
The Parliament of the Commonwealth of Australia

Advisory Report on the Higher Education Support Amendment (Asian Century) Bill 2013

House of Representatives
Standing Committee on Education and Employment

May 2013
Canberra

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Membership of the Committee

Chair Mr Mike Symon MP

Deputy Chair Mr Rowan Ramsey MP

Members Ms Amanda Rishworth MP (*to*
22/04/2013)

Mr Graham Perrett MP (*from*
13/02/2013)

Ms Deborah O'Neill MP

Ms Yvette D'Ath (*to* 13/02/2013)

The Hon Chris Bowen MP (*from*
22/04/2013)

Mr Alan Tudge MP

Mrs Karen Andrews MP

Committee Secretariat

Secretary Dr Glenn Worthington

Inquiry Secretary Ms Sara Edson

Research Officer Ms Casey Mazzarella

Administrative Officers Mr Danny Miletic

Ms Emily Costelloe



Terms of reference

The terms of reference are the text of the Higher Education Support Amendment (Asian Century) Bill 2013.



List of abbreviations

ACPET	Australian Council for Private Education and Training
AMSA	Australian Medical Students' Association
ANTU	Australian Network of Technology Universities
ASAA	Asian Studies Association of Australia
AWPA	Australian Workforce and Productivity Agency (formerly known as Skills Australia)
COPHE	Council of Private Higher Education
CSP	Commonwealth Supported Place
DIISRTE	Department of Industry, Innovation, Science, Research and Tertiary Education
EFTSL	Equivalent Full Time Student Load
HELP	Higher Education Loan Program
HESA	<i>Higher Education Support Act 2003</i>
ICESCR	International Covenant on Economic, Social and Cultural Rights
NTEU	National Tertiary Education Union
OS-HELP	Overseas Higher Education Loan Program
PJCHR	Parliamentary Joint Committee on Human Rights
PM&C	Department of Prime Minister and Cabinet

TAFE Technical and Further Education

VET Vocational Education and Training



List of recommendations

Recommendation 1

The Committee recommends that the Commonwealth Government consider extending the eligibility of OS-HELP assistance to non-CSP students.

Recommendation 2

The Committee recommends that the House of Representatives pass the Higher Education Support Amendment (Asian Century) Bill 2013.

Higher Education Support Amendment (Asian Century) Bill 2013

Referral and conduct of inquiry

- 1.1 On 14 February 2013, the House of Representatives Selection Committee referred the Higher Education Support Amendment (Asian Century) Bill 2013 for inquiry and report. The text of the Bill is provided in Appendix A.
- 1.2 The reason for the referral was:

The Bill contains a number of provisions relating to OS-HELP and the implementation of the Asian Century policy in relation to study overseas that need to be explored in greater depth.¹
- 1.3 The inquiry was announced by media release on 18 February 2013 and received 17 submissions. A list of submissions is provided in Appendix B.
- 1.4 Officials of the Department of Industry, Innovation, Science, Research and Tertiary Education (referred to as both the Department and DIISRTE) appeared at a public hearing in Canberra on 21 March 2013 to respond to concerns raised by stakeholders. Details of witnesses are listed in Appendix C.

Background

- 1.5 The Higher Education Support Amendment (Asian Century) Bill 2013 (the Bill) expands the eligibility for Overseas Higher Education Loan Program

¹ House of Representatives Selection Committee, Report No. 75, *Consideration of Bills*, 14 February 2013, p. 3.

(OS-HELP) assistance and provides additional incentives for university students to undertake part of their course of study in Asia.

- 1.6 The Bill implements some of the goals set out in the October 2012 *Australia in the Asian Century* White Paper which outlines pathways for further engagement with Asia² through universities. The Government intends to:

Work with universities to substantially boost the number of Australian students studying in Asia through closer links with regional institutions, and improve financial support and information for students who study in Asia.³

- 1.7 In his second reading speech, the Minister for Tertiary Education, Skills, Science and Research elaborated on the Bill's role in the pursuit of these goals and the importance of developing Asia-literacy skills:

The white paper identified a need for a larger number of Australian university students to be studying overseas and for a greater proportion to be undertaking part of their degree in Asia. The Bill addresses this need by amending the *Higher Education Support Act 2003* to provide additional assistance through the OS-HELP scheme to assist more students to undertake a wider variety of study related activities.⁴

OS-HELP

- 1.8 OS-HELP complements the support packages available to students in Commonwealth Supported Places (CSPs) who wish to undertake part of their study overseas. OS-HELP can be used for a range of expenses such as airfares, accommodation, and other travel or study expenses.⁵
- 1.9 A CSP is a place at a listed provider that is subsidised by the Commonwealth Government and for which students pay a 'student contribution' amount. Most domestic students who study their undergraduate degree at university do so as Commonwealth supported students.⁶
- 1.10 Listed providers consist of: universities; accredited higher education institutions; and Vocational Education and Training (VET) providers who

2 For a list of Asian countries relevant to the *Australia in the Asian Century* White Paper see: dfat.gov.au/publications/asian-century/, accessed 22 February 2013.

3 Commonwealth Government, *White Paper: Australia in the Asian Century*, October 2012, p. 22.

4 The Hon Chris Bowen, Minister for Tertiary Education, Skills, Science and Research, *House of Representatives Hansard*, 14 February 2013, p. 1.

5 studyassist.gov.au/sites/studyassist/help-paying-my-fees/pages/os-help-loans-and-study-overseas, accessed 3 April 2013.

6 studyassist.gov.au/sites/studyassist/helpful-resources/pages/acronyms-and-glossary, accessed 3 April 2013.

have been approved by the Commonwealth Government to offer Commonwealth assistance (HELP loans or CSPs).⁷ These providers are categorised as Table A, Table B, or Table C. The list of providers under each of these categories can be found in Subdivision 16B of the *Australian Higher Education Act 2003*.⁸

- 1.11 DIISRTE advised that CSPs are primarily available in public universities and, as such, OS-HELP is primarily available to students studying at Table A providers.⁹
- 1.12 However, CSPs are allocated to some non-Table A providers in areas of study that are deemed to be a national priority.¹⁰ Examples of this are the CSPs for nursing and early childhood education allocated to Holmesglen Institute of TAFE and the CSPs for early childhood education allocated to North Melbourne Institute of TAFE.¹¹
- 1.13 The Department stated that, whilst the Bill will extend OS-HELP eligibility to Commonwealth-supported postgraduate students, it does not expand eligibility to full-fee students. This is consistent with the primary purpose of the OS-HELP which is to provide assistance to CSP-students.¹²

Consultation

- 1.14 The Department indicated that the Bill was circulated to the Universities Australia AsiaBound Working Group prior to being introduced to the House of Representatives. The Working Group included representatives from Universities Australia, University of Adelaide, Australian National University, Victoria University, La Trobe University, University of Technology Sydney, University of Melbourne, University of Western Sydney, RMIT University, Charles Sturt University, Griffith University and the University of Western Australia. The Department described the responses from the Working Group as 'positive with limited feedback.'¹³

7 studyassist.gov.au/sites/studyassist/helpfulresources/pages/acronyms-and-glossary, accessed 3 April 2013.

8 For lists of Table A, B and C providers see the *Australian Higher Education Act 2003*, Subdivision 16B.

9 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

10 *Australian Higher Education Support Act 2003*, Subdivision 30-B(4).

11 Australian Workforce and Productivity Agency (AWPA), *Future Focus: 2013 National Workforce Development Strategy*, APWA, Canberra, March 2013, p. 122.

12 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 1.

13 Department of Innovation, Industry, Science, Research and Tertiary Education (DIISRTE), *Submission 7*, p. [3].

Outline of the Bill

- 1.15 The Bill will amend the *Higher Education Support Act 2003* to:
- increase the maximum OS-HELP loan amount for students studying in Asia;
 - introduce a supplementary loan of up to \$1000 for students who undertake intensive study in an Asian language in preparation for undertaking overseas studying in Asia;
 - remove the requirement that a student must be enrolled with an overseas higher education institution or at an overseas campus of an Australian higher education provider to be eligible for OS-HELP;
 - extend eligibility to postgraduate Commonwealth supported students; and
 - reduce the Equivalent Full Time Student Load (EFTSL) that a student must have remaining on completion of the overseas study, from 0.5 EFTSL to 0.125 EFTSL.¹⁴
- 1.16 The Bill consists of one schedule in two parts and will come into effect the day after it receives the Royal Assent.

Schedule 1 – Part 1

- 1.17 Schedule 1 – Part 1 of the Bill proposes amendments to increase the maximum amount of OS-HELP assistance available for Commonwealth-supported students undertaking overseas study in Asia. Under the amendments, eligible students will be able to access a maximum OS-HELP loan of \$7,500 for a period of 6 months for study undertaken in Asia. This is compared to the current amount of \$6,250,¹⁵ which will continue to be available for overseas study undertaken in all other locations.¹⁶
- 1.18 The proposed amendments will allow students to apply for a supplementary payment for preparatory study of an Asian language prior to studying in Asia.¹⁷ This payment is in addition to the OS-HELP assistance that a student may receive for overseas study. Under the amendments, the maximum OS-HELP (Asian language study) amount for a period of 6 months is \$1,000. The amendments also allow for the OS-HELP (overseas study) and OS-HELP (Asian language study) amounts to

14 DIISRTE, *Submission 7*, p. [2].

15 Please note that this is an estimate of the value of the current maximum OS-HELP amount of \$5 000 as indexed under part 5-6 of the *Higher Education Support Act 2003*. For more information see *Explanatory Memorandum*, p. 9.

16 *Explanatory Memorandum*, pp. 8-9.

17 *Explanatory Memorandum*, p. 7.

be paid at different times, determined in accordance with the OS-HELP guidelines.¹⁸

- 1.19 The Bill also proposes amendments to allow students to undertake overseas work placements and internships. It achieves this by removing the requirement that a student be enrolled with an overseas higher education institution or at an overseas campus of a higher education provider in full time study. However, the work placement or internship must count towards the course requirements of the course of study that a student is enrolled in with their home provider.¹⁹
- 1.20 The proposed amendments will now extend OS-HELP assistance to Commonwealth-supported postgraduate students.
- 1.21 The Bill also proposes amendments to reduce the required amount of remaining study, in a student's course of study, upon returning from studying overseas. This will lessen the required remaining study from 0.5 EFTSL to 0.125 EFTSL.²⁰

Schedule 1 – Part 2

- 1.22 Schedule 1 - Part 2 of the Bill contains provisions relating to the application of the amendments contained within the Bill, as well as provisions relating to the indexation of the maximum OS-HELP (Asian language study) amount and the maximum OS-HELP (overseas amount).²¹

Strong support for the bill

- 1.23 The Bill received strong support from stakeholders. None of the stakeholders objected to the measures. However, peak bodies of private higher education providers, among others, called for further expansion of access.²²

18 *Explanatory Memorandum*, p. 7.

19 *Explanatory Memorandum*, p. 8.

20 *Explanatory Memorandum*, p. 7.

21 *Explanatory Memorandum*, p. 11.

22 For examples see: National Tertiary Education Union (NTEU), *Submission 2*, p. 1; Asian Studies Association of Australia (ASAA), *Submission 4*, p. 1; Australian Network of Technology Universities (ANTU), *Submission 5*, p. 1; Universities Australia, *Submission 9*, p. 1; Council of Private Higher Education (COPHE), *Submission 13*, p. 1; University of Sydney, *Submission 10*, p. 1; National Union of Students, *Submission 11*, p. 1; Innovation Research Universities, *Submission 12*, p. 1; Australian Medical Students' Association (AMSA), *Submission 14*, p. 1; South Australian Government, *Submission 15*, p. 1.

- 1.24 The Asian Studies Association of Australia (ASAA) expressed support for the goals outlined in the *Australia in the Asian Century* White Paper and the Bill's intention to encourage more students to undertake study in Asia:

The Bill under consideration by the Committee on Education and Employment is therefore very welcome as an excellent development that will benefit many students and help deliver the promise of the Asian Century White Paper for more Australian students to be able to study in Asia.²³

- 1.25 The National Tertiary Education Union (NTEU) endorsed the OS-HELP program, noting its benefit to individual students and its achievements to-date building Australia's national capacity for international engagement. The NTEU welcomed the Government's efforts to increase Australia's Asian literacy:

NTEU believes that lifting engagement with the Asia-Pacific region is highly desirable, and that the proposed amendments represent a potentially important means of improving Australia's Asian 'literacy', a goal highlighted in the 2012 Ken Henry *Australia in the Asian Century* white paper.²⁴

- 1.26 The Australian Medical Students' Association (AMSA) commended the proposed removal of the requirement that a medical student has to be officially enrolled in an overseas higher education institution or at an overseas campus of a higher education provider in full-time study in order to access OS-HELP. AMSA explained that this has jeopardised many students from benefiting from overseas placements when medical elective placements are a key component of most medical school curricula across Australia and:

Many medical students elect to undertake such placements overseas. These overseas placements provide great experiences for students, as many get to support the delivery of healthcare in a developing nation, gain extra clinical experience that may not be possible in the Australian health care system and increase their understanding of the global health.²⁵

We are pleased to see that more overseas placements, thanks to this Bill, will now fall within the scope of OS-HELP.²⁶

23 ASAA, *Submission 4*, p. 1.

24 NTEU, *Submission 2*, p. 1.

25 AMSA, *Submission 14*, p. 1.

26 AMSA, *Submission 14*, p. 2.

Stakeholder concerns

- 1.27 A range of concerns were raised by stakeholders, regarding:
- further extending access to non-CSP and non-university students;
 - human rights;
 - the requirement for remaining study; and
 - the definition of Asia for the purposes of the Bill.

Non-Commonwealth Supported Place students

- 1.28 Under the *Higher Education Support Act 2003*, students must be enrolled in an undergraduate course with an Australian provider as a CSP student to access OS-HELP.²⁷ This requirement is not amended by the Bill; however, eight of the 15 submissions proposed that non-CSP students should be able to access OS-HELP.²⁸
- 1.29 Bond University put forward an argument for the inclusion of non-CSP students:
- As a not-for-profit, private university Bond delivers high-quality graduates into the Australian workforce who have not received any benefit from the Commonwealth Grants Scheme tuition subsidy. Under the current and proposed HESA arrangements, they will also be excluded from the same incentive and support for Asian studies that is available to their public university counterparts through the important OS-HELP scheme.²⁹
- 1.30 Similarly, the Council of Private Higher Education (COPHE) advocated for the inclusion of non-CSP students:
- All Australian graduates make a contribution to Australian society and we see no reason to discriminate against students choosing to undertake their higher education outside public university institutions.³⁰
- 1.31 ASAA pointed out that more than half of postgraduate students are non-CSP students and therefore will not be able to access OS-HELP even with the Bill's amendments:

27 *Higher Education Support Act 2003*, div. 118.

28 Bond University Student Association, *Submission 1*, p. 1; Bond University, *Submission 3*, p. 1; ASAA, *Submission 4*, p. 1; Bond University Exchange Club, *Submission 6*, p. 2; Universities Australia, *Submission 9*, p. 1; COPHE, *Submission 13*, p. 1; AMSA, *Submission 14*, p. 2; South Australian Government, *Submission 15*, p. 2.

29 Bond University, *Submission 3*, p. 1.

30 COPHE, *Submission 13*, p. 1.

Some 58% of graduate students are not on CSP places, which includes the vast majority of those enrolled in Masters by coursework courses. As a large proportion of these Masters course enrolments are in the management and business areas it is particularly important that students in these courses are encouraged to undertake a period of study in Asia would be of great benefit.³¹

1.32 Universities Australia concurred:

Under the terms provided by the proposed legislation, the OS-HELP scheme will be extended to postgraduate students provided they have a Commonwealth supported place. As the majority of postgraduate students are fee-paying (58 percent of the 2011 postgraduate cohort) rather than Commonwealth supported, this excludes more than half of the cohort.³²

1.33 AMSA asserted that all domestic medical students, who wish to undertake overseas placements, should be able to access OS-HELP:

1.34 AMSA further believes that all domestic medical students, regardless of whether they hold Commonwealth supported or Full-Fee places should be eligible for OS-HELP when undertaking overseas medical elective placements.

As such, we believe that the Bill should further increase the accessibility of OS-HELP to domestic students who hold Full-Fee places.³³

1.35 DIISRTE stated that the current and original purpose of OS-HELP is to assist CSP students. It is not intended to support all students:

This has always been an add-on for Commonwealth supported students complementing the other benefits that we have given them. This scheme has been like that since it was created in 2005.³⁴

1.36 The NTEU also emphasised the original purpose of OS-HELP:

It is notable to recall that OS-HELP was introduced as part of a suite of income-contingent student loans that became the Higher Education Loan Program (HELP) in 2005...Since this time, the introduction of the OS-HELP loan scheme has been credited with increasing the number of students undertaking an Australian

31 ASAA, *Submission 4*, p. 1.

32 Universities Australia, *Submission 9*, p. 1.

33 AMSA, *Submission 14*, p. 2.

34 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 4.

degree program studying overseas, with a growth rate of around 10 per cent.³⁵

- 1.37 The Department responded to claims³⁶ that the Bill is contradictory in broadening eligibility to post-graduate students, when most of these students are full-fee paying, by reiterating the original focus of OS-HELP. The Bill's intent is to grant access to Commonwealth-supported post-graduate students. The inability for non-CSP students to access OS-HELP does not diminish the support that the amendments grant Commonwealth-supported post-graduate students.³⁷
- 1.38 The Department advised that whilst the Bill does not extend eligibility to all post-graduate students, it will provide greater access to those post-graduate students who are Commonwealth-supported students.³⁸

Committee comment

- 1.39 The Committee recognises that the Bill's intent is to assist Commonwealth-supported students, in keeping with the original purpose of OS-HELP. However, the Committee notes the submissions put forward by Bond University and the COPHE, that non-CSP students also have access to OS-HELP.
- 1.40 The Committee is of the view that consideration be given to extending eligibility of OS-HELP assistance to non-CSP students.

Recommendation 1

The Committee recommends that the Commonwealth Government consider extending the eligibility of OS-HELP assistance to non-CSP students.

Non-university higher education

- 1.41 The Australian Council for Private Education and Training (ACPET), called for eligibility to be extended beyond CSP students to all higher education students, including those studying at private business colleges,

35 NTEU, *Submission 2*, p. 1.

36 ASAA, *Submission 4*, p. 1; Universities Australia, *Submission 9*, p. 1.

37 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

38 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

private design schools, private music schools and a wide range of other discipline-specific private colleges:

Full fee paying students at non university higher education providers, whether by upfront payments or FEE-HELP, are already severely financially disadvantaged when compared to Commonwealth Supported Place students as they do not have their tuition fees subsidised. Therefore we believe these students should at least be subject to equitable treatment and have the same eligibility to access OS-HELP as a Commonwealth Supported Place student.³⁹

- 1.42 ACPET recommended that eligibility for OS-HELP loans be extended to include all students enrolled at non-university providers registered at the Tertiary Education Quality and Standards Agency.⁴⁰
- 1.43 The Department reiterated that the primary purpose of OS-HELP is to assist Commonwealth-supported students and noted that CSPs are not limited to public universities.⁴¹ A number of CSPs are allocated to non-university higher education providers in areas of study which have been determined to be a national priority, such as nursing and early childhood education.⁴²

Human rights concerns

- 1.44 The Joint Parliamentary Committee on Human Rights (JPCHR), together with Bond University and COPHE, raised concerns regarding the Bill's potential incompatibility with the International Covenant on Economic, Social and Cultural Rights (ICESCR), due to its preferential treatment of study undertaken in Asian countries and its focus on assisting CSP students, rather than all students.
- 1.45 The JPCHR raised concerns regarding the Bill's compatibility with the ICESCR due to the Bill's focus on Asian countries.⁴³ The report criticised sections of the Bill's Explanatory Memorandum:

The Bill is accompanied by a self-contained statement of compatibility. The statement focuses on the Bill's engagement with

39 Australian Council for Private Education and Training (ACPET), *Submission 8*, p. 2.

40 ACPET, *Submission 8*, p. 2.

41 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

42 AWPA, *Future Focus: 2013 National Workforce Development Strategy*, p. 122.

43 Joint Parliamentary Committee on Human Rights (JPCHR), *Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011: Third Report of 2013*, p. 21.

the right to education, but does not address equality and non-discrimination issues to which the Bill gives rise.⁴⁴

- 1.46 The JPCHR sought clarification regarding the distinction that the Bill draws between those students who wish to undertake study in Asia and those who wish to undertake study elsewhere:

The committee seeks an explanation as to why the bill treats students studying in different overseas countries differently and seeks clarification as to how such differential treatment can be seen to be reasonable and objective.⁴⁵

- 1.47 Furthermore, the JPCHR expressed concerns that these restrictions may be incompatible with Article 13 of the ICESCR:

The different groups of students, depending on where they undertake study, arguable fall within the category of ‘other status’ under article 2(2) of the ICESCR. The differential treatment of two groups whose members are apparently in the same situation may therefore amount to discrimination in the enjoyment of the right to education guaranteed by article 13. Even though the government may not be obliged to provide access to loans or other financial support for students to prepare for or undertake overseas study, once it does so, it cannot discriminate between categories of students in providing access to these benefits unless the justification for differentiation is reasonable and objective.⁴⁶

- 1.48 The JPCHR stated its intention to write to the Minister seeking clarification and asking for justification as to how differential treatment can be seen to be reasonable and objective.⁴⁷

- 1.49 Bond University and COPHE expressed concern⁴⁸ that the ineligibility of non-CSP students to access OS-HELP loans is not compatible with the ICESCR, Article 13(2)(c), which states that:

Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means...⁴⁹

- 1.50 DIISRTE confirmed that the Bill is compatible with the ICESCR:

There is nothing in the Bill that inhibits access to higher education. The Bill does not actually discriminate against particular provider types.⁵⁰

44 JPCHR, *Examination of legislation*, pp. 21-24.

45 JPCHR, *Examination of legislation*, p. 21.

46 JPCHR, *Examination of legislation*, p. 24.

47 JPCHR, *Examination of legislation*, p. 24.

48 Bond University, *Submission 3*, p. 2; COPHE, *Submission 13*, p. 2.

49 *International Covenant on Economic, Social and Cultural Rights*, art. 13(2)(c).

- 1.51 In response to assertions of the unfair exclusion of non-CSP students, the Department indicated that the primary purpose of OS-HELP is to support CSP students:

The OS-HELP program has always been a complement to the other support that the government provides to Commonwealth – supported students.⁵¹

- 1.52 On the matter of the eligibility of students at public versus private universities and TAFEs, the Department noted that whilst CSPs primarily exist in public universities, there are some exceptions. CSPs are available outside of public universities in areas of study which are identified by the Minister as national priority areas.⁵²

Requirement for continued study

- 1.53 The *Higher Education Support Act 2003* requires the minimum Equivalent Full Time Student Load (EFTSL) remaining in a student's course of study upon returning from overseas to be 0.5 EFTSL. The Bill proposes to amend this to 0.125 EFTSL. Universities Australia and ASAA questioned the reasons behind the requirement for any continued study.⁵³

- 1.54 Universities Australia stated that:

The rationale for requiring some portion of study to remain following the overseas experience is to ensure the student returns to Australia to complete their degree and therefore pay their OS-HELP debt. There is no publicly available information on the rate of non-repayment of OS-HELP debts due to students leaving the country, given the absence of an evidence base, the risk of the policy is trying to minimise may be minimal, but would have the effect of excluding many final semester from funding their overseas study.⁵⁴

- 1.55 ASAA asserted that the proposed amendment is an unnecessary restriction that will exclude students following non-traditional programs of study, especially those students who are studying part of their course online.⁵⁵

50 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 1.

51 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 1.

52 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

53 Universities Australia, *Submission 9*, p. 2; ASAA, *Submission 4*, p. 1.

54 Universities Australia, *Submission 9*, p. 2.

55 ASAA, *Submission 4*, p. 1.

- 1.56 DIISRTE confirmed that the rationale behind the requirement was to ensure that students accessing the scheme are committed to living and working in Australia after completing their studies:

With this sort of scheme our main worry is that we want it to be used to assist with a person's education. We do not want to turn it into a cheap form of holiday loan. So some of our criteria go to that. Then there is the issue of whether the person is continuing to be committed to living and working in Australia. That is the fundamental reason that we have always had this criteria that when you finish your overseas placement there should be a little bit of study to be completed in Australia.⁵⁶

- 1.57 The Department referred to the importance of balancing the increased flexibility offered by the Bill's amendments whilst ensuring a good return on the Commonwealth's investment in a student's education:

We have extended the scheme so that they can do work placements as well as study overseas, and it is possible that they could completely segue into living and working overseas. Unless they have a taxable income in Australia, we are not able to recover HELP debts if they do that. We had basically a half full-time year before and we have taken that down to 0.125. That is normally the equivalent to one unit of study. If you have got eight units in the year, that is one of them. So it is still there, but we have reduced it to what is probably the minimum while still retaining it.⁵⁷

- 1.58 The Department also indicated that there are no restrictions that prohibit a student's final unit of study being undertaken online.⁵⁸

Definition of Asia

- 1.59 In its report, the JPCHR raised concerns regarding the lack of definition of Asia, as it applied to the Bill:

The bill does not contain any definition of 'Asia' or 'Asian language', and none is contained in the *Higher Education Support Act 2003*. The bill contemplates that guidelines may be made specifying 'whether overseas study undertaken at a particular

56 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 3.

57 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 2.

58 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 3.

place is undertaken in Asia.’ There are a number of possible understandings of the term.⁵⁹

- 1.60 The Committee shared the concerns of the JPCHR regarding the lack of a clear definition of Asia in either the Bill or the *Higher Education Support Act 2003*.
- 1.61 DIISRTE advised that a clear definition of Asia will be outlined in the OS-HELP guidelines.⁶⁰ The Department explained that, for the purposes of the Bill, Asia will include South East Asia, North East Asia and southern Asia:

The intention is that across these different schemes [OS-HELP and AsiaBound] we will have the one definition of Asia. All the countries are currently listed on the PM&C website. They are countries which the ABS would classify as South-East Asia, North East Asia and southern Asia.⁶¹

Concluding comments

- 1.62 Stakeholders raised concerns regarding the inability of non-CSP students to access OS-HELP assistance. DIISRTE’s response to these concerns addressed the Bill’s focus on CSP students and consistency with the primary purpose of OS-HELP, which is to support Commonwealth-supported students. That noted, the Committee acknowledges the arguments and advocacy put forward by eight submitters, including Bond University and the COPHE, that non-CSP students should be able to access OS-HELP and recommends that consideration be given to extending eligibility of OS-HELP assistance to non-CSP students.
- 1.63 Whilst the JPCHR also raised concerns regarding the preferential treatment that the Bill grants to students wishing to study in Asia, DIISRTE assured the Committee that the Bill is compatible with all human rights obligations. Preferential treatment is a key component of the Bill’s intent which is to encourage students to undertake part of their course of study in Asia. This is in order to increase their Asian literacy skills and enhance our engagement with the region, as set out in the *Australia in the Asian Century White Paper*.
- 1.64 The Bill broadens eligibility for OS-HELP assistance and provides additional incentives for Commonwealth-supported students to undertake

59 JPCHR, *Examination of legislation*, p. 22.

60 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 5.

61 Mr Mark Warburton, General Manager, DIISRTE, *Transcript of Evidence*, Canberra, 21 March 2013, p. 5.

part of their course of study in Asia. The Committee recommends that the House of Representatives pass the Bill.

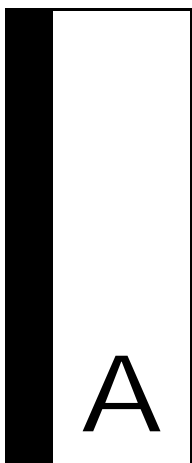
Recommendation 2

The Committee recommends that the House of Representatives pass the Higher Education Support Amendment (Asian Century) Bill 2013.

Mike Symon MP

Chair

27 May 2013



Appendix A – Text of the Bill

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Higher Education Support Amendment (Asian Century) Bill 2013

No. , 2013

(Tertiary Education, Skills, Science and Research)

A Bill for an Act to amend the *Higher Education Support Act 2003*, and for related purposes

Contents

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A Bill for an Act to amend the *Higher Education Support Act 2003*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Support Amendment (Asian Century) Act 2013*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

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

Schedule 1—OS-HELP assistance for study in Asia

Part 1—Amendments

Higher Education Support Act 2003

1 Section 65-1

Omit “at an overseas higher education institution”, substitute “overseas”.

2 Section 115-1

Omit “periods of study with overseas higher education institutions”, substitute “periods during which they are undertaking study overseas”.

3 Paragraph 118-1(1)(b)

Omit “on more than one other occasion”, substitute “in relation to more than one other period of 6 months”.

4 Paragraph 118-1(1)(c)

Omit “an *undergraduate course of study”, substitute “a *course of study”.

5 Paragraph 118-1(1)(ca)

Omit “undergraduate”.

6 Paragraph 118-1(1)(f)

Omit “0.5 EFTSL”, substitute “0.125 EFTSL”.

7 After section 118-1

Insert:

118-2 Entitlement to supplementary amount for Asian language study

- (1) A student is entitled to a *supplementary amount for Asian language study in relation to a period of 6 months if:
 - (a) the student is entitled to *OS-HELP assistance in relation to that period; and
 - (b) the OS-HELP assistance is for overseas study in Asia; and
 - (c) the student undertakes intensive study in an Asian language in preparation for undertaking that overseas study; and
 - (d) the student has applied to the home provider for receipt of a supplementary amount for Asian language study in relation to the period; and
 - (e) the home provider has selected the student for receipt of a supplementary amount for Asian language study in relation to the period (see section 118-15).

Note: If a student is entitled to a supplementary amount for Asian language study, the amount of OS-HELP assistance to which the student is entitled may include an amount for that language study in addition to the amount the student may receive for overseas study: see section 121-1.

- (2) However, the student is not entitled to a *supplementary amount for Asian language study in relation to that period if the student applies to the home provider for the assistance after the student has completed the intensive study in an Asian language in relation to the period.

- (3) For the purposes of subsection (1), the OS-HELP Guidelines may specify circumstances in which a student undertakes intensive study in an Asian language in preparation for undertaking overseas study in Asia.

8 Subparagraph 118-10(a)(i)

Repeal the subparagraph, substitute:

- (i) is undertaking full-time study; and

9 At the end of section 118-10

Add:

- Note: For paragraph (a), the study need not be at a higher education provider's overseas campus or with an overseas higher education institution.

10 Section 118-15 (at the end of the heading)

Add “and supplementary amounts for Asian language study”.

11 Subsection 118-15(1)

After “*OS-HELP assistance”, insert “or *supplementary amounts for Asian language study”.

12 Subsection 118-15(3)

After “*OS-HELP assistance”, insert “or a *supplementary amount for Asian language study”.

13 Paragraph 118-15(4)(a)

After “*OS-HELP assistance”, insert “or *supplementary amounts for Asian language study”.

14 Section 121-1

Repeal the section, substitute:

121-1 The amount of OS-HELP assistance for a period

- (1) The amount of *OS-HELP assistance to which a student is entitled for a period of 6 months is the sum of the following amounts determined by the higher education provider to which the student applied for selection for receipt of the assistance:
- (a) the amount determined by the provider for the overseas study (see subsections (2) and (3));
 - (b) if the student is entitled to a *supplementary amount for Asian language study—the supplementary amount determined by the provider for that language study (see subsections (4) and (5)).

Determining amounts for overseas study

- (2) The amount determined for overseas study must not exceed:
- (a) the amount specified in the application; or
 - (b) the *maximum OS-HELP (overseas study) amount for a period of 6 months.

- (3) The amount determined for overseas study must not be less than the higher education provider's *minimum OS-HELP (overseas study) amount, if the provider has a minimum OS-HELP (overseas study) amount.

Determining supplementary amounts for Asian language study

- (4) The supplementary amount determined for Asian language study must not exceed:
- (a) the amount specified in the application; or
 - (b) the *maximum OS-HELP (Asian language study) amount for a period of 6 months.
- (5) The supplementary amount determined for Asian language study must not be less than the higher education provider's *minimum OS-HELP (Asian language study) amount, if the provider has a minimum OS-HELP (Asian language study) amount.

15 Section 121-5

Repeal the section, substitute:

121-5 Maximum OS-HELP (overseas study) amount

- (1) The *maximum OS-HELP (overseas study) amount*, for a period of 6 months, is:
- (a) if the *OS-HELP assistance is for overseas study undertaken in Asia—\$7,500; or
 - (b) in any other case—\$6,250.

Note: The maximum OS-HELP (overseas study) amount is indexed under Part 5-6.

- (2) For the purposes of subsection (1), the OS-HELP Guidelines may specify whether overseas study undertaken at a particular place is undertaken in Asia.

16 Section 121-10 (heading)

Omit “OS-HELP amounts”, substitute “OS-HELP (overseas study) amount”.

17 Subsection 121-10(1)

After “OS-HELP”, insert “(overseas study)”.

18 At the end of Division 121

Add:

121-15 Maximum OS-HELP (Asian language study) amount

The *maximum OS-HELP (Asian language study) amount*, for a period of 6 months, is \$1,000.

Note: The maximum OS-HELP (Asian language study) amount is indexed under Part 5-6.

121-20 Minimum OS-HELP (Asian language study) amount

- (1) A higher education provider may determine, in writing, its *minimum OS-HELP (Asian language study) amount*.
- (2) The determination has effect until:
- (a) it is replaced by a later determination; or
 - (b) it is revoked.

19 After subsection 124-1(2)

Insert:

- (2A) The OS-HELP Guidelines may provide that a student who is entitled to a *supplementary amount for Asian language study may be paid:
- (a) an amount for that language study; and
 - (b) an amount for the overseas study;
- at different times determined in accordance with those guidelines.
- (2B) If a student is paid amounts at different times as mentioned in subsection (2A), each amount is taken to be a separate loan for the purposes of section 137-15 (OS-HELP debts).

20 At the end of subsection 137-15(1)

Add:

Note: For a student who is entitled to a supplementary amount for Asian language study, see subsections 124-1(2A) and (2B).

21 Subsection 140-5(1) (method statement, step 2, paragraph (e))

Omit “an *undergraduate course of study”, substitute “a *course of study”.

22 Subsection 140-25(1A) (method statement, step 1, paragraph (e))

Omit “an *undergraduate course of study”, substitute “a *course of study”.

23 Subsection 198-5(1) (table item 5)

Repeal the item, substitute:

5	*Maximum OS-HELP (overseas study) amounts	Section 121-5
6	The *maximum OS-HELP (Asian language study) amount	Section 121-15

24 Subclause 1(1) of Schedule 1 (definition of *maximum OS-HELP amount*)

Repeal the definition.

25 Subclause 1(1) of Schedule 1

Insert:

maximum OS-HELP (Asian language study) amount has the meaning given by section 121-15.

maximum OS-HELP (overseas study) amount has the meaning given by section 121-5.

26 Subclause 1(1) of Schedule 1 (definition of *minimum OS-HELP amount*)

Repeal the definition.

27 Subclause 1(1) of Schedule 1

Insert:

minimum OS-HELP (Asian language study) amount, in relation to a higher education provider, means an amount determined by the provider under section 121-20.

minimum OS-HELP (overseas study) amount, in relation to a higher education provider, means an amount determined by the provider under section 121-10.

28 Subclause 1(1) of Schedule 1

Insert:

supplementary amount for Asian language study means a supplementary amount of *OS-HELP assistance included under paragraph 121-1(1)(b).

Part 2—Application of amendments

29 Application of amendments relating to OS-HELP assistance

- (1) Part 3-4 of the *Higher Education Support Act 2003*, as amended by this Schedule, applies in relation to OS-HELP assistance paid to a student if:
 - (a) the assistance is paid on or after 1 January 2014; and
 - (b) the student is selected, on or after 1 January 2014, by the home provider for receipt of OS-HELP assistance, or a supplementary amount for Asian language study, in relation to a period of 6 months; and
 - (c) in the case of overseas study—the overseas study to which the assistance relates is completed on or after 1 January 2014; and
 - (d) in the case of a supplementary amount for Asian language study—the intensive study in an Asian language to which the supplementary amount relates is completed on or after 1 January 2014.
- (2) To avoid doubt, subitem (1) applies even if:
 - (a) the student applied for OS-HELP assistance before 1 January 2014; or
 - (b) the period of 6 months to which the assistance relates started before 1 January 2014; or
 - (c) the student started to undertake the overseas study to which the assistance relates, or the intensive study in an Asian language, before 1 January 2014.

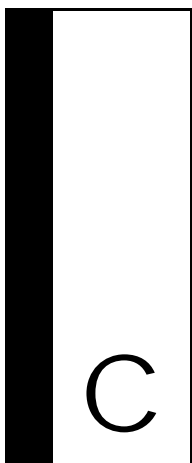
30 Indexation of amounts in 2014

- (1) Despite section 198-10 of the *Higher Education Support Act 2003*, the amounts set out in items 5 and 6 of the table in subsection 198-5(1) of that Act, as in force on and after the commencement of this item, are not to be indexed on 1 January 2014 in accordance with Part 5-6 of that Act.
- (2) Despite Part 5-6 of the *Higher Education Support Act 2003*, the maximum OS-HELP amount for a period of 6 months under section 121-5 of that Act, as in force immediately before the commencement of this item, is taken to be \$6,250 for a student who:
 - (a) is paid OS-HELP assistance on or after 1 January 2014; and
 - (b) either:
 - (i) is selected for receipt of OS-HELP assistance before 1 January 2014; or
 - (ii) completes the overseas study in respect of the period before 1 Janua



Appendix B – Submissions

- 1 Bond University Student Association
- 2 National Tertiary Education Union
- 3 Bond University
- 4 Asian Studies Association of Australia
- 5 Australian Technology Network of Universities
- 6 Bond University Exchange Club
- 7 Department of Industry, Innovation, Science, Research and Tertiary Education
- 8 Australian Council for Private Education and Training
- 9 Universities Australia
- 10 University of Sydney
- 11 National Union of Students
- 12 Innovative Research Universities
- 13 Council of Private Higher Education
- 14 Australian Medical Students' Association
- 15 Government of South Australia
- 16 University of Wollongong
- 17 Wollongong University Medical Students' Society



Appendix C – Public hearings and witnesses

21 March 2013, Canberra

Department of Industry, Innovation, Science, Research and Tertiary Education

Dr Andrew Herd, Assistant Manager

Ms Susan Bennet, General Manager

Mr Mark Warburton, General Manager