

HIGHER EDUCATION SUPPORT BILL 2003

Amendments proposed by the National Tertiary Education Industry Union

PROPOSED AMENDMENT	EFFECT OF AMENDMENT
CHAPTER 1 – INTRODUCTION	
Division 1 – Preliminary 1-10 Identifying defined terms (6) delete item 2 in the table	This is a consequential amendment flowing from other amendments made to the Bill.
Division 2 - Objects 2-1 Objects of this Act (b) delete “and” on last line (c) add “; and” after “education” After (c) add: (d) in relation to universities, to carry out objects (a) to (c)	The effect of the amendment is to broaden the objects of the Act to take into account the unique character and role of universities in Australia and to ensure that and any recommendation, determination or decision taken under the Act recognises that unique character and role.

recognising that each *university is an independent and autonomous institution that has its own objects established by statute and its own distinct history and mission and is an institution which:

- (i) governs its own affairs, including the composition and functions of its governing bodies and its workplace and other relations with its staff, within the statutory framework under which it is established or regulated;
- (ii) is a centre of free inquiry which advances knowledge through teaching and scholarly research promoted at the highest standards;
- (iii) provides degree and post-graduate education to serve the needs of the professions and to provide highly skilled graduates able to serve the needs of society;
- (iv) promotes the importance of learning among its students and in society generally;
- (v) engages with its community in ways that enhance the social, economic and cultural life of the community;
- (vi) is committed to academic freedom, which includes promoting the questioning by its staff and students of

received wisdom and the putting forward by those staff and students of new ideas and controversial or unpopular opinions;

(vii) is free to engage in research as are its staff and students;

(viii) is free to regulate the subject-matter and content of its courses including determining what those courses are and the assessment process for those courses.

Add a new section in the following terms:

2-5 Promoting the objects of the Act

A person or body exercising any power or function under this Act shall do so in a manner which promotes the objects of this Act.

Division 3 – Overview of this Act

3-1 General

(a) delete “providers” and substitute “bodies”

3-5 Grants for higher education assistance (Chapter 2)

delete and substitute with:

The effect of this amendment is to reflect the amendments made to the Bill that, for regulatory and/or funding purposes, distinguish between different categories of higher education bodies, being universities/listed higher education institutions (those institutions listed in Table A and Table B) and higher education providers (“the new regulatory and funding structure”).

Chapter 2 sets out who are higher education bodies and for regulatory and/or funding purposes distinguishes between universities/listed higher education institutions and higher education providers. The Chapter provides for the following grants and payments:

- (a) grants under the Commonwealth Grant Scheme;
- (b) other grants for particular purposes;
- (c) grants for Commonwealth scholarships.

CHAPTER 2 – GRANTS FOR HIGHER EDUCATION ASSISTANCE

Division 8 – Introduction

8-1 What this Chapter is about

delete and replace with:

This Chapter provides for who are higher education bodies and for 3 kinds of grants to be made to some categories of higher education bodies.

Part 2-1 sets out the different categories of higher education bodies.

The effect of this amendment is to reflect the amendments made to the Bill that introduce the new regulatory and funding structure.

The section also makes reference to the establishment, role and function of a Higher Education Funding Council, and that institutions in Schedule 2 may, along with universities/listed higher education institutions receive grants under Part 2-3.

These amendments do not formally establish the Higher Education Funding Council or deal with its composition or resourcing. This could be done pursuant to further legislation.

	<p>Part 2-1A sets out the compliance and contribution requirements for universities/listed higher education institutions and how those bodies may cease to be approved as such for the purposes of the Act.</p> <p>Part 2-1B sets out the quality and accountability requirements for higher education providers and how these bodies are both approved or cease to be bodies approved for the purposes of the Act.</p> <p>A Higher Education Funding Council is established to provide advice and make recommendations on the level and distribution of grants.</p> <p>Grants are made by the Minister in accordance with specified criteria.</p> <p>The 3 kinds of grants available under this chapter are:</p> <ul style="list-style-type: none">• grants under 2-2 (Commonwealth Grant Scheme) available to universities/listed higher education institutions. Amounts of grants are based largely on the number of Commonwealth supported places that the Minister allocates to each institution. Grants are made subject to conditions; and		
--	---	--	--

<ul style="list-style-type: none"> • other grants under Part 2-3 to universities/listed higher education institutions and to other bodies corporate identified in Schedule 2, for a variety of purposes; and • grants for Commonwealth scholarships to certain higher education bodies under Part 2-4. 	
<p>Part 2-1 – Higher education providers</p> <p>delete “providers” in heading to Part 2-1 and substitute “bodies”</p>	<p>This amendment is consequential on the inclusion of the term “higher education bodies”.</p>
<p>Division 13 - Introduction</p> <p>13-1 What this Part is about</p> <p>delete and replace with:</p> <div data-bbox="266 1190 891 1305"> <p>This Part defines a higher education body to be either:</p> </div>	<p>The effect of this amendment is to introduce the definition of “higher education body” and make consequential amendments accordingly.</p>

<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> (ii) a higher education provider approved under Part 2-1B. </div> <p>13-5 The Higher Education Provider Guidelines</p> <p>delete “Provider” from heading to section 13-5 and substitute “Bodies”</p> <p>delete “Provider” from the section and substitute “bodies”</p> <p>delete “Provider” in the Note and substitute “Bodies”</p>	
<p>Division 16 – What is a higher education provider?</p> <p>Renumber as Division 14</p> <p>delete “provider” in the heading and substitute “body”</p>	<p>This amendment is consequential only.</p>
<p><i>Subdivision 16-A – General</i></p> <p>Delete</p> <p><i>Subdivision 16-B – Which bodies are listed providers</i></p> <p>Delete</p>	<p>This amendment is required as a result of other amendments made to the Bill that introduce the new regulatory and funding structure.</p> <p>This amendment is required as a result of other amendments made to the Bill that introduce the new regulatory and funding structure.</p>

<p>After new heading for Division 14 insert:</p> <p><i>Subdivision 14-A - General</i></p> <p>14-1 Meaning of higher education body</p> <p>“A higher education body is a body corporate that is either:</p> <p>(1) a *university/listed higher education institution approved under Part 2-1A; or</p> <p>(2) a *higher education provider approved under Part 2-1B”.</p>	<p>This amendment introduces the definition of higher education body.</p>
<p>Insert after new subdivision 14A:</p> <p>Part 2-1A – Universities/listed higher education institutions</p>	<p>This amendment introduces a new Part 2-1A which has application to universities/listed higher education institutions only.</p>
<p>Division 15 – Introduction</p> <p>15-1 What this Part is about</p> <div data-bbox="266 1203 889 1453"> <p>Approved universities/listed higher education institutions are listed. Universities/listed higher education institutions are subject to the compliance and contribution requirements.</p> </div>	<p>This amendment is required as a result of other amendments made to the Bill that introduce the new regulatory and funding structure. The section specifies that approved universities/higher education institutions are listed and they are subject to the compliance and contribution requirements.</p>

Subdivision 15-A –Approval of universities/listed higher education institutions

15-5 When a body becomes an approved university/listed higher education institution

A *university/listed higher education institution is approved as such from the commencement of this Act.

Subdivision 15-B – Which bodies are approved universities/listed higher education institutions?

15-10 Universities/listed higher education institutions

The following are universities/listed higher education institutions:

- (a) a *Table A institution;
- (b) a *Table B institution.

15-15 Table A institutions

- (1) The following are *Table A* institutions:

This amendment specifies that a university/listed higher education institution is approved as such from the commencement of the Act.

This amendment specifies which institutions are universities/listed higher education institutions ie those in Table A or Table B.

This amendment specifies the institutions in Table A. The list of institutions appearing does not differ from that in the original Bill. The amendment deletes the power to suspend an institution in the table.

Table A institutions**Institutions**

Central Queensland University
 Charles Sturt University
 Curtin University of Technology
 Deakin University
 Edith Cowan University
 Griffith University
 James Cook University
 La Trobe University
 Macquarie University
 Monash University
 Murdoch University
 Northern Territory University
 Queensland University of Technology
 Royal Melbourne Institute of Technology
 Southern Cross University
 Swinburne University of Technology
 The Australian National University
 The Flinders University of South Australia
 The University of Adelaide
 The University of Melbourne
 The University of Queensland
 The University of Sydney
 The University of Western Australia
 University of Ballarat
 University of Canberra
 University of Newcastle
 University of New England
 University of New South Wales
 University of South Australia
 University of Southern Queensland
 University of Tasmania
 University of Technology, Sydney
 University of the Sunshine Coast
 University of Western Sydney
 University of Wollongong
 Victoria University of Technology
 Australian Catholic University
 Australian Maritime College
 Batchelor Institute of Indigenous Tertiary Education

- (2) However, a body is not a Table A institution if its approval as a higher education body is revoked.

15-20 Table B institutions

- (1) The following are *Table B* institutions:

Table B institutions
Bond University
The University of Notre Dame Australia
Melbourne College of Divinity

- (2) However, a body is not a Table B institution if its approval as a higher education body is revoked.

This amendment specifies the institutions in Table B. The list of institutions does not differ from that in the original Bill. The amendment deletes the power to suspend an institution in the table.

Division 15A – What are the compliance and contribution requirements

Subdivision 15-AA – General

15A-1 The compliance and contribution requirements

- (1) the **compliance and contribution requirements** are:
- (a) the *compliance requirements (see subdivision 15AB)
 - (b) the *contribution and fee requirements (see subdivision

This amendment defines the **compliance and contribution requirements**.

The note indicates that quality, accountability, financial and other conditions are now attached to grants under Division 36.

15AC)

Note Quality, accountability, financial and other conditions are attached to grants under Division 36.

Subdivision 15-AB – The compliance requirements

15A-5 Basic requirements

- (1) A university/listed higher education institution must comply with the requirements of this Act, the regulations and the Guidelines made under section 238-10.
- (2) A university/listed higher education institution must provide information to the Minister in relation to the affairs of the institution in accordance with the requirements of this Act.
- (3) A university/listed higher education institution's administrative arrangements must support the provision of assistance under this Act.

15A-10 University/listed higher education institution to provide statement of general information

- (1) A university/listed higher education institution must give to

This amendment sets out the **compliance requirements** that a university/listed higher education institution must meet.

the Minister such statistical and other information that the Minister by notice in writing requires from the institution in respect of:

- (a) the provision of higher education by the institution; and
- (b) compliance by the institution with the requirements of this Act.

(2) The information must be provided:

- (a) in a form approved by the Minister; and
- (b) in accordance with such other requirements as the Minister makes.

(3) Nothing in subsections (1) or (2) shall require an institution to provide the names and addresses of its students other than for use to confirm that the required *student identifier has been correctly supplied.

15A-15 Notice of events that affect a university/listed higher education institution's ability to comply with conditions of Commonwealth assistance

A university/listed higher education institution must in writing inform the Minister of any event affecting:

- (a) the institution; or

(b) a *related body corporate of the institution;
that may, significantly affect the institution's capacity to meet the conditions of grants under this Chapter or the compliance and contribution requirements.

Subdivision 15-AC – What are the contribution and fee requirements?

15A-20 Basic requirement

A university/listed higher education institution must charge, in accordance with the requirements of this Act, *student contribution amounts and *tuition fees for each unit of study in which it enrolls students.

15A-25 Determining student contribution amounts and tuition fees

- (1) A university/higher education institution must, for each year, determine the *student contribution amount per place for each unit of study:
 - (a) that it provides or proposes to provide during the year; and
 - (b) that may form part of a *course of study in which, under its funding agreement under section 30-25 in respect of

This amendment sets out the **contribution and fee requirements** that a university/listed higher education institution must meet.

the year, it may enrol students as *Commonwealth supported students.

- (2) A university/listed higher education institution must, for each year, determine one, and only one, *tuition fee for each unit of study that it provides or proposes to provide during the year.
- (3) However, if a unit of study can form part of more than one *course of study, the university/listed higher education institution may determine under subsection (2) a different *tuition fee for the unit for each such course of study.

15A-30 Schedules of student contribution amounts per place and tuition fees

- (1) A university/listed higher education institution must give the Minister a schedule of the *student contribution amounts per place and *tuition fees for all the units of study it provides or proposes to provide during the year. It must give the schedule:
 - (a) in a form approved by the Minister; and
 - (b) in accordance with the requirements that the Minister

determines in writing.

- (2) The university/listed higher education institution must:
 - (a) ensure that the schedule provides sufficient information to enable a person to work out the *student contribution amount and the *tuition fee for each unit of study that the university/listed higher education institution provides or is to provide; and
 - (b) publish the schedule; and
 - (c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the university/listed higher education institution on request and without charge.

15A-35 Limits on tuition fees for courses of study

A university/higher education institution must not charge a *tuition fee for a *course of study that exceeds the sum of the tuition fees it charges for all of the units of study undertaken as part of the course.

15A-40 Meaning of *tuition fee*

- (1) A ***tuition fee*** includes any tuition, examination or other fee payable to a university/listed higher education institution by a person enrolled with, or applying for enrolment with, the university/listed higher education institution.
- (2) A ***tuition fee*** may also include any fee payable to the university/listed higher education institution in respect of the granting of a *higher education award.
- (3) A tuition fee does not include a fee that is:
 - (a) payable in respect of an organisation of students, or of students and other persons; or
 - (b) payable in respect of the provision to students of amenities or services that are not of an academic nature; or
 - (c) payable in respect of residential accommodation; or
 - (d) imposed in accordance with guidelines issued by the Minister for the imposition of fees in respect of:
 - (i) *overseas students; and
 - (ii) students who are New Zealand citizens because of the operation of section 29 of the *Citizenship Act 1977* of New Zealand; or
 - (e) payable in respect of studies (other than an *enabling

- course) that are not permitted to be undertaken for the purpose of obtaining a *higher education award; or
- (f) determined, in accordance with guidelines issued by the Minister, to be a fee of a kind that:
- (i) is incidental to studies that may be undertaken with a university/listed higher education institution; and
 - (ii) meets the criteria specified in the Commonwealth Grant Scheme Guidelines; or
- (g) a *student contribution amount.

Subdivision 15-AD – When does a university/listed higher education institution cease to be an approved higher education body

15A-45 Cessation of approval as a higher education body

A university/listed higher education institution ceases to be an approved higher education body if the approval is revoked under this subdivision.

15A-50 Revocation of approval as a higher education body

This amendment sets out the conditions under which the Minister may revoke the approval of a university/listed higher education institution. The section limits the conditions that were otherwise applicable under the original Bill.

The Minister may revoke a university/listed higher education institution's approval as a higher education body if the institution has ceased to exist.

Insert after new Part 2-1 A:

Part 2-1 B – Higher education providers

Subdivision 16-A – Introduction

What this Part is about

Bodies other than universities/listed higher education institutions may be approved as higher education providers.

Higher education providers are subject to the quality and accountability requirements.

Approval as a higher education provider may be revoked in circumstances such as breach of a quality and accountability requirement.

This amendment introduces the new Part 2-1 B dealing with higher education providers.

Subdivision 16-B –Approval of higher education providers

16-5 When a body becomes an approved higher education provider

A body corporate that is not a *university/listed higher education institution becomes a higher education provider if approved by the Minister under section 16-25.

The effect of this amendment is that a body corporate that is not a university/listed higher education institution becomes a higher education provider, within the meaning of the amended Bill, if approved by the Minister under section 16-25.

Subdivision 16-C – How are bodies approved as higher education providers?

16-25 Approval by the Minister

- (1) delete (b) and replace with the following:
 - (b) “the body is a non-self-accrediting provider”.
 - (d) delete the words:
 - “in the case of a non self-accrediting provider,”
- (2) delete
- (3) delete

The effect of this amendment is that a body corporate may be approved by the Minister as a higher education provider but only if it is a “non self-accrediting provider” and it meets the requirements of section 16-25.

16-35 Additional requirements for non self-accrediting providers

delete “for non self-accrediting providers” from the heading and the opening words.

This amendment is consequential only.

<p>Part 2-2 – Commonwealth Grant Scheme</p> <p>Wherever in this Part “higher education provider” or “higher education providers” appears substitute “university/listed higher education institution” or “universities/listed higher education institutions” as appropriate.</p> <p>Wherever in this Part “provider/s” appears substitute “institution/s”.</p>	<p>This amendment is consequential on the introduction of the new regulatory and funding structure.</p>
<p>Division 30 – Which higher education providers are eligible for a grant?</p> <p><i>Subdivision 30-A – Basic rules</i></p> <p>30-1 Eligibility for Grants</p> <p>(1)(a)(ii) delete “higher education provider” and insert “*Table B institution”</p> <p>(2) delete “higher education provider that is not a *Table A provider” and insert “*Table B institution”</p> <p>30-5 Maximum Grants</p> <p>(1) (a) delete \$3,086,242,000 and substitute \$4,104,701,860</p> <p>(1) (b) delete \$3,215,263,000 and substitute \$4,276,299,790</p> <p>(1) (c) delete \$3,342,701,000 and substitute \$4,445,792,330</p>	<p>This amendment clarifies that the Commonwealth Grants Scheme (CGS) is only available to Table A institutions.</p> <p>This amendment clarifies that only Table B institutions can access national priorities grants.</p> <p>This amendment provides that Commonwealth maximum contributions are increased by 33%.</p>

<p>After (2) insert:</p> <p>(3) Any monies available for expenditure in a year specified by subsection (1) but not expended in that year shall be available for expenditure in the following year and the amounts specified in subsections (1)(b) and (c) shall be deemed to be increased accordingly.</p>	<p>The amendment also introduces a new subsection (2) requiring any monies available for expenditure in a relevant year but not expended shall be made available for expenditure in the following year and the amounts specified in subsection deemed to be increased accordingly.</p>
<p>Insert new subdivision as follows:</p> <p><i>Subdivision 30-AB - Higher Education Funding Council</i></p> <p>X-1 Functions</p> <p>The *Higher Education Funding Council shall inquire into, provide information and make recommendations to the Minister with respect to:</p> <p>(a) the total amount of all grants to higher education bodies that the Commonwealth should provide under Part 2-2 and under Part 2-3 for the year 2008 and for each year thereafter;</p> <p>(b) the grants that should be made available to each higher education body under Part 2-2 and under Part 2-3 for the year 2005 and for each year thereafter; and</p> <p>(c) any other matter relating to the provision of funds to higher education bodies that may be referred by the Minister or which the Council considers to be a matter that should be inquired into by the Council.</p>	<p>This amendment sets out the roles and functions of the Higher Education Funding Council.</p>

X-5 Criteria for Recommendations

In performing its functions under this Act to make recommendations the Higher Education Funding Council shall apply the criteria specified by section Y-1 other than that specified in sub-paragraph (i).

X-10 Annual and Triennial Plans

Before the commencement of a year and in the performance of its functions under subsection X-1(a) and (b) the Higher Education Funding Council shall:

- (a) make recommendations in the form of an **annual allocation** which:
 - (i) allocates a specified *number of Commonwealth supported places to a higher education provider for that year;
 - (ii) specifies the distribution of those places between the *funding clusters;
 - (iii) specifies the number of those places that have a regional loading and/or a medical student loading; and
 - (iv) if the provider is not a *Table A provider specifies the number of places for each national priority for which the provider should be allocated places.
- (b) make such recommendations having regard to an annually revised **triennial allocation** developed by the Higher Education Funding Council with each higher education provider. The triennial plan shall specify the projected allocations for each higher education provider for

the matters referred to in paragraph X-10(a) for each year of the triennium.

X-15 Consultation

In the performance of its functions the Higher Education Funding Council shall consult with the Minister and with higher education providers and may consult with such other persons, bodies and authorities as it considers necessary.

X-20 Provision of Information

The Minister shall provide the Higher Education Funding Council information in the possession or control of the Minister which is relevant to the performance by the Council of its functions and which is requested by the Council.

X-25 Reports by Council

- (1) The Higher Education Funding Council shall provide the Minister with reports containing information and recommendations relating to the performance of those of its functions required by section X-1.
- (2) The Minister shall, as soon as is practicable, cause such reports to be laid before each House of the Parliament.

Insert a new subdivision as follows:

Subdivision 30-AC – Criteria for the Allocation of Places

Y-1 Criteria for the Allocation of Places

In the performance of the functions of the Minister under this Part, the Minister shall have regard to:

- (i) recommendations made by the Higher Education Funding Council;
- (ii) the expressed preferences of higher education providers;
- (iii) the needs of the communities which each higher education provider serves;
- (iv) the funding provided by the Commonwealth to a higher education provider in the previous period;
- (v) any growth or contraction in the number of persons undertaking particular courses of study with a higher education provider or in the region in which the higher education provider is located;
- (vi) the importance of maintaining higher education providers in regional areas;

and shall exercise those functions so as to promote the objects of this Act including in relation to universities, those of the objects which recognise the independence and autonomy of universities.

Subdivision 30-B – Allocation of Places

30-10 Allocation of places

This amendment sets out criteria that the Minister shall have regard to in the performance of his/her functions under Part 2-2 and requires the Minister to exercise his/her functions in a manner that promotes the objects of the Act including those objects which relate to universities and the independence and autonomy of universities.

This amendment makes it clear that allocation decisions made by the Minister must be made in accordance with the applicable criteria.

(1) delete “may” substitute “shall”

add “(5) The allocation must be made in accordance with the criteria specified in section Y-1”.

After 30-20 insert:

30-22 Minimum total grants 2005-2007

(1) The Minister must ensure that no *university/listed higher education institution receives less, by way of total grants under this Part and Part 2-3 in each year of the years 2005-2007 inclusive, than is applicable for that year in the table.

Minimum total grants to a university/listed higher education institution		
Item	Year	Applicable Amount
1	2005	*Total Commonwealth grants 2004 x *indexation factor
2	2006	Total amount under item 1 x indexation factor
3	2007	Total amount under item 2 x indexation factor

(2) The indexation factor for each year in the table shall be the annual percentage increase in full time adult total earnings (seasonably adjusted) for the 4 quarters immediately proceeding 1 January in the relevant year in the table, as published in the Australian Bureau of Statistics in Catalogue: 630100 Average Weekly Earnings Australian.

The effect of this amendment is to ensure that no university/listed higher education institution receives less than what they otherwise would have received under the previous funding arrangements, by way of total grants under Part 2-2 and 2-3 for the years 2005-2007.

The amendment also provides for indexation of grants based on Average Weekly Earnings.

Subdivision 30C – Funding agreements

30-25 Funding agreements

- (1) substitute “the Secretary” with “the Minister”
substitute “shall” for “may”

- (2) delete and substitute with
“The agreement shall and shall only specify as conditions to
which the grant is subject, those of the conditions that apply to
the grant under Division 36”

- (3) delete

This amendment requires the Minister to make a funding agreement in relation to a grant.

The amendment further specifies that a funding agreement shall only specify conditions that apply to a grant under Division 36.

Division 33 – How are grant amounts worked out

Subdivision 33-B – Basic grant amounts

33-10 Commonwealth Contribution amounts

Substitute the table with the following table:

The effect of this amendment is to increase the Commonwealth contributions amount by 33%.

Item	Funding Cluster	Commonwealth Contributions
1	Law	\$1,918
2	Accounting, Administration, Economics, Commerce	\$3,153
3	Humanities	\$5,313
4	Mathematics, Statistics	\$6,275
5	Behavioural Science, Social Studies	\$8,435
6	Computing, Built Environment, Health	\$9,395
7	Foreign Languages, Visual and Performing Arts	\$11,554
8	Engineering, Science, Surveying	\$15,637
9	Dentistry, Medicine, Veterinary Science	\$19,602
10	Agriculture	\$20,837
11	Education	\$9,270
12	Nursing	\$12,390

33-15 Increases in assistance for higher education providers meeting certain requirements

amend title by deleting “meeting certain requirements”

- (1) delete
- (2) delete the opening words and substitute with:
“A higher education provider’s basic grant amount for the year is to be calculated as if the *Commonwealth contribution amount for each *funding cluster were increased by:”

The effect of this amendment is that increases in basic grants are to be automatic and not tied to the meeting of certain requirements including requirements based on the workplace relations policies of the Australian Government.

Division 36 – What are the conditions of receiving a grant?

Subdivision 36-B – Conditions relating to Commonwealth supported students

36-10 Advice on whether a person is a Commonwealth supported student

delete (i) of paragraph (d)

36-20 Providers to repay amounts if studies and learning entitlement is re-credited

delete

Subdivision 36-C – Conditions relating to enrolment

36-30 Providers to fill Commonwealth supported places before accepting other enrolments.

(1)(a) delete “that is covered by a person’s *Student Learning Entitlement”

(3) delete “that is covered by a person’s *Student Learning Entitlement”

These amendments are consequential upon the deletion of Part 3-1 – Student Learning Entitlement from the Bill.

These amendments are consequential upon the deletion of Part 3-1 – Student Learning Entitlement from the Bill.

36-35 Percentage of Commonwealth supported places to be provided by Table A providers

delete the section and replace with:

(1) A *Table A institution must ensure that, in any year, the *number of Commonwealth supported places provided by the institution accounts for at least 75%, or such higher percentage as is specified in the institution's funding agreement under section 30-25 for that year, of the total number of places for *domestic students that the institution provides in each undergraduate *course of study.

The effect of this amendment is to increase the number of Commonwealth supported places provided by an institution from 50% to 75%.

Subdivision 36-F – Other Conditions

36-60 Providers to meet the quality and accountability requirements

delete and replace with:

Universities/listed higher education institutions must comply with such quality and accountability processes as are agreed between the Minister and the institution.

The effect of this amendment is that universities/listed higher education institutions must comply with all quality and accountability processes as are agreed between the Minister and the institution.

After 36-70 insert:

36-75 Financial information must be provided

This amendment incorporates the provision of financial information requirements that were previously located in Division 19 of the Bill and the meeting of such requirements therefore becomes a condition of grant.

- (1) A higher education provider must give to the Minister a financial statement for each *annual financial reporting period for the provider in which:
 - (a) the provider receives assistance under this Chapter; or
 - (b) a student of the provider receives assistance under Chapter 3.
- (2) The statement:
 - (a) must be in the form approved by the Minister; and
 - (b) must be provided together with a report on the statement by an independent *qualified auditor; and
 - (c) must be provided within 6 months after the end of the *annual financial reporting period for which the statement was given.
- (3) An annual ***financial reporting period***, for a higher education provider, in the period of 12 months:
 - (a) to which the provider's accounts relate; and
 - (b) that is notified in writing to the Minister as the provider's annual financial reporting period.

<p>Part 2-3 – Other Grants</p> <p>Wherever in this Part “higher education provider” or “higher education providers” appears substitute “university/listed higher education institution” or “universities/listed higher education institutions” as appropriate.</p> <p>Wherever in this Part “provider” appears substitute “institution”.</p>	<p>This amendment is consequential only.</p>
<p>Division 41 – Other Grants</p> <p>41-1 What this Part is about</p> <p>delete “and other eligible bodies” and substitute “other bodies listed in Schedule 2”</p> <p>41-10 Eligibility for grants under this Part</p> <p>delete item 2 from the table.</p> <p>Delete the words contained in the “who is eligible” column of items 9 and 10 of the table and substitute the following in each case:</p> <p>“Table A institutions and Table B institutions”.</p>	<p>The effect of this amendment is to make it clear that grants under Part 2-3 are only available to universities/listed higher education institutions and those bodies listed in Schedule 2.</p> <p>The effect of this amendment is that in respect of items 9 and 10 in the table headed “Eligibility for grants under this Part” grants shall only be made to universities/listed higher education institutions and that in respect of item 11 grants these may only be made to universities/listed higher education institutions and the bodies listed in Schedule2.</p>

delete the words contained in the “who is eligible” column of item 11 of the table and substitute the following:

“Table A institutions, Table B institutions and the bodies corporate listed in Schedule 2”.

41-20 Approval of grants

Before “The” add (1)

Add new sub-section as follows:

- (2) In the performance of the Minister’s function to impose conditions on grants and make grants under this Part, the Minister shall take into account the specific purpose of the grant and promote the objects of the Act including in relation to universities, those of the objects which recognise the independence and autonomy of universities

The effect of this amendment is to add a new subsection (2) that requires the Minister in the performance of his/her functions to impose conditions on grants and make grants under Part 2-3 the Minister shall take into account the specific purpose of the grant and must act to promote the objects of the Act including those in relation to universities.

41-25 Conditions on grants

delete “higher education provider” and substitute “body corporate listed in Schedule 2” in (a) (ii) and (b) (ii).

This amendment is consequential only.

Part 2-4 – Grants for Commonwealth scholarships

Wherever in this Part “higher education provider” or “higher education providers” appears substitute “university/listed higher education institution” or “universities/listed higher education institutions” as appropriate.

Wherever in this Part “provider” appears substitute “institution”

46-20 Other matters relating to Commonwealth Scholarships

(2) delete (d)

46-40 Maximum payments for Commonwealth Scholarships

replace the amounts in the table and substitute

Item	Year	Amount
1	2004	\$129,412,000
2	2005	\$166,313,000
3	2006	\$204,482,000
4	2007	\$244,117,000

This amendment is consequential only.

The effect of this amendment is that Commonwealth Scholarship Guidelines may not provide for the making of decisions as to which students are to receive scholarships.

The effect of this amendment is to increase the respective amounts payable.

Part 2-5 – Reductions and repayment of Grants

Wherever in this Part “higher education provider” or “higher education providers” appears substitute “university/listed higher education institution” or “universities/listed higher education institutions” as appropriate.

Wherever in this Part “provider” appears substitute “institution”

delete “Secretary” wherever occurring in the Part and substitute “Minister”.

This is a consequential amendment only.

CHAPTER 3 – ASSISTANCE TO STUDENTS

Part 3-1 – Student Learning Entitlement

Delete the Part.

The effect of this amendment is to delete Part 3-1 – Student Learning Entitlement from the Bill.

Part 3-2 – HECS-HELP assistance

Wherever “higher education provider” or “higher education providers” appears in this Part substitute “university/listed higher education institution” or “universities/listed higher education institutions” as appropriate.

Wherever “provider/s” appears substitute “institution/s”

This is a consequential amendment only.

Division 93 – How are amounts of HECS-HELP assistance worked out?

93-10 Maximum student contributions per place

Delete the dollar amounts appearing in the table in paragraph (b) and replace with the following:

Item	Maximum student contribution amount per place
1	\$6,283
2	\$5,367
3	\$3,768
4	\$5,367
5	\$3,768
6	\$5,367
7	\$3,768
8	\$5,367
9	\$6,283
10	\$5,367
11	\$2,898
12	\$2,898

The effect of this amendment is that it effectively reduces the amounts contained in the table by the 30% increase over HECS.

<p>Part 3-3 – Fee – Help assistance</p> <p>Wherever “higher education provider/s” appears in this Part substitute “higher education body/bodies” as appropriate.</p>	<p>This amendment is consequential only.</p>
<p>Division 104 – Who is entitled to FEE-HELP assistance?</p> <p><i>Subdivision 104-A – Basic Rules</i></p> <p>104-10 Course requirements</p> <p>(1) insert “;and” at the end of (b)</p> <p>insert “(c) and the course or unit of study is at the post graduate level at a University/listed higher education institution or a unit or course specified in subparagraphs (1)(f) and (g) of section 104-1.</p>	<p>The effect of this amendment is to confine FEE-HELP assistance to those courses or units of study undertaken at the post graduate level or courses or units of study provided by Open Learning Australia or that are part of bridging course for overseas-trained professionals.</p>
<p>Part 3-4 – OS-Help assistance</p> <p>Wherever “higher education provider/s” appears substitute “higher education body/bodies” as appropriate.</p>	<p>This amendment is consequential only.</p>

CHAPTER 4 – REPAYMENT OF LOANS

Wherever “higher education provider/s” appears in this Chapter substitute “higher education body/bodies” as appropriate.

This amendment is consequential only.

Part 4-1 – Indebtedness

Division 143

Subdivision 143-C – Former indexed FEE-HELP/OS-HELP debts

Working out a former indexed FEE-HELP/OS-HELP debt

(1)(b)(i)

delete “; and” and substitute “.”

(1)(b)(ii)

delete

The effect of this amendment is to delete the 0.035 increase imposed.

Part 4-2 – Discharge of indebtedness	
<p>Division 154 – How is indebtedness compulsorily discharged?</p> <p>154-10 Minimum repayment income</p> <p>(a) delete “\$30,000” and substitute “\$35,000”</p> <p><i>Subdivision 154-B – Amounts Payable to Commonwealth</i></p> <p>154-20 Amounts payable to the Commonwealth</p> <p>amend the table as follows:</p> <ul style="list-style-type: none"> (i) increase the amount appearing in Item 1(a) from \$35,607 to \$40,607; (ii) increase the amount appearing in Item 2(a) from \$42,973 to \$47,973; (iii) increase the amount appearing in Item 3(a) from \$45,233 to \$50,233; (iv) increase the amount appearing in Item 4(a) from \$48,622 to \$53,622; (v) increase the amount appearing in Item 5(a) from \$52,658 to \$57,658; (vi) increase the amount appearing in Item 6(a) from \$55,430 to 	<p>The effect of this amendment is to raise the minimum repayment of income threshold from \$30,000 to \$35,000.</p> <p>These amendments are consequential upon the amendment of section 154-10.</p>

- \$60,430;
- (vii) increase the amount appearing in Item 7(a) from \$60,972 to \$65,972;
- (viii) increase the amount appearing in item 8(a) from \$65,000 to \$70,000.

CHAPTER 5 – ADMINISTRATION

Wherever “higher education provider/s” appears in this Chapter substitute “higher education body/bodies” as appropriate.

This amendment is consequential only.

Part 5-2 – Administrative requirements on higher education providers

Division 169 – Administrative requirements on higher education providers

169-20 Exempt Students

delete

Under the new CGS funding system it is up to higher education providers to determine the student contribution fee for its students and thus it is

	to determine the student contribution fee for its students and thus it is open to providers to determine that a student should pay not fees or reduced fees. The effect of this amendment is to delete section 169-20 as it allows for a further level of Ministerial intervention into the operations of institutions that is neither necessary nor desirable.
Part 5-2 – Administrative requirements on higher education providers	
Division 198 – Indexation 198-10 Indexing amounts (1) an amount is indexed on 1 January in the year referred to in the table in section 198-5 as the first year of indexation in relation to the amount on each subsequent 1 January, by increasing the amount by the annual percentage increase in full time adult total earnings (seasonally adjusted) for the 4 quarters immediately preceding 1 January in each year as published in the Australian Bureau of Statistics in Catalogue: 6301.0 Average Weekly Earnings Australia.	The effect of this amendment is to index the amounts appearing in the table in section 198-5 on the basis of Average Weekly Earnings for the previous year.

<p>198-15 Meaning of indexation factor</p> <p>delete.</p> <p>198-20 Meaning of index number</p> <p>delete.</p>	<p>These are consequential amendments only.</p>
<p style="text-align: center;">CHAPTER 7 – MISCELLANEOUS</p>	
<p>238-10 Guidelines</p> <p>(1) delete and insert:</p> <p style="padding-left: 40px;">The Minister may make Guidelines specified in the second column of the table that:</p> <ul style="list-style-type: none"> (a) promote the objects of this Act; and (b) provide for matters that are: <ul style="list-style-type: none"> (i) required or permitted by the corresponding Chapter, Part or section specified in the third column of the table to be provided; or (ii) receiving or convenient to be provided in order to carry out or give effect to that Chapter, Part or 	<p>The effect of this amendment is to provide that the Minister may only make Guidelines that promote the objects of the Act and provide for the matters specified.</p>

<p>Section.</p> <p>After (2) insert new (3):</p> <p>(3) Guidelines under section shall not take effect prior to the expiration of the 15 sitting days period referred in subsection (4) of section 48 of the Acts Interpretation Act (Cth) 1901.</p>	<p>The effect of this amendment is to ensure that the Guidelines, being revocable instruments, do not take effect until the requisite period specified in subsection (4) of section 48 of the Acts Interpretation Act (Cth) 1901.</p>
<p style="text-align: center;">SCHEDULE 1 – DICTIONARY</p>	
<p>Wherever in this Part “higher education provider” appears substitute “higher education body”. Wherever “provider” appears substitute “body”.</p>	<p>This amendment is consequential only.</p>
<p>insert:</p> <p>annual allocation has the meaning given by section X-10.</p> <p>insert:</p> <p>compliance and contribution requirements are the requirements set out in Subdivision 15-AA.</p> <p>insert:</p>	<p>These amendments are consequential only but it is important to note that the definition of university has been amended by:</p> <p>(a) confining it to a body corporate established or recognized by a relevant law;</p>

contribution and requirements are the requirements set out in Subdivision 15-AC

delete definitions of **compliance requirements** and substitute:

compliance requirements are:

- (i) for universities/listed higher education institutions the requirements set out in subdivision 15AB;
- (ii) for higher education providers the requirements set out in subdivision 19E.

insert:

higher education body has the meaning given by section 14-1.

delete definitions of “higher education provider” and substitute:

higher education provider is a body corporate approved under section 16-25

amend **indexation factor** by deleting “198-10” and substituting “30-22”.

Delete paragraph (b) of **index number**.

The definition of **national protocols** is amended by deleting the words “as in force from time to time” and replacing them with the words “as in force on 1 January 2004”.

insert:

student identifier means the individual number or code assigned to each student.

- (b) ensuring that the applicable national protocols are those in force on 1 January 2004 and not those in force from time to time and therefore subject to amendment or replacement. This provides much needed certainty as to the content of the national protocols.

insert:

Total Commonwealth grants in 2004 means the total of all grants allocated to a university/listed higher education institution by the Commonwealth for the year 2004, whether under this Act or otherwise.

insert:

triennial allocation has the meaning given by section X-10.

The definition of **university** is deleted and replaced with the following:

“A **university** means a body corporate:

- (a) that meets *National Protocol 1: and
- (b) that is established as a university, or recognized as a university, by a law of the Commonwealth, a State, the Australian Capital Territory or the Northern Territory.”

insert:

university/listed higher education institution means a university or other higher education institution listed as a *Table A institution or a *Table B institution

After Schedule 1 insert:

SCHEDULE 2

Australian Universities Quality Agency

National Academies Forum

Australian Academy of Science

Academy of the Social Sciences in Australia

Australian Academy of Technological Sciences and Engineering

Australian Academy of the Humanities

The Australian and New Zealand Association for the Advancement of Science

Open Learning Australia

Australian Council for Education Research

Commonwealth Study Conferences (Australia)

Graduate Careers Council

General Sir John Monash Foundation