



**STUDENTS' REPRESENTATIVE COUNCIL**  
**UNIVERSITY OF SYDNEY**

WENTWORTH BUILDING G01  
UNIVERSITY OF SYDNEY NSW 2006

TELEPHONE (02) 9660 5222  
MOBILE: 0438 438844  
FACSIMILE (02) 9660 4260  
ADDRESS: PO BOX 794, BROADWAY NSW 2007  
E-MAIL [president@src.usyd.edu.au](mailto:president@src.usyd.edu.au)

---

**Inquiry by the Senate Employment, Workplace  
Relations and Education Committee into the  
provisions of the Higher Education Legislation  
Amendment (2007 Measures No. 1)**

Submission by the

**Students' Representative Council  
of the University of Sydney**

Submitted by: Mr. Angus McFarland, SRC President

Date: 19 April 2007

The Students' Representative Council (SRC) of the University of Sydney welcomes the opportunity to provide a submission to the inquiry by the Senate Employment, Workplace Relations and Education Committee into the provisions of the *Higher Education Legislation Amendment (2007 Measures No. 1)*.

The SRC supports the provision in the Bill which makes allowance for Commonwealth Supported Students to undertake study in Commonwealth supported places for cross-institutional study where one or both of the higher education providers are not table A providers. The SRC further supports the Bill's enabling a student to apply for OS-HELP assistance if that student is already studying overseas.

However, the SRC has reservations over the Bill's revision of the maximum funding amounts provided under the *Higher Education Support Act 2003* to provide funding to support the implementation of the Research Quality Framework (RQF).

The SRC does not support the Bill's provision of funding to implement the Research Quality Framework (RQF). Bodies such as the Productivity Commission, the Group of Eight Universities, and the Australian Academy of the Humanities have all expressed concerns over the benefits of the RQF, and the evidence from the UK and New Zealand experience suggests that any benefits would have to be substantial to offset the significant administrative costs. The SRC is particularly concerned that through the difficulties in measuring the impact of humanities research, the RQF will do little to support and stimulate such research.

Rather than provide \$41 million to the establishment of a mechanism where the costs are likely to exceed the benefits, the SRC believes there should be much further consideration of how the quality and impact of Australian research may be evaluated.

The SRC believes that the Bill has, in introducing a number of measures regarding the administration of the Higher Education Loan Program, missed a valuable opportunity to make important amendments to the provisions for applying for a remission of a HECS-HELP debt (or a refund of HECS payments) where a student has, through special circumstances, been unable to continuing studying a course.

By way of background, the introduction of the *Higher Education Support Act 2003* (HESA), provided much needed changes to the deadlines for applying for HECS remission. Under the formerly applicable provisions of the *Higher Education Funding Act 1988* (HEFA), students seeking a remission of HECS debt, or a refund of HECS payment, were required to make an application to the Department of Education Science and Training within 12 months after the person's withdrawal day in relation to a unit. No exceptions to this timeframe were allowed; a situation regarded by many as unjust.

The Commonwealth's Administrative Appeals Tribunal had numerous occasions to consider the restrictive timelines for the making of an application for the remission of HECS debt. In *Watts and Secretary, Department of Employment, Education, and Training*, the applicant had been enrolled in a course of studies in 1993 when she suffered a stroke that left her unable to continue her course. The applicant applied for a remission of the relevant HECS debt some four years later, which at that time – 1997 - was outside the then 15 month time limit, specified at s106L(3) of HEFA.

The Deputy President of the Tribunal, Blow QC, dismissed the application for want of jurisdiction, but in so doing stated that '*in my view the time limit provisions in s106L(1) and (3) are unnecessarily strict, and can sometimes result in injustices occurring. Parliament ought to consider relaxing those provisions*'.

Similarly, in *Martin and Department of Employment, Education, Training, and Youth Affairs* the Tribunal was asked to consider an appeal against a decision by the respondent to reject an application for remission of a HECS debt made outside the time limit specified at s106L(1). The Tribunal made the observation that more flexibility in decision-making could be introduced into the legislative provisions for HECS remissions, and suggested the consideration of such a provision as subregulation 58(5) of the then existing Austudy Regulations. This subregulation read as follows.

*An application can still be considered if the student lodges it as soon as practicable after he or she is no longer prevented from doing so by circumstances beyond his or her control.*

The Tribunal noted that it was common ground that there were 'special circumstances' which prevented the applicant from completing her course requirements, and, further noted that '*these special circumstances contributed to the receipt of the application for remission outside the prescribed time limit*'. The Tribunal had no discretion other than to apply the time limits specified in the Act, but noted that '*this finding may be perceived to be unfortunate, even unfair*'.

The provision introduced by HESA, whereby the higher education provider (to which the application for remission or refund is now made) may extend the timeline for the making of the application, was therefore much welcomed. Under section 79-1 of HESA, higher education providers may now waive the requirement that an application be made before twelve months from either the day the student withdrew from a subject, or the end of the period during which the student undertook the subject, on the ground that '*it would not be, or was not, possible for the application to be made before the end of that period*'.

However as HESA has tied the process of remission of HECS debt or refund of HECS payment to the recrediting of the Student Learning Entitlement (SLE), only those debts incurred, or payments made, after 1 January 2005 (when the SLE was introduced) are covered by the provisions for extending the application timeline.

The SRC believes that it would be fair to allow students who had incurred debts or made payments in respect of subjects undertaken prior to 2005 to make an application for remission or refund.