

Western Australia

# Acts Amendment (Education Loan Scheme) Act 1998

(No. 27 of 1998)

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Western Australia

## **Acts Amendment (Education Loan Scheme) Act 1998**

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**No. 27 of 1998**

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**An Act to amend the —**

- *Education Act 1928*;
  - *Vocational Education and Training Act 1996*; and
  - *University of Notre Dame Australia Act 1989*,
- and to make related provisions.**

*[Assented to 30 June 1998]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Acts Amendment (Education Loan Scheme) Act 1998*.

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

## **Part 2 — Education Act 1928**

### **3. Principal Act**

In this Part the *Education Act 1928*\* is referred to as the principal Act.

[\* *Reprinted as at 11 August 1992.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 71.]*

### **4. Section 9A amended**

Section 9A(5)(c) of the principal Act is deleted.

### **5. Sections 9C, 9D, 9E, 9F and 9G inserted**

After section 9B of the principal Act the following sections are inserted —

“

#### **9C. Minister may lend money**

- (1) The Minister may lend money for capital works to —
  - (a) a non-government school within the meaning of section 9A(1);
  - (b) a non-government school system within the meaning of section 9A(1);
  - (c) a care-centre; or
  - (d) a pre-school centre.
- (2) Any such loan is to be made out of moneys borrowed by the Minister under section 9D.

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- (3) The terms and conditions of any such loan, including the interest to be paid —
  - (a) may be less onerous than those that might reasonably apply to such a loan made commercially; and
  - (b) are to be approved by the Treasurer.
- (4) In subsection (1) —  
“**capital works**” means the acquisition of land, the construction, modification and renovation of buildings and the purchase of plant and equipment, or any of those things.

**9D. Borrowing by the Minister**

- (1) The Minister may borrow moneys for the purpose of lending under section 9C —
  - (a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or
  - (b) with the prior written approval of the Treasurer, and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.
- (2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —
  - (a) as one loan or as several loans; and
  - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

**9E. Moneys to be credited and charged to operating account**

- (1) The following moneys are to be credited to an operating account approved by the Treasurer —
  - (a) repayments of moneys loaned under section 9C; and
  - (b) moneys borrowed under section 9D.
- (2) The following moneys are to be charged to the operating account —
  - (a) moneys loaned under section 9C; and
  - (b) repayments of moneys borrowed under section 9D.

- (3) In this section —

**“operating account”** means a trust account established and administered under section 15B of the *Financial Administration and Audit Act 1985*.

**9F. Guarantee by the Treasurer**

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee payments to be made by the Minister in respect of moneys borrowed by the Minister under section 9D(1)(b).
- (2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.
- (3) Before a guarantee is given —
  - (a) the Minister is to give to the Treasurer such security as the Treasurer requires; and
  - (b) all instruments that are necessary for the purpose are to be executed.

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- (4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Fund in respect of a guarantee given under this section.

**9G. Payments under guarantee**

- (1) The due payment of moneys under a guarantee given under section 9F is to be —
- (a) made by the Treasurer; and
  - (b) charged to, and paid out of, the Consolidated Fund,

and this subsection appropriates that Fund accordingly.

- (2) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 9F.

”.

**6. Section 27C amended**

Section 27C(3) is repealed.

**Part 3 — Vocational Education and Training Act 1996**

**7. Section 17 repealed and sections 17, 17A, 17B, 17C and 17D substituted**

Section 17 of the *Vocational Education and Training Act 1996*\* is repealed and the following sections are substituted —

“

**17. Minister may lend money**

- (1) The Minister may lend money for approved purposes to a private training provider which does not operate for the purpose of private gain by its members, provided the purposes relate to the provision of vocational education and training.
- (2) Any such loan is to be made out of moneys borrowed by the Minister under section 17A.
- (3) The terms and conditions of any such loan, including the interest to be paid —
  - (a) may be less onerous than those that might reasonably apply to such a loan made commercially; and
  - (b) are to be approved by the Treasurer.
- (4) In subsection (1) —

**“approved purposes”** means the acquisition of land, the construction, modification and renovation of buildings and the purchase or lease of plant and equipment, or any of those things.

**17A. Borrowing by the Minister**

- (1) The Minister may borrow moneys for the purpose of lending under section 17 —
  - (a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or
  - (b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.
- (2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —
  - (a) as one loan or as several loans; and
  - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

**17B. Moneys to be credited and charged to operating account**

- (1) The following moneys are to be credited to an operating account approved by the Treasurer —
  - (a) repayments of moneys loaned under section 17; and
  - (b) moneys borrowed under section 17A.
- (2) The following moneys are to be charged to the operating account —
  - (a) moneys loaned under section 17; and
  - (b) repayments of moneys borrowed under section 17A.

- (3) In this section —  
**“operating account”** means a trust account established and administered under section 15B of the *Financial Administration and Audit Act 1985*.

**17C. Guarantee by the Treasurer**

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable by the Minister in respect of moneys borrowed by the Minister under section 17A(1)(b).
- (2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.
- (3) Before a guarantee is given —
- (a) the Minister is to give to the Treasurer such security as the Treasurer requires; and
  - (b) all instruments that are necessary for the purpose are to be executed.
- (4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Fund in respect of a guarantee given under this section.

**17D. Payments under guarantee**

- (1) The due payment of moneys under a guarantee given under section 17C is to be —
- (a) made by the Treasurer; and
  - (b) charged to, and paid out of, the Consolidated Fund,

and this subsection appropriates that Fund accordingly.

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- (2) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 17C.

”.

[\* *Act No.42 of 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 244.]*

**Part 4 — *University of Notre Dame Australia Act 1989***

**8. Section 25A repealed and sections 25A, 25B, 25C, 25D, 25E and 25F substituted**

Section 25A of the *University of Notre Dame Australia Act 1989*\* is repealed and the following sections are substituted —

“

**25A. Power to borrow and give security**

The University may —

- (a) borrow or re-borrow money or otherwise arrange financial accommodation upon such terms and conditions as the University thinks fit; and
- (b) give such security for the discharge of liabilities incurred by the University as the University thinks fit.

**25B. Minister may lend money**

- (1) The Minister may lend money for capital works to the University, provided the works are for the purposes of the objects of the University.
- (2) Any such loan is to be made out of moneys borrowed by the Minister under section 25C.
- (3) The terms and conditions of any such loan, including the interest to be paid —
  - (a) may be less onerous than those that might reasonably apply to such a loan made commercially; and
  - (b) are to be approved by the Treasurer.

- (4) In subsection (1) —  
“**capital works**” means the acquisition of land, the construction, modification and renovation of buildings and the purchase of plant and equipment, or any of those things.

**25C. Borrowing by the Minister**

- (1) The Minister may borrow moneys for the purpose of lending under section 25B —
- (a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or
  - (b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.
- (2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —
- (a) as one loan or as several loans; and
  - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

**25D. Moneys to be credited and charged to operating account**

- (1) The following moneys are to be credited to an operating account approved by the Treasurer —
- (a) repayments of moneys loaned under section 25B; and
  - (b) moneys borrowed under section 25C.

- (2) The following moneys are to be charged to the operating account —
  - (a) moneys loaned under section 25B; and
  - (b) repayments of moneys borrowed under section 25C.
- (3) In this section —

**“operating account”** means a trust account established and administered under section 15B of the *Financial Administration and Audit Act 1985*.

**25E. Guarantee by the Treasurer**

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable by the Minister in respect of moneys borrowed by the Minister under section 25C(1)(b).
- (2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.
- (3) Before a guarantee is given —
  - (a) the Minister is to give to the Treasurer such security as the Treasurer requires; and
  - (b) all instruments that are necessary for the purpose are to be executed.
- (4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Fund in respect of a guarantee given under this section.

**25F. Payments under guarantee**

- (1) The due payment of moneys under a guarantee given under section 25E is to be —
  - (a) made by the Treasurer; and

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(b) charged to, and paid out of, the Consolidated Fund,

and this subsection appropriates that Fund accordingly.

(2) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 25E.

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[\* *Act No. 49 of 1989.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 241.]*

## **Part 5 — Transitional**

### **9. Existing loans may be varied**

Despite the repeal of sections 9A(5)(c) and 27C(3) of the *Education Act 1928*, section 17 of the *Vocational Education and Training Act 1996* and section 25A of the *University of Notre Dame Australia Act 1989*, the terms and conditions of a loan made under any of those provisions before the coming into operation of this Act may be varied in the same manner and to the same extent as if the provision had not been repealed.

### **10. Moneys may be borrowed and paid to Treasurer**

- (1) Any moneys advanced to the Education Minister or the Vocational Education and Training Minister under the authorization of the *Treasurer's Advance Authorization Act 1997* for the purpose of lending under the *Education Act 1928*, the *Vocational Education and Training Act 1996* or the *University of Notre Dame Australia Act 1989* and not repaid to the Treasurer before the coming into operation of this Act, are to be repaid, together with the interest accrued and due on those moneys, by the relevant Minister to the Treasurer.
- (2) The Education Minister may borrow moneys under section 9D(1) of the *Education Act 1928*, as amended by this Act, or section 25C(1) of the *University of Notre Dame Australia Act 1989*, as amended by this Act, for the purpose of meeting obligations under subsection (1).
- (3) The Vocational Education and Training Minister may borrow moneys under section 17A(1) of the *Vocational Education and Training Act 1996*, as amended by this Act, for the purpose of meeting obligations under subsection (1).

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(4) In this section —

**“Education Minister”** means the Minister in whom the administration of the *Education Act 1928* is for the time being committed by the Governor;

**“Vocational Education and Training Minister”** means the Minister in whom the administration of the *Vocational Education and Training Act 1996* is for the time being committed by the Governor.