

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STUDENT ASSISTANCE AMENDMENT BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Employment,
Education and Training, the Hon J S Dawkins, MP)

STUDENT ASSISTANCE AMENDMENT BILL 1987

OUTLINE

The purpose of the Student Assistance Amendment Bill 1987 is to amend the Student Assistance Act 1973 ("the Act") to limit the extent to which AUSTUDY is payable to students in private-sector tertiary education.

A Federal Court decision, earlier this year, involving the case of O. Gipalis and NT Attorney-General v. Karen Schnierer, established that students attending the University College of the Northern Territory could be regarded, for the purposes of the Act, as undertaking study at the University of Queensland - by virtue of an agreement between the two institutions, under which the University, for a fee, allows the College to teach the University's courses.

As the law now stands, wherever an "education institution", for example an AUSTUDY-approved non-government business college, enters into a contractual arrangement, of the abovementioned kind, with a non-approved institution in the private sector, the Commonwealth could be obliged to extend AUSTUDY to students at that private institution.

Although it accepts that students at the University College of the Northern Territory should continue to receive AUSTUDY, in seeking to amend the Act the Government will attempt to close to private-sector tertiary education the opening to AUSTUDY that the Court decision has provided.

FINANCIAL IMPACT STATEMENT

The amendment has no direct Budgetary implications. If the Act is not amended however, the cost to the Commonwealth under AUSTUDY, by reason of private-sector institutions gaining access to the scheme, is expected to be substantial.

NOTES ON CLAUSES

Clauses 1 and 2

1. The first two clauses of the Bill provide for the short title and commencement of the legislation. The provisions of the Bill will come into effect on the day it receives Royal Assent.

Clause 3

2. The third clause will repeal section 10 of the Act and substitute new provisions, namely -

- subsection (1) which will require, for the grant of assistance, that the applicant should be an Australian citizen or permanent resident who, in addition to undertaking at an "education institution" a course that the Minister has approved (existing requirements), is enrolled at that institution (a new requirement);
- subsection (2) which will allow a student, who is studying a course elsewhere than at the institution where it would normally be studied, to be regarded as undertaking the course at that institution, if the institution agrees to the other place of study and the Minister has not determined that place to be inappropriate for AUSTUDY purposes;
- subsection (3) which will allow the Minister to determine places to which sub-section (2) does not apply;
- subsection (4) which will allow a student undertaking a course by correspondence to be regarded as undertaking the course at the education institution where it is offered.

Clause 4

3. The fourth clause is a savings clause that will allow current course approvals and current regulations made for the purpose of section 10 to continue in force after the amendment takes effect.

