period}} \times \frac{\text{Business part of study period}}{\text{Business period}}$$

where:

"Reduced assessable income" is the amount of assessable income derived from the business reduced by any related deductions;

"Business part of study period" is the number of days in the study period when the business was carried on by the person alone;

"Business period" is the number of days in the period during the year of income when the business was carried on by the person alone (new subsection 106QC(3)).

- assessable income from the net income of a partnership, where the person was a partner during the study period, reduced by any related deductions and apportioned on a similar basis as applies in new subsection 106QC(3) (new subsection 106QC(4))

assessable income included under section 97, 98A, 99B, or 100 of the *Income Tax Assessment Act 1936*, where the person was a beneficiary (see earlier notes on definition of the term under new section 106QA) in the

relevant trust estate during the study period, reduced by any related deductions, and apportioned in a similar basis as in new subsection 106QC(3) (new subsection 106QC(5))

any other assessable income derived in the year of income, not covered by new subsections 106QC(2) to (5) (e.g., interest or dividends), reduced by any related deductions and apportioned on the basis that the number of days in the study period bears to the number of days in the year of income (new subsection 106QC(6)).

#### New subsection 106QD: Pro-rating of the HECS threshold

New section 106QD sets out the basis of calculating the amount of the HECS threshold for a person, i.e., the total taxable income threshold to be used to calculate his or her compulsory payment in respect of their accumulated HEC debt under section 106Q, where there are one or more partial threshold months (as defined in new subsection 106QA) in relation to that person in that year of income.

Where pro-rating is to operate in relation to a person in a year of income the thresholds in section 106(4)(a), (b) and (c) (i.e., the minimum prescribed amount, the intermediate prescribed amount and the maximum prescribed amount) are to be replaced by an amount calculated in accordance with the following formula:

in the case of the minimum prescribed amount under paragraph 106Q(4)(a)(ii):

$$\frac{\text{Previous} \text{ (minimum prescribed amount)}}{12} \times \text{Partial threshold months} + \text{pre-workforce income}$$

("Previous minimum prescribed amount" is defined in new subsection 106QD(2) to mean the amount that, but for Division 2A, would be the minimum prescribed amount in respect of a year of income under paragraph 106Q(4)(a)(ii))

in the case of the intermediate prescribed amount under paragraph 106Q(4)(b)(ii):

$$\frac{\text{Previous} \text{ (intermediate prescribed amount)}}{12} \times \text{Partial threshold months} + \text{pre-workforce income}$$

("Previous intermediate prescribed amount" is defined in new subsection 106QD(2) to mean the amount that, but for Division 2A, would be the intermediate prescribed amount in respect of a year of income under paragraph 106Q(4)(b)(ii))

in the case of the maximum prescribed amount under paragraph 106Q(4)(c)(ii):

$$\frac{\text{Previous maximum prescribed amount}}{12} \times \text{Partial threshold months} + \text{pre-workforce income}$$

("Previous maximum prescribed amount" is defined in new subsection 106QD(2) to mean the amount that, but for Division 2A, would be the maximum prescribed amount in respect of a year of income under paragraph 106Q(4)(c)(ii))

"Pre-workforce income" is defined in new subsection 106QD(2) for the purposes of the formulae in new subsection 106QD(1) to mean so much of the amount of pre-workforce income (if any) derived by the person in the year of income as does not exceed the amount worked out using the formula:

$$\frac{\text{Previous amount}}{12} \times \text{Pre-workforce period}$$

"Previous amount" is defined in new subsection 106QD(2) so that it has the same value, for the purposes of the expression "pre-workforce income" as the expressions "previous minimum prescribed amount", "previous intermediate prescribed amount" and "previous maximum prescribed amount" have in relation to new paragraphs 106QD(1)(a), 106QD(1)(b) and 106QD(1)(c).

The application of the foregoing rules is explained in the following example.

A student ceases a designated course of study on a full-time basis on 1 January 1995 and

earns \$8000 in the period February - June 1995 and makes allowable gifts of \$45

derives wage or salary income in the period August 1994 - December 1994 of \$600 and incurs \$25 allowable outgoings in earning the income.

Assessable income =	\$600
	<u>\$8,000</u>
	<u>\$8,600</u>

Less: Allowable Deductions	\$70
Taxable Income	<u>\$8,530</u>

HECS threshold -

(a) $\$26,853/12 \times 6$ months (from 1 January 1995 to 30 June 1995) (new section 106QD)	=	\$13,426
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plus

(b) lesser of -

pre-workforce income

$\$600 - \$25 = \$575$ ; or  
(new section 106QC(2))

$\$2237 \times 6$  (balance of annual threshold)  
= \$13,426  
(new section 106QD)

\$575  
\$14001

As the student's taxable income of \$8,530 is less than his or her pro-rata HECS threshold of \$14001, the student will not have to make HECS repayments in the 1995 - 1996 income tax year.

**Clause 12(2)** is an application provision which provides that Division 2A applies to people who cease to be engaged in a designated course of study on a full-time basis at an institution on or after 1 January 1995 in respect of assessments made in respect of the 1994-1995 year of income and all later years of income.

**PART 3 - AMENDMENTS OF THE HIGHER EDUCATION FUNDING  
AMENDMENT ACT (No. 2) 1992**

**Clause 13 - Principal Act**

**Clause 13** identifies the *Higher Education Funding Amendment Act (No. 2) 1992* as the Principal Act for the purposes of Part 3.

**Clause 14 - Repeal of section**

**Clause 15 - Amendment of section 51**

**Clause 16 Amendment of section 53**

**Clause 17 - Amendment of section 57**

**Clause 18 - Repeal and Substitution of new section 58**

**Clause 19 - Repeal and Substitution of new section 70**

The amendments effected by these Clauses make technical changes to the amendments to the *Higher Education Funding Act 1988* made by the Principal Act to correct minor drafting anomalies, such as misdescriptions of provisions being amended.

**PART 4 - AMENDMENTS OF THE HIGHER EDUCATION FUNDING  
AMENDMENT ACT 1994**

**Clause 20 - Principal Act**

**Clause 20** identifies the *Higher Education Funding Amendment Act 1994* as the Principal Act for the purposes of Part 4.

**Clause 21 - Maximum grants**

**Clause 22 - Grants for superannuation purposes**

**Clause 23 - Grants to open learning organisations**

**Clause 24 - Exempt students**

The amendments effected by these Clauses make technical changes to the amendments to the *Higher Education Funding Act 1988* made by the Principal Act to correct minor drafting anomalies, such as misdescriptions of provisions being amended.