





**Higher Education Legislation  
Amendment (2007 Budget Measures) Act  
2007**

**No. 119, 2007**

**An Act to amend the law in relation to higher  
education and research funding, and for related  
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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*Higher Education Support Act 2003*

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# **Higher Education Legislation Amendment (2007 Budget Measures) Act 2007**

**No. 119, 2007**

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**An Act to amend the law in relation to higher  
education and research funding, and for related  
purposes**

*[Assented to 28 June 2007]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Higher Education Legislation  
Amendment (2007 Budget Measures) Act 2007*.

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## 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.

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| <b>Commencement information</b>   |  |                     |
|---|--|---------------------|
| <b>Column 1</b>   | <b>Column 2</b>                                      | <b>Column 3</b>     |
| <b>Provision(s)</b>   | <b>Commencement</b>                                  | <b>Date/Details</b> |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent. | 28 June 2007        |
| 2. Schedule 1   | The day on which this Act receives the Royal Assent. | 28 June 2007        |
| 3. Schedule 2   | 1 January 2008.                                      | 1 January 2008      |
| 4. Schedule 3, Part 1   | The day on which this Act receives the Royal Assent. | 28 June 2007        |
| 5. Schedule 3, Part 2   | 1 January 2008.                                      | 1 January 2008      |
| 6. Schedules 4 and 5  | 1 January 2008.                                      | 1 January 2008      |
| 7. Schedule 6   | The day on which this Act receives the Royal Assent. | 28 June 2007        |
| 8. Schedules 7 and 8  | 1 January 2008.                                      | 1 January 2008      |
| 9. Schedule 9   | The day on which this Act receives the Royal Assent. | 28 June 2007        |
| 10. Schedules 10 and 11   | 1 January 2008.                                      | 1 January 2008      |

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Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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### **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—Amounts relating to grants

### *Higher Education Support Act 2003*

#### **1 Paragraphs 30-5(1)(d) to (f)**

Repeal the paragraphs, substitute:

(d) for the year 2008—\$3,843,664,000; or

(e) for the year 2009—\$3,907,818,000; or

(f) for the year 2010—\$3,956,115,000; or

(g) for the year 2011—\$3,986,485,000.

#### **2 Subsection 41-45(1) (table items 4 to 6)**

Repeal the items, substitute:

|   |      |                 |
|---|------|-----------------|
| 4 | 2008 | \$1,872,116,000 |
| 5 | 2009 | \$1,838,589,000 |
| 6 | 2010 | \$1,811,605,000 |
| 7 | 2011 | \$1,797,426,000 |

#### **3 Section 46-40 (table items 5 to 7)**

Repeal the items, substitute:

|   |      |               |
|---|------|---------------|
| 5 | 2008 | \$239,305,000 |
| 6 | 2009 | \$250,783,000 |
| 7 | 2010 | \$255,663,000 |
| 8 | 2011 | \$260,211,000 |

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## Schedule 2—Funding clusters

### *Higher Education Support Act 2003*

#### 1 Section 30-15 (table)

Repeal the table, substitute:

| <b>Funding clusters</b>   |
|---|
| Law, Accounting, Administration, Economics, Commerce  |
| Humanities  |
| Mathematics, Statistics, Behavioural Science, Social Studies, Education, Computing, Built Environment, Other Health |
| Clinical Psychology, Allied Health, Foreign Languages, Visual and Performing Arts                                   |
| Nursing   |
| Engineering, Science, Surveying   |
| Dentistry, Medicine, Veterinary Science, Agriculture  |

#### 2 Section 33-10 (table)

Repeal the table, substitute:

| <b>Commonwealth contribution amount</b> |   |   |
|---|---|---|
| <b>Item</b>                             | <b>Funding cluster</b>  | <b>Commonwealth contribution amount</b> |
| 1                                       | Law, Accounting, Administration, Economics, Commerce  | \$1,674                                 |
| 2                                       | Humanities  | \$4,647                                 |
| 3                                       | Mathematics, Statistics, Behavioural Science, Social Studies, Education, Computing, Built Environment, Other Health | \$8,217                                 |
| 4                                       | Clinical Psychology, Allied Health, Foreign Languages, Visual and Performing Arts                                   | \$10,106                                |

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| Commonwealth contribution amount |  |                                  |
|----------------------------------|--|----------------------------------|
| Item                             | Funding cluster                                      | Commonwealth contribution amount |
| 5                                | Nursing  | \$11,280                         |
| 6                                | Engineering, Science, Surveying                      | \$14,363                         |
| 7                                | Dentistry, Medicine, Veterinary Science, Agriculture | \$18,227                         |

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### 3 Transitional provision—indexation

Amounts in the table in section 33-10 of the *Higher Education Support Act 2003*, as amended by this Schedule, are not to be indexed on 1 January 2008.

### 4 Transitional provision—adjustment of basic grant amount

For the purposes of working out if and how a higher education provider's basic grant amount for the year 2008 or an earlier grant year is to be adjusted under Subdivision 33-C of the *Higher Education Support Act 2003*, disregard the amendment made by item 2 of this Schedule.

### 5 Section 33-15

Repeal the section, substitute:

#### 33-17 Reductions in assistance for higher education providers failing to meet certain requirements

- (1) A higher education provider's \*basic grant amount for a year is reduced if:
  - (a) the Commonwealth Grant Scheme Guidelines impose on higher education providers requirements to be known as the National Governance Protocols; and
  - (b) the Commonwealth Grant Scheme Guidelines impose on higher education providers requirements to be known as the Higher Education Workplace Relations Requirements; and
  - (c) the Minister is satisfied that the provider does not meet the requirements in paragraphs (a) and (b) as at the dates that are specified in the Commonwealth Grant Scheme Guidelines in

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relation to each of those requirements, in the year preceding the year.

- (2) The reduction under subsection (1) is an amount equal to the amount that would have been the increase under repealed section 33-15 if:
- (a) the provider had been entitled to an increase of 7.5% under that section as in force immediately before the commencement of Part 1 of Schedule 2 to the *Higher Education Legislation Amendment (2007 Budget Measures) Act 2007*; and
  - (b) the \*funding clusters were the funding clusters that existed immediately before the commencement of Part 1 of Schedule 2 to the *Higher Education Legislation Amendment (2007 Budget Measures) Act 2007*; and
  - (c) the \*Commonwealth contribution amount for each of those funding clusters was the amount that would have been the Commonwealth contribution amount for the funding cluster for the year if the amounts in the table in section 33-10 had not been amended by the *Higher Education Legislation Amendment (2007 Budget Measures) Act 2007* or any later Act.

## **6 Application provision—section 33-17**

Section 33-17 of the *Higher Education Support Act 2003* applies in relation to basic grant amounts for 2008 and later years.

## **Schedule 3—Term of funding agreements**

### **Part 1—Amendments commencing on Royal Assent**

#### ***Higher Education Support Act 2003***

##### **1 At the end of paragraph 30-1(1)(c)**

Add “or in respect of a period that includes that year”.

##### **2 Subsection 30-25(1)**

Repeal the subsection, substitute:

- (1) The Minister may, on behalf of the Commonwealth, enter into a funding agreement with a higher education provider:
  - (a) relating to a grant under this Part in respect of a year (the *grant year*); or
  - (b) relating to grants under this Part in respect of each year in a period of 3 years (the *grant years*).

##### **3 Subsection 30-25(2)**

After “the grant is”, insert “, or the grants are,”.

##### **4 Subsection 30-25(2) (note)**

After “the grant”, insert “or grants”.

##### **5 Subsections 30-25(2A) and (2B)**

After “the grant is”, insert “, or the grants are,”.

##### **6 Paragraph 30-25(3)(a)**

After “grant year” (wherever occurring), insert “or grant years”.

##### **7 Paragraphs 30-25(3)(b) to (da)**

After “grant year”, insert “or grant years”.

##### **8 At the end of subsection 36-70(3)**

Add “or in respect of a period that includes that year”.

##### **9 Application of amendments made by this Part**

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The amendments made by this Part apply to funding agreements entered into under subsection 30-25(1) of the *Higher Education Support Act 2003* in relation to grants in respect of 2008 or in respect of a period that includes 2008.

## Part 2—Amendments commencing 1 January 2008

### *Higher Education Support Act 2003*

#### **10 Paragraph 30-1(1)(c)**

Omit “in respect of that year or”.

#### **11 Subsection 30-25(1)**

Repeal the subsection, substitute:

- (1) The Minister may, on behalf of the Commonwealth, enter into a funding agreement with a higher education provider relating to grants under this Part in respect of each year in a period of 3 years (the *grant years*).

#### **12 Subsection 30-25(2)**

Omit “the grant is, or the grants are,”, substitute “the grants are”.

#### **13 Subsection 30-25(2) (note)**

Omit “grant or”.

#### **14 Subsections 30-25(2A) and (2B)**

Omit “the grant is, or the grants are,”, substitute “the grants are”.

#### **15 Paragraphs 30-25(3)(b) to (da)**

Omit “grant year or”.

#### **16 Subsection 36-70(3)**

Omit “in respect of the year or”.

#### **17 Application of amendments made by this Part**

The amendments made by this Part apply:

- (a) to funding agreements entered into under subsection 30-25(1) of the *Higher Education Support Act 2003* in relation to grants in respect of 2009 and later years; and

- (b) to funding agreements entered into under subsection 30-25(1) of the *Higher Education Support Act 2003* in respect of each year in a period of 3 years that includes 2008.

## Schedule 4—Adjustment of basic grant amounts

### *Higher Education Support Act 2003*

#### **1 Subsection 30-5(2)**

Omit “section 33-20”, substitute “Subdivision 33-C”.

#### **2 Section 33-20**

Repeal the section.

#### **3 Subsections 33-25(1) to (4)**

Repeal the subsections, substitute:

*Corrected basic amount is less than the basic grant amount (Table A and B providers)*

- (1) The \*basic grant amount for a \*Table A provider or a \*Table B provider for a year is reduced by an adjustment if the provider’s \*corrected basic amount for the preceding year was less than 99% of the provider’s basic grant amount for that year.
- (2) The adjustment under subsection (1) is the lower of the following amounts:
  - (a) an amount equal to the difference between:
    - (i) 99% of the basic grant amount; and
    - (ii) the \*corrected basic amount;
  - (b) 4% of the basic grant amount.

*Corrected basic amount is less than the basic grant amount (non-Table A and B providers)*

- (3) The \*basic grant amount for a higher education provider that is not a \*Table A provider or a \*Table B provider is reduced by an adjustment if the provider’s \*corrected basic amount for the preceding year was less than the provider’s basic grant amount for that year.

- (4) The adjustment under subsection (3) is an amount equal to the difference between:
- (a) the basic grant amount; and
  - (b) the \*corrected basic amount.

Note 1: The heading to section 33-25 is altered by omitting “**that apply in the absence of guidelines**”.

Note 2: The following heading to subsection 33-25(5) is inserted “*Meaning of corrected basic amount*”.

#### **4 Subsections 33-25(5A) to (6)**

Repeal the subsections, substitute:

*Corrected basic amount is more than the basic grant amount  
(Table A and B providers)*

- (6) The \*basic grant amount for a year for a \*Table A provider or a \*Table B provider is increased by an adjustment if the provider’s \*corrected basic amount for the preceding year was more than the provider’s basic grant amount for the year.
- (7) The adjustment under subsection (6) is the lower of the following amounts:
- (a) an amount equal to the difference between:
    - (i) the \*corrected basic amount; and
    - (ii) the \*basic grant amount;
  - (b) 5% of the basic grant amount.

#### **5 Transitional provision**

For the purposes of working out if and how a higher education provider’s basic grant amount for the year 2008 or an earlier year is to be adjusted under Subdivision 33-C of the *Higher Education Support Act 2003*, disregard the amendments made by this Schedule.

## **Schedule 5—Removal of restriction on number of fee-paying places**

### ***Higher Education Support Act 2003***

#### **1 Section 36-35**

Repeal the section.

#### **2 Clause 1 of Schedule 1 (definition of *course of study in medicine*)**

Repeal the definition, substitute:

*course of study in medicine* means a \*course of study, completion of which would allow provisional registration as a medical practitioner by an authority of a State, a Territory or the Commonwealth.

## **Schedule 6—Grants to assist with costs of changes to maximum student contribution amounts**

### *Higher Education Support Act 2003*

#### **1 Subsection 41-10(1) (at the end of the table)**

Add:

|    |  |  |
|----|--|--|
| 12 | Grants to assist higher education providers with the transitional costs of changes to maximum student contribution amounts | Higher education providers to which Commonwealth-supported places have been allocated for any year |
|----|--|--|

## Schedule 7—Maximum student contribution amounts

### *Higher Education Support Act 2003*

#### 1 Section 93-10

Before “The”, insert “(1)”.

#### 2 Section 93-10 (table)

Repeal the table, substitute:

| <b>Maximum student contribution amounts for places</b> |  |   |
|--|--|---|
| <b>Item</b>  | <b>Column 1<br/>For a place in a unit in this<br/>funding cluster:</b>   | <b>Column 2<br/>The maximum student<br/>contribution is:</b>  |
| 1  | Law, Accounting, Administration,<br>Economics, Commerce  | \$8,499   |
| 2  | Humanities   | \$5,095   |
| 3  | Mathematics, Statistics, Behavioural<br>Science, Social Studies, Education,<br>Computing, Built Environment,<br>Other Health | (a) for a place in a unit in<br>Mathematics, Statistics,<br>Computing, Built Environment<br>or Other Health—\$7,260; or<br><br>(b) for a place in a unit in<br>Behavioural Science or Social<br>Studies—\$5,095; or<br><br>(c) for a place in a unit in<br>Education—\$4,077. |
| 4  | Clinical Psychology, Allied Health,<br>Foreign Languages, Visual and<br>Performing Arts                                      | (a) for a place in a unit in Clinical<br>Psychology, Foreign Languages<br>or Visual and Performing Arts—<br>\$5,095; or<br><br>(b) for a place in a unit in Allied<br>Health—\$7,260.   |
| 5  | Nursing  | \$4,077   |
| 6  | Engineering, Science, Surveying  | \$7,260   |

**Maximum student contribution amounts for places**

| <b>Item</b> | <b>Column 1<br/>For a place in a unit in this<br/>funding cluster:</b> | <b>Column 2<br/>The maximum student<br/>contribution is:</b>   |
|-------------|--|--|
| 7           | Dentistry, Medicine, Veterinary<br>Science, Agriculture                | (a) for a place in a unit in Dentistry,<br>Medicine or Veterinary<br>Science—\$8,499; or<br>(b) for a place in a unit in<br>Agriculture—\$7,260. |

**3 Transitional provision—indexation**

Amounts in the table in section 93-10 of the *Higher Education Support Act 2003*, as amended by this Schedule, are not to be indexed on 1 January 2008.

**4 Section 93-10 (note 1)**

Repeal the note, substitute:

Note 1: Commonwealth Grant Scheme Guidelines made for the purposes of section 33-35 and this section deal with the funding clusters in which particular units of study are included and whether particular units are units in a particular part of a funding cluster.

**5 At the end of section 93-10**

Add:

- (2) The Commonwealth Grant Scheme Guidelines may specify, for the purposes of column 2 of the table in subsection (1):
- how to determine whether a particular unit is a unit in a particular part of a \*funding cluster; or
  - that a particular unit is in a particular part of a funding cluster.

**6 Clause 1 of Schedule 1 (definition of *maximum student contribution amount for a place*)**

Omit “section 93-10”, substitute “subsection 93-10(1)”.

**7 Saving provision—maximum student contribution amounts for old accounting etc. funding cluster**

- (1) This item applies in relation to a person if:
- (a) the person started a course of study with a higher education provider before 1 January 2008; and
  - (b) the person was a Commonwealth-supported student in relation to a unit of study in that course; and
  - (c) any of the following apply to the person:
    - (i) the person had not completed the course by 31 December 2007; or
    - (ii) in 2007, the person was undertaking an enabling course; or
    - (iii) the person has completed the related course for an honours course of study and is undertaking the honours course of study; and
  - (d) the person is undertaking a unit that would have been included in the funding cluster Accounting, Administration, Economics, Commerce if the amendments made by Schedule 2 to this Act had not been made; and
  - (e) the period over which the person is undertaking the unit ends on or before 31 December 2012; and
  - (f) if item 1 of Schedule 1 to the *Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003* applies or has applied to the person—the period over which the person is undertaking the unit starts on or after 1 January 2009.
- (2) Despite section 93-10 of the *Higher Education Support Act 2003* as amended by this Schedule, the **maximum student contribution amount for a place** in the unit referred to in paragraph (1)(e) for the person is the amount that would have been the maximum student contribution amount for a place in that unit if the amendment of section 93-10 made by this Schedule had not been made.

## **Schedule 8—Commonwealth scholarships**

### ***Higher Education Support Act 2003***

#### **1 At the end of section 3-5**

Add:

- (3) Chapter 2 also provides for the direct payment to students of certain Commonwealth scholarships.

Note: The heading to section 3-5 is altered by inserting “etc.” after “assistance”.

#### **2 Paragraph 5-1(4)(c)**

Omit “Grants for”.

#### **3 Chapter 2 (heading)**

Repeal the heading, substitute:

### **Chapter 2—Grants for higher education assistance etc.**

#### **4 At the end of section 8-1 (after the note)**

Add:

|  |
|--|
| This Chapter also provides for the direct payment to students of certain Commonwealth scholarships under Part 2-4. |
|--|

#### **5 Part 2-4 (heading)**

Repeal the heading, substitute:

### **Part 2-4—Commonwealth scholarships**

#### **6 Division 46 (heading)**

Repeal the heading, substitute:

## **Division 46—Commonwealth scholarships**

### **7 At the end of section 46-1 (before the note)**

Add:

|  |
|--|
| Certain scholarships may be paid directly to students. |
|--|

### **8 Section 46-10**

Omit “2 classes”, substitute “3 classes”.

### **9 Paragraph 46-10(a)**

Repeal the paragraph, substitute:

- (a) directly-paid standard scholarships; and
- (aa) indirectly-paid standard scholarships; and

### **10 After section 46-10**

Insert:

### **46-13 Eligibility of students to receive directly-paid standard Commonwealth scholarships**

If:

- (a) the Commonwealth Scholarships Guidelines provide for a particular kind of directly-paid standard \*Commonwealth scholarship; and
- (b) those guidelines set out eligibility requirements for that kind of scholarship; and
- (c) a student of:
  - (i) a \*Table A provider; or
  - (ii) a higher education provider to which subparagraph 30-1(1)(a)(ii) applies;satisfies those eligibility requirements; and
- (d) the student is selected by the provider to receive that kind of scholarship; and
- (e) the selection is in accordance with a selection policy maintained by that provider; and
- (f) the selection policy complies with the requirements set out in the Commonwealth Scholarships Guidelines;

the student is entitled to receive from the Commonwealth that kind of directly-paid standard Commonwealth scholarship.

### **11 Subsection 46-15(1)**

Before “standard”, insert “indirectly-paid”.

Note: The heading to section 46-15 is replaced by the heading “**Eligibility of higher education providers to receive grants for certain Commonwealth scholarships**”.

### **12 After subsection 46-20(1)**

Insert:

*Directly-paid standard Commonwealth scholarships*

- (1A) Without limiting subsection (1), the Commonwealth Scholarships Guidelines may provide for the following matters in relation to directly-paid standard \*Commonwealth scholarships:
- (a) the kinds of scholarships that are to be directly-paid standard Commonwealth scholarships;
  - (b) the eligibility requirements for each kind of scholarship;
  - (c) how the amounts of scholarships are to be determined;
  - (d) the indexation of amounts of scholarships, using the method of indexation set out in Part 5-6;
  - (e) how scholarships are to be paid;
  - (f) the conditions that apply to a particular kind of scholarship;
  - (g) the amount, being part of the amount referred to in section 46-40 for a year, that will be spent on each kind of scholarship in that year;
  - (h) the indexation of such an amount for subsequent years, using the method of indexation set out in Part 5-6;
  - (i) the maximum number of students that a particular higher education provider can select to receive a particular kind of scholarship for a particular year;
  - (j) requirements to be complied with by selection policies maintained by higher education providers;
  - (k) information that higher education providers are to give the Minister.

### **13 Subsection 46-20(2)**

Omit “those guidelines”, substitute “the Commonwealth Scholarships Guidelines”.

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Note: The following heading to subsection (2) is inserted “*Other Commonwealth scholarships*”.

**14 Subsection 46-20(2)**

After “matters”, insert “in relation to indirectly-paid standard \*Commonwealth scholarships and postgraduate research Commonwealth scholarships”.

**15 Paragraph 46-20(2)(a)**

Omit “standard scholarships”, substitute “indirectly-paid standard Commonwealth scholarships”.

**16 Paragraph 46-20(2)(b)**

After “research”, insert “Commonwealth”.

**17 Section 46-25**

After “a grant”, insert “to a higher education provider”.

**18 Section 164-1**

Omit “to higher education providers and other bodies”.

**19 After section 164-15**

Insert:

**164-17 Overpayments of Commonwealth scholarships to students**

An overpayment of an amount paid, or purportedly paid, to a person by way of a \*Commonwealth scholarship under section 46-13 may, in whole or part, be:

- (a) deducted from any amount that is payable, or to be paid, to that person under that section; or
- (b) recovered by the Commonwealth from that person as a debt due to the Commonwealth.

**164-18 Repayment of Commonwealth scholarships paid to students—breach of condition**

(1) This section applies if:

- (a) an amount is paid to a person by way of a \*Commonwealth scholarship under section 46-13; and

- (b) the person breaches a condition of the Commonwealth scholarship.
- (2) The amount may, in whole or part, be:
  - (a) deducted from any amount that is payable, or to be paid, to that person under that section; or
  - (b) recovered by the Commonwealth from that person as a debt due to the Commonwealth.

Note: The heading to section 164-15 is altered by adding at the end “**of Commonwealth grants**”.

## **20 Application of amendments**

The amendments made by this Schedule apply in relation to payments under Part 2-4 of the *Higher Education Support Act 2003* in respect of the year 2008 or a later year.

## **Schedule 9—Amounts relating to research funding**

### ***Australian Research Council Act 2001***

#### **1 At the end of subsection 48(2)**

Add:

- ; (f) the financial year starting on 1 July 2009;
- (g) the financial year starting on 1 July 2010.

#### **2 Paragraphs 49(h) and (i)**

Repeal the paragraphs, substitute:

- (h) for the financial year starting on 1 July 2007—\$571,800,000;  
and
- (i) for the financial year starting on 1 July 2008—\$573,411,000;  
and
- (j) for the financial year starting on 1 July 2009—\$576,586,000;  
and
- (k) for the financial year starting on 1 July 2010—\$575,795,000.

## **Schedule 10—Grants to assist with the cost of providing the practical component of teacher education**

### *Higher Education Support Act 2003*

#### **1 Subsection 41-10(1) (after table item 8)**

Insert:

- |    |  |  |
|----|--|--|
| 8A | Grants to assist with the cost of providing the practical component of teacher education | *Table A providers, *Table B providers, and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
|----|--|--|

#### **2 Application of amendment**

The amendment made by this Schedule applies to grants under Part 2-3 of the *Higher Education Support Act 2003* in respect of the year 2008 or a later year.

## Schedule 11—Grants to support diversity and structural reform

### *Higher Education Support Act 2003*

#### **1 Subsection 41-10(1) (after table item 9)**

Insert:

- |    |   |  |
|----|---|--|
| 9A | Grants to support diversity and structural reform | *Table A providers, and *Table B providers that are universities |
|----|---|--|

#### **2 Application of amendment**

The amendment made by this Schedule applies to grants under Part 2-3 of the *Higher Education Support Act 2003* in respect of the year 2008 or a later year.

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[Minister's second reading speech made in—  
House of Representatives on 24 May 2007  
Senate on 14 June 2007]

(98/07)

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