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The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

Textbook Subsidy Bill 2003

No. , 2003

(Senator Stott Despoja)

**A Bill for an Act to subsidise students' purchases of
educational textbooks when studying at education
institutions, and for related purposes**

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A Bill for an Act to subsidise students’ purchases of educational textbooks when studying at education institutions, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Textbook Subsidy Act 2003*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

Section 3

1 **3 Objects of Act**

- 2 (1) The objects of this Act are:
- 3 (a) to assist students reduce their costs of studying at education
- 4 institutions by minimising the impact of the goods and
- 5 services tax on the cost of textbooks purchased from
- 6 participating booksellers; and
- 7 (b) to assist the Australian book industry by encouraging the
- 8 purchase of educational textbooks published in Australia.

9 **4 Interpretation**

- 10 (1) In this Act, unless the contrary intention appears:

11 ***educational textbook*** means a paper-based work that:

- 12 (a) has a substantial text content; and
- 13 (b) has an International Standard Book Number (ISBN); and
- 14 (c) an education institution has required or recommended
- 15 students, in a course of study at that institution, purchase for
- 16 that course of study; and
- 17 (d) is a taxable supply or taxable importation within the meaning
- 18 of the *A New Tax System (Goods and Services Tax) Act 1999*;
- 19 but does not include:
- 20 (e) a paper-based work that is second-hand.

21 ***education institution*** has the same meaning as in the *Student*

22 *Assistance Act 1973*.

23 ***officer*** means a person performing duties, or exercising powers or

24 functions, under or in relation to this Act and includes:

- 25 (a) a person who has been such a person; and
- 26 (b) a person who is or has been appointed or employed by the
- 27 Commonwealth and who, as a result of that appointment or
- 28 employment, may acquire or has acquired information
- 29 concerning a person under this Act; and
- 30 (c) a person who, although not appointed or employed by the
- 31 Commonwealth, performs or did perform services for the
- 32 Commonwealth and who, as a result of performing those

Section 5

1 services, may acquire or has acquired information concerning
2 a person under this Act.

3 *parent* includes those persons in favour of whom a parenting order,
4 within the meaning of the *Family Law Act 1975*, has been made.

5 *pre-subsidy price* means the price of the educational textbook that
6 would have been charged if a discount equivalent to the textbook
7 subsidy had not been provided.

8 *registered bookseller* means an entity registered under section 9.

9 *student* means a person who undertakes, or proposes to undertake,
10 at an education institution in that year or that part of that year, a
11 prescribed course of study or instruction.

12 *textbook subsidy* means the amount worked out in accordance
13 subsection 10(2).

14 *applicant* has the meaning given by subsection 9(2).

15 **5 Binding of the Crown**

16 This Act binds the Crown in all its capacities.

17 **6 Extension of Act**

18 This Act extends to the Territory of Christmas Island and to the
19 Territory of Cocos (Keeling) Islands.

20 **7 Secretary to have general administration**

21 The Secretary has the general administration of this Act.

22 **8 Principles of administration**

23 In administering this Act, the Secretary is to have regard to:

- 24 (a) the desirability of achieving the following results:
- 25 (i) the maximisation of cooperation between education
26 institutions, registered booksellers and students in
27 relation to the textbook subsidy;

Section 8

- 1 (ii) the minimisation of registered booksellers' costs in
2 complying with the requirements of this Act;
3 (iii) the ready availability to members of the public of advice
4 and information services relating to the textbook
5 subsidy under this Act; and
6 (b) the establishment of procedures to ensure that abuses of the
7 textbook subsidy are minimised.

1

Part 2—Textbook subsidy scheme**9 Registered bookseller**

4

(1) An entity is eligible to be registered as a registered bookseller where the entity:

5

6

(a) is registered in the Australian Business Register under the *A New Tax System (Australian Business Register) Act 1999*;

7

8

and

9

10

(b) is registered under the *A New Tax System (Goods and Services) Act 1999*; and

11

(c) offers educational textbooks for sale; and

12

(d) agrees to any terms and conditions required by the Secretary for:

13

14

(i) the registration as a registered bookseller; and

15

(ii) the payment of the textbook subsidy; and

16

(iii) any matters related to subparagraphs (i) and (ii).

17

(2) An entity (the *applicant*) may apply, in a form approved by the Secretary, to the Secretary to be registered as a registered bookseller.

18

19

20

(3) The Secretary must register the applicant as a registered bookseller where the Secretary is satisfied that the applicant is eligible to be registered as a registered bookseller.

21

22

23

(4) The Secretary may require the applicant give the Secretary specified information or a specified document which the Secretary requires in order to be satisfied that:

24

25

26

(a) the applicant is eligible to be registered as a registered bookseller; or

27

28

(b) the applicant's identity is established.

29

10 Payment of the textbook subsidy

30

(1) The Secretary must pay a registered bookseller the textbook subsidy where:

31

Part 2 Textbook subsidy scheme

Section 10

- 1 (a) the registered bookseller applies to the Secretary, in a form
2 approved by the Secretary, for the textbook subsidy; and
3 (b) the Secretary is satisfied, in relation to the textbook subsidy
4 claimed for each educational textbook, that the registered
5 bookseller sold the educational textbook:
6 (i) to a student, or that student's parent; and
7 (ii) at an 8 percent discount of the pre-subsidy price of the
8 educational textbook.
- 9 (2) The *textbook subsidy* for each educational textbook is worked out
10 using the formula:
11 pre-subsidy price of the educational book
12
$$\frac{92}{92} \times 100$$

1

Part 3—Administration**11 Guidelines**

- 4 (1) The Secretary may, by notice in writing, issue guidelines for the
5 performance of functions and duties, and for the exercise of
6 powers, by officers of the Department, in relation to matters arising
7 under this Act including, in particular, the following matters
8 relating to the textbook subsidy:
- 9 (a) registration; and
 - 10 (b) accounting and recordkeeping requirements; and
 - 11 (c) arrangements for verifying eligibility; and
 - 12 (d) payment.
- 13 (2) At any time, the Secretary may, by written notice, issue further
14 guidelines that vary or revoke the existing guidelines.
- 15 (3) The guidelines referred to in subsections (1) and (2) must be tabled
16 in each House of the Parliament within 5 sitting days of that House
17 after the guidelines are issued.

12 Delegation

19 The Secretary may, by signed writing, delegate to an officer all or
20 any of the powers of the Secretary under this Act.

13 Power to obtain information

22 The Secretary may require a person to give information, or to
23 produce a document that is in the person's custody or under the
24 person's control, to the Department if the Secretary considers that
25 the information or document may be relevant to:

- 26 (a) establishing the applicant's identity; or
- 27 (b) whether a registered bookseller was entitled to be registered
28 under this Act; or

Section 14

- 1 (c) whether a textbook subsidy under this Act was payable to a
2 person who has received it.

3 Note: A requirement under this section may be sent to an entity as well as to
4 a natural person—paragraph 22(1)(a) of the *Acts Interpretation Act*
5 *1901* provides that *person* includes a body politic or corporate.

6 **14 Provisions relating to requirements**

7 *Requirement by written notice*

- 8 (1) A requirement made to a person under section 13 must be by
9 written notice given to the person.

10 Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* provide that a
11 notice is *given* to a natural person if the notice is:
12 (a) delivered personally; or
13 (b) left at the last known address of the person; or
14 (c) sent by pre-paid post to the last known address of the person.

15 *Contents of notice*

- 16 (2) The notice must state:
17 (a) how the person is to give the information; and
18 (b) the period within which the person is to give the information;
19 and
20 (c) the officer (if any) to whom the information is to be given;
21 and
22 (d) the section under which the requirement by the notice is
23 made.

24 *Time limit for providing information*

- 25 (3) The end of the period stated under paragraph (2)(b) must be at least
26 14 days after the notice is given.

27 *Appearance before officer*

- 28 (4) The notice may require the person to give the information by
29 appearing (or, if the person is a body corporate, to arrange for a
30 person to appear) before a particular officer to answer questions.

Section 15

Time and place for appearance

(5) If the notice requires a person to appear before an officer, the notice must state a time and a place for the person to appear, and the time must be at least 14 days after the notice is given.

(6) A person must not refuse or fail to comply with a requirement made under section 13.

Penalty: Imprisonment for 12 months.

(7) Subsection (6) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7) (see subsection 13.3(3) of the *Criminal Code*).

(8) Subsection (6) does not apply to the extent that the person is not capable of complying with the requirement.

Note: A defendant bears an evidential burden in relation to the matter in subsection (8) (see subsection 13.3(3) of the *Criminal Code*).

(13) For the purposes of an offence against subsection (6), strict liability applies to the physical element, that the requirement was made under section 13.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

15 State/Territory law does not affect obligations to provide information

Nothing contained in any law of a State or a Territory operates to prevent a person from:

- (a) giving information; or
- (b) producing documents; or
- (c) giving evidence;

that the person is required to give or produce to the Department or to an officer of the Department for the purposes of this Act.

1

2 **Part 4—Miscellaneous**

3 **16 Appropriation**

4 Payments of the textbook subsidy to a registered bookseller under
5 subsection 10(1) are to be made out of money appropriated by the
6 Parliament for that purpose.

7 **17 Regulations**

8 (1) The Governor-General may make regulations, not inconsistent with
9 this Act, prescribing all matters which, by this Act, are required or
10 permitted to be prescribed, or which are necessary or convenient to
11 be prescribed for carrying out or giving effect to this Act, and, in
12 particular:

13 (a) making provision in relation to the furnishing of information
14 by applicants for the textbook subsidy and by persons to
15 whom the textbook subsidy has been granted; and

16 (b) making provision for and in relation to the giving of notices
17 and other documents under this Act; and

18 (c) prescribing penalties, not exceeding a fine of \$1,000 or
19 imprisonment for 6 months, or both, for offences against the
20 regulations; and

21 (d) making provision in relation to:

22 (i) the times at which; and

23 (ii) the manner in which;

24 payments are to be made to persons.