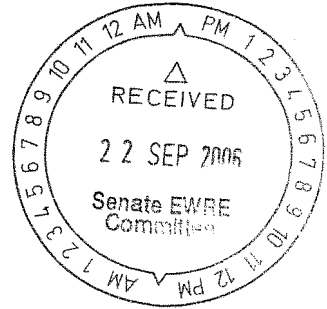




**Australian Government**

**Department of Education, Science and Training**



**Submission to the Senate Employment, Workplace Relations  
and Education References Committee**

**Inquiry to the Higher Education Legislation Amendment (2006  
Budget and Other Measures) Bill 2006**

Higher Education Group  
14 Mort Street  
GPO Box 9880  
Canberra ACT 2601

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## Introduction

The purpose of this submission is to provide information on implications of the Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006 ("the Bill") for Australia's higher education sector, according to the terms of reference of the Inquiry.

In its call for submissions, the Committee indicated that it would examine the amendments relating to FEE-HELP limits, student contributions and tuition fee changes and their impact on students.

## Overview of the Bill

The Bill will amend three Acts – the *Higher Education Support Act 2003*, the *Higher Education Funding Act 1988* and the *Australian Research Council Act 2001*.

### **Amendments to the *Higher Education Support Act 2003***

The Bill will amend the *Higher Education Support Act 2003* (HESA) to revise the maximum funding amounts in:

- section 30-5, to deliver the commitments made by the Prime Minister as part of the Council of Australian Governments' (COAG) Health Workforce and Mental Health packages, including:
  - new medical places;
  - new general nursing places;
  - increasing the contribution to the clinical training of nurses;
  - new mental health nursing places; and
  - new clinical psychology places;
- section 33-10 under the Commonwealth Grant Scheme, to provide for an increase in the Commonwealth contribution amount for nursing units of study to \$10,189 in 2007 to assist in meeting the costs associated with nurse clinical training; and
- section 41-45 for Other Grants, to provide for an increase in Capital Development Pool (CDP) funding from 2007; to provide funding for the Commercialisation Training Scheme (CTS); and to provide funding for the Federation of Australian Scientific and Technological Societies and the Council for the Humanities, Arts and Social Sciences

to implement previously announced Government commitments.

The Bill will also amend the HESA to revise the maximum funding amounts in:

- section 30-5 under the Commonwealth Grant Scheme;
- section 41-45 for Other Grants; and
- section 46-40 for Commonwealth Scholarships

to reflect indexation increases for the years 2007 to 2009, and to add a new funding year, 2010.

The Bill will also amend the HESA to revise the FEE-HELP limit in:

- section 104-20, to provide for the general FEE-HELP limit to be \$80,000 from 1 January 2007 and be indexed on an annual basis from 2008 under existing arrangements; and to provide for a FEE-HELP limit of \$100,000, indexed on an annual basis from 2008 under existing arrangements, for students enrolled on or after 1 January 2007 in:
  - a course of study in medicine; or
  - a course of study in dentistry; or
  - a course of study in veterinary science.

These changes to the FEE-HELP limit require technical amendments to HESA to allow the current arrangements for re-crediting of a person's FEE-HELP balance to continue.

The Bill will extend the fee-paying summer schools provisions to winter schools.

The Bill will also replace the student cohort provisions to allow higher education providers further flexibility in setting student contributions and tuition fees.

The Bill will also make amendments to HESA to provide for the rounding in the calculation of accumulated HELP debts and former accumulated HELP debts. This has a retrospective date of effect of 1 January 2005. It is required to give effect to the current administrative arrangements, which have rounded down HELP debts incurred since 1 January 2005.

The Bill will also make amendments to HESA to provide for the operation of HESA and its guidelines without the need for an exemption under the *Electronic Transactions Act 1999* by revising:

- Part 5-3 to provide for the Administration Guidelines, to set out additional requirements for the electronic communication of notices.

The Bill will also amend Division 225 of the HESA to:

- allow the Commonwealth to make guidelines to regulate higher education in the external territories; and
- to allow the Commonwealth to prescribe fees in the guidelines for applications from those intending to provide higher education in the external territories.

### **Amendments to other legislation**

The Bill amends the maximum funding amounts under section 110A of the *Higher Education Funding Act 1988* (HEFA) to reflect indexation increases for transition funding for the year 2007.

The Bill will also repeal subsection 34(1) (definition of *Account*) and Part 4.3 of HEFA to remove the Higher Education (HECS) Reserve Special Account (the *Account*). Following the implementation of the higher education reforms and the commencement of the *Higher Education Support Act 2003*, payments are no longer being made out of the *Account*.

The Bill amends section 49 of the *Australian Research Council Act 2001* to reflect updated annual caps on funding.

### **Principal amendments to be considered**

#### **1. To increase the FEE-HELP limit to \$100,000 for students enrolled in medicine, dentistry and veterinary science courses, and to \$80,000 for students enrolled in all other courses.**

Section 104-20 of HESA sets out the FEE-HELP limit. The FEE-HELP limit is currently set at \$50,950 (2006 indexed amount) for all eligible domestic fee-paying students. The *Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006* (the 'Bill') will increase the general FEE-HELP limit to \$80,000 and to \$100,000 for medicine, dentistry and veterinary science students.

The new FEE-HELP limits will improve student choices about their course of study, encourage greater participation in higher education, and promote a more diverse higher education sector.

#### **2. To give higher education providers increased flexibility in the setting of student contributions and tuition fees.**

The Australian Government is seeking to provide greater flexibility in the setting of student contributions and tuition fees for units of study, beyond the current student cohort provisions.

The Bill contains measures that will increase flexibility for higher education providers (providers) when setting student contributions (contributions) and tuition fees (fees). These measures extend the flexibility of current provisions under the *Higher Education Support Act 2003* (the Act). Matters that have been identified as possible factors by which providers may set different contributions and fees are mode of course delivery, campus and year of commencement. When setting contributions for Commonwealth supported students (previously called HECS-liable students) the amount must not exceed the maximum amounts specified in the Act. These are not being changed.

Under the Act, providers are required to set contributions and fees for units of study they intend to offer in the following year. These requirements are detailed in Subdivision 19-F of the Act. The Bill will amend the sections of Subdivision 19-F to include new provisions that state that a provider may set one or more contribution or fee for a unit of study.

Currently, the provisions for setting contributions or fees do not reflect the potentially differing costs of delivering a unit of study. Similarly, the costs associated with delivering a course at different campuses cannot be used as a basis for setting differing amounts. In early 2006, the sector was asked to comment on the proposal that there be greater flexibility when setting contributions and fees. A copy of the discussion paper circulated to the sector is at Attachment A. There was a favourable response to the proposals.

## **Limits on contribution/fee flexibility**

The Bill allows for the Minister to specify in Guidelines matters that providers may not consider when setting more than one contribution or fee. The Minister has indicated (in the discussion paper) that she intends to make Guidelines that specify that a person's choice of a HELP loan or upfront payment will not be a matter that a provider can consider when setting more than one contribution or fee for a unit of study.

When setting contributions, providers can determine only an amount that is lower than the maximum contribution amount set by the Australian Government. Subdivision 19-D of the Act requires providers to treat students fairly when allocating Commonwealth assistance. The fairness provisions will apply when providers decide to set more than one contribution or fee for a unit.

The Bill contains amendments to section 19-95 of the Act to bring requirements for providers to publish information about the prices they set into line with the Bill's measures for increased flexibility. Providers will be required to publish information about contributions and fees that will allow students to determine which amount applies to them.

## **Background to amendments**

**1. To increase the FEE-HELP limit to \$100,000 for students enrolled in medicine, dentistry and veterinary science courses, and to \$80,000 for students enrolled in all other courses.**

### **Background of the FEE-HELP loan scheme**

FEE-HELP commenced on 1 January 2005 as part of the Australian Government's package of higher education reforms; *Our Universities: Backing Australia's Future*. It gave, for the first time, domestic students paying tuition fees for an undergraduate course access to an income contingent loan (like HECS-HELP, students do not need to begin repaying their debt until their repayment income reaches the minimum threshold - \$38,149 in 2006-07).

FEE-HELP also for the first time extended the availability of an income contingent loan to fee-paying students enrolled in private higher education providers. There are now 44 private higher education providers approved to offer FEE-HELP.

### **Background to the increase of the FEE-HELP limit**

The increase in the FEE-HELP limit is consistent with the Australian Government's higher education policy to facilitate student choices about their course of study, encourage greater equity in participation in higher education and promote a more diverse higher education sector.

Following the Council of Australian Governments (COAG) meeting in February 2006, the Prime Minister announced that the FEE-HELP limit for medical students would be raised to \$80,000. This was in response to the proposal made by the Queensland Premier. The 2006-07 Budget initiative builds on this decision to increase the general FEE-HELP limit to \$80,000 and to \$100,000 for medicine, dentistry and veterinary science students. This initiative supersedes the COAG measure for

medical students.

### **Financial Impact**

As detailed in the Explanatory Memorandum, the estimated financial impact of increasing the FEE-HELP limit over the forward estimates period (2006-07 to 2009-10) is \$18.293 million on the fiscal balance, expenses amount to \$20.759 million and headline cash is -\$78.458 million.

### **Technical Amendments**

As detailed in the Explanatory Memorandum, the Bill also makes a range of technical amendments as a result of the amendments to section 104-20 of HESA to allow for the current arrangements relating to re-crediting of a person's FEE-HELP balance to continue where the FEE-HELP limit which applies to a person may change.

## **2. To give higher education providers increased flexibility in the setting of student contributions and tuition fees.**

### **Current arrangements for student contributions and tuition fees**

As a result of the implementation of the *Our Universities: Backing Australia's Future* reforms, providers determine the amount that a student is charged for a unit of study. Under the Act, providers must set a contribution and fee for each unit of study. Unlike the previous fixed HECS rates, providers now have the ability to set contributions from \$0 to the maximum set by the Act.

When setting the fee for a unit of study, providers must determine an amount that is equal to or greater than the highest contribution they have set for the unit. The measures in the Bill will not change this requirement.

Under section 19-95 of the Act providers are required to publish information about the contributions and fees they set. This information must be published in a manner that allows a student to work out how much they will pay for the unit of study.

#### *Student Cohorts*

Under the Act, providers are able to establish student cohorts for which they may set a different contribution or fee; a cohort being all students who commence a course of study in a particular year. The Act requires that contributions or fees for the cohort be set in the year prior to the cohort beginning for all years the cohort will operate. The need to simplify the student cohort provisions has, in part, prompted the fee flexibility measures in the Bill.

#### *Setting tuition fees by course of study*

The Act allows providers to set different fees (but not student contributions) for students in the same unit but enrolled in different courses of study.

## Attachment A

### Discussion paper - increased flexibility for the setting of student contributions/tuition fees and in the arrangements for winter schools

#### Introduction

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1. This paper seeks views on proposals to seek amendments to the *Higher Education Support Act 2003* (HESA) to:
  - i) provide greater flexibility in the setting of student contributions (within the existing maximum amounts specified in HESA) and tuition fees for units of study, to allow providers, for example, to set lower student contributions for units taken on-line as opposed to on campus, or to set higher fees for a unit of study taken by a domestic student in a high-cost CBD location that caters primarily for international students; and
  - ii) broaden the exclusion from the 35% 'cap' on domestic fee-paying undergraduate students to 'winter schools'.

#### The current framework

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2. Under HESA, a provider is required to determine, for all students who may enrol in a unit of study in a year, the student contribution amount and tuition fee for the unit (the "price") (ss 19-89 and 19-90). In general, this price applies to all students who undertake the unit in that year by any mode (whether by correspondence, on line or on campus), or wherever they undertake it (whether at a major metropolitan campus, a regional campus or other 'delivery site').
3. There are two exceptions:
  - iii) a provider may establish a 'cohort' and determine, in the year before the cohort commences its course of study, a different price for students in that cohort; and
  - iv) in the case of tuition fees, a provider may determine a different amount for a unit for each course of study to which the unit contributes (e.g. Psychology AO1 may be undertaken as part of a BA or a BSc and the provider could set different fees for each).
4. Under HESA, providers may charge Commonwealth supported students tuition fees only for units that are undertaken as part of a full fee summer school. Providers can determine that a unit of study is offered on a fee-paying basis only in a full fee summer school if:
  - i) the unit starts on or after 1 November in a year and ends after 1 January but before 1 March the following year; and
  - ii) each person undertaking the unit could undertake, or could have undertaken, the unit outside the summer school period.

5. Under these circumstances, no student in the full fee summer school unit can be Commonwealth supported. Eligible students may access FEE-HELP for their tuition fees.

### **Issues with the current framework**

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6. Providers have raised concerns about the inflexibility of the present framework.

7. Some providers have suggested that providers should be permitted to set different prices for different students enrolled in the same unit of study. Setting only one price does not account for the different costs involved in delivering a particular unit, for example, according to the campus at which it is delivered or the mode by which it is delivered (e.g. distance education).

8. Some providers have suggested that there could be merit in being able to set lower prices for disadvantaged students to encourage their participation in certain courses. The current framework does not allow them to do this.

9. Furthermore, the student cohort provisions do not allow a provider, which did not increase student contributions in 2005 but determined to do so for the 2006 academic year, to establish retrospectively a student cohort of its 2005 students that would not be subject to the 2006 increase for the duration of their studies. Providers wishing to quarantine a prior cohort from price increases have had to adopt a more complex administrative 'work around' to achieve this under current HESA provisions.

10. The issue of extending the summer school provisions of HESA to winter schools has been raised by some providers as a way of increasing flexibility and providing additional study options for students without restricting their ongoing access to Commonwealth support.

### **Proposed framework**

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11. Amendments to HESA could allow a provider to set and vary its prices for a unit according to any factor it determines is reasonable, for example, by campus, mode of delivery, year of commencement (in lieu of establishing cohorts), and equity group. The Minister could prescribe, in guidelines, factors that may be seen as inequitable and by which prices could not be varied, for example, a student's payment option (i.e. up-front payment or a Higher Education Loan Programme (HELP) loan). Providers could not exceed the maximum student contribution amounts for Commonwealth supported students specified in HESA or set fees below the tuition fee minimums for fee-paying students where they apply under HESA guidelines.

12. Accountability for providers would be through the continuation of the current publication requirements and fairness provisions in HESA. A provider would also need to ensure that it continues to publish sufficient information to allow a student to calculate his or her student contribution or tuition fee for a unit of study. For example, a provider that chose to have lower prices for an equity group would need to ensure a student could determine whether he or she belongs to that equity group and, therefore, which price would apply.



13. We pose the following questions for consideration:

- ▶ *Would the proposed model to increase flexibility in the setting of student contributions and tuition fees alleviate the sector's concerns in this area?*
- ▶ *Are there any other factors (aside from a student's payment option) by which prices should not be allowed to vary?*

14. Amendments to HESA could allow providers to determine that a unit of study is offered on a fee-paying basis only in a full fee winter school in similar circumstances to full fee summer schools.

15. We pose the following question for consideration:

- ▶ *What would be an appropriate time period in which HESA would allow providers to conduct full fee winter schools?*

#### **Request for comments**

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16. We are seeking comments from stakeholders on this proposal. Comments should be provided by COB **Friday, 7 April 2006** to: [aip@dest.gov.au](mailto:aip@dest.gov.au). Any queries relating to the setting of student contributions and tuition fees can be directed to Ms Laura Santini on (02) 6240 9607, and any queries relating to winter schools can be directed to Mr Rod Lynch on (02) 6240 5432.