# Higher Education Support Act 2003

**No. 149, 2003**

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# About this compilation

### This compilation

This is a compilation of the *Higher Education Support Act 2003* that shows the text of the law as amended and in force on 1 June 2025 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act relating to the funding of higher education, and for other purposes

# Chapter 1—Introduction

## Division 1—Preliminary

### 1-1 Short title

This Act may be cited as the *Higher Education Support Act 2003*.

### 1-5 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.

**Commencement information**

| Column 1 | Column 2 | Column 3 |
|---|---|---|
| **Provision(s)** | **Commencement** | **Date/Details** |
| 1. Sections 1-1 and 1-5 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent. | 19 December 2003 |
| 2. Sections 1-10 to 238-15 | The later of:<br>(a) 1 January 2004; and<br>(b) the day after the day on which this Act receives the Royal Assent. | 1 January 2004<br>(paragraph (a) applies) |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Commencement information | | |
|---|---|---|
| **Column 1** | **Column 2** | **Column 3** |
| **Provision(s)** | **Commencement** | **Date/Details** |
| 3. Schedule 1 | The later of:<br>(a) 1 January 2004; and<br>(b) the day after the day on which this Act receives the Royal Assent. | 1 January 2004<br>(paragraph (a) applies) |

Note: This table relates only to the provisions of this Act as originally passed by 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.

## 1-10 Identifying defined terms

(1) Many of the terms in this Act are defined in the Dictionary in Schedule 1.

(2) Most of the terms that are defined in the Dictionary in Schedule 1 are identified by an asterisk appearing at the start of the term: as in "*accredited course". The footnote with the asterisk contains a signpost to the Dictionary.

(3) An asterisk usually identifies the first occurrence of a term in a section (if not divided into subsections), subsection or definition. Later occurrences of the term in the same provision are not usually asterisked.

(4) Terms are not asterisked in headings, notes, examples, explanatory tables, guides, outline provisions or diagrams.

(5) If a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(6) The following basic terms used throughout the Act are not identified with an asterisk:

| **Terms that are not identified** | | |
|---|---|---|
| **Item** | **This term:** | **is defined in:** |
| 1 | enrol | Schedule 1 |
| 2 | higher education provider | section 16-1 |
| 3 | student | Schedule 1 |
| 4 | unit of study | Schedule 1 |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 2—Objects

## 2-1 Objects of this Act

The objects of this Act are:

(a) to support a higher education system that:

(i) is characterised by quality, diversity and equity of access; and

(ii) contributes to the development of cultural and intellectual life in Australia; and

(iii) is appropriate to meet Australia's social and economic needs for a highly educated and skilled population; and

(iv) promotes and protects freedom of speech and academic freedom; and

(b) to support the distinctive purposes of universities, which are:

(i) the education of persons, enabling them to take a leadership role in the intellectual, cultural, economic and social development of their communities; and

(ii) the creation and advancement of knowledge; and

(iii) the application of knowledge and discoveries to the betterment of communities in Australia and internationally; and

(iv) the engagement with industry and the local community to enable graduates to thrive in the workforce;

recognising that universities are established under laws of the Commonwealth, the States and the Territories that empower them to achieve their objectives as autonomous institutions through governing bodies that are responsible for both the university's overall performance and its ongoing independence; and

(c) to strengthen Australia's knowledge base, and enhance the contribution of Australia's research capabilities to national economic development, international competitiveness and the attainment of social goals; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(d) to support students undertaking higher education and certain vocational education and training.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 3—Overview of this Act

## 3-1 General

This Act primarily provides for the Commonwealth to give financial support for higher education and certain vocational education and training:

(a) through grants and other payments made largely to higher education providers; and

(b) through financial assistance to students (usually in the form of loans).

## 3-5 Grants for higher education assistance etc. (Chapter 2)

(1) Chapter 2 sets out who are higher education providers, and provides for the following grants and payments:

(a) grants under the Commonwealth Grant Scheme;

(aa) grants for assisting Indigenous persons;

(b) other grants for particular purposes;

(c) grants for Commonwealth scholarships.

(2) Higher education providers will be universities, self-accrediting entities or non self-accrediting entities.

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

## 3-10 Assistance to students (Chapter 3)

Chapter 3 provides for the following assistance to students:

(a) HECS-HELP assistance for student contribution amounts;

(b) FEE-HELP assistance for tuition fees;

(c) OS-HELP assistance for overseas study;

(d) SA-HELP assistance for meeting student services and amenities fees imposed by higher education providers;

(e) STARTUP-HELP assistance for accelerator program courses.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Chapter 3 also deals with a person's Student Learning Entitlement.

### 3-15 Repayment of loans (Chapter 4)

Chapter 4 sets out how debts are incurred and worked out in relation to loans made under Chapter 3, and provides for their repayment.

### 3-20 Administration (Chapter 5)

Chapter 5 provides for several administrative matters relating to the operation of this Act.

### 3-30 VET FEE-HELP Assistance Scheme (Schedule 1A)

Schedule 1A provides for financial assistance to students undertaking certain accredited vocational education and training (VET) courses.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 5—Application of Act to Table C providers

## 5-1 Application of Act to Table C providers

*General application to Table C providers*

(1) The provisions of this Act not listed in the table in subsection (2) or in subsection (4) apply to a *Table C provider, the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch.

*Modified application to Table C providers*

(2) The provisions of this Act listed in the table apply to a *Table C provider in the way set out in the table.

**Application of Act to Table C providers**

| Item | Provision | Application |
|---|---|---|
| 1 | Subdivision 19-C (quality requirements) | Applies to the *Australian branch of the provider. However, *TEQSA may need to assess the overall performance of the provider as it relates to that branch. |
| 2 | Subdivision 19-D (fairness requirements) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |
| 2A | Section 19-66A (*tuition protection requirements) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |
| 3 | Subdivision 19-F (contribution and fee requirements) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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**Application of Act to Table C providers**

| Item | Provision | Application |
|---|---|---|
| 4 | Part 3-3 (FEE-HELP assistance) | Applies to eligible students of the *Australian branch of the provider, but only for units of study in which the students are enrolled at the Australian branch. |
| 5 | Part 3-4 (OS-HELP assistance) | Applies to eligible students of the *Australian branch of the provider. |
| 5A | Part 3-5 (SA-HELP assistance) | Applies to eligible students of the *Australian branch of the provider who are enrolled at the Australian branch in a *course of study or *bridging course for overseas-trained professionals. |
| 6 | Chapter 4 (Repayment of loans) | Applies to the *Australian branch of the provider and to students undertaking, or students who undertook, units of study at that branch. |
| 7 | Part 5-2 (Administrative requirements on higher education providers) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |
| 8 | Part 5-3 (Electronic communications) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |
| 9 | Part 5-4 (Management of information) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |
| 10 | Part 5-5 (Tax file numbers) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Application of Act to Table C providers** | | |
|---|---|---|
| **Item** | **Provision** | **Application** |
| 11 | Part 5-7 (Review of decisions) | Applies to the *Australian branch of the provider and to students undertaking or proposing to undertake units of study at that branch. |

*Provisions that do not apply to Table C providers*

(3) The provisions of this Act listed in subsection (4) do not apply to:
  (a) a *Table C provider; or
  (b) the *Australian branch of the provider; or
  (c) students in their capacity as students of that provider or of that branch.

(4) The provisions are as follows:
  (a) Part 2-2 (Commonwealth Grant Scheme);
  (aa) Part 2-2A (Indigenous student assistance grants);
  (b) Part 2-3 (Other grants);
  (c) Part 2-4 (Commonwealth scholarships);
  (d) Part 2-5 (Reduction and repayment of grants);
  (e) Part 3-2 (HECS-HELP assistance);
  (ea) Part 3-7 (STARTUP-HELP assistance);
  (f) Schedule 1A (VET FEE-HELP Assistance Scheme).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 6—Schedule 1A

## 6-1 Schedule 1A

Schedule 1A has effect.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Chapter 2—Grants for higher education assistance etc.

## Division 8—Introduction

### 8-1 What this Chapter is about

This Chapter provides for who are higher education providers, and for 4 kinds of grants to be made.

Part 2-1 sets out who are higher education providers (universities, self-accrediting entities and non self-accrediting entities), the quality and accountability requirements for higher education providers and how bodies cease to be higher education providers.

Note: Except in very limited cases, only higher education providers can get grants under this Chapter.

The 4 kinds of grants available under this Chapter are:

- grants under Part 2-2 (Commonwealth Grant Scheme) to certain higher education providers. These grants are paid in relation to Commonwealth supported places. Grants are made subject to conditions; and
- grants under Part 2-2A to Table A providers and Table B providers to assist Indigenous persons; and
- other grants under Part 2-3 to higher education providers and other bodies corporate for a variety of purposes; and
- grants for Commonwealth scholarships to certain higher education providers under Part 2-4.

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The amount of a grant may be reduced, or an amount paid may be required to be repaid, if the recipient breaches a quality and accountability requirement or a condition of the grant (see Part 2-5).

Note: A body's approval as a higher education provider may be suspended or revoked for such a breach.

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

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# Part 2-1—Higher education providers

## Division 13—Introduction

### 13-1 What this Part is about

A body generally has to be approved as a higher education provider before it can receive grants, or its students can receive assistance, under this Act. Listed providers (universities and certain self-accrediting entities) have that approval upon commencement of this Act. Table C providers have that approval from the time they are included in Table C. Bodies that do not have that automatic approval, or whose approval has been revoked, have to apply for approval.

Higher education providers are subject to the quality and accountability requirements.

A body's approval as a higher education provider may be revoked in circumstances such as breach of a quality and accountability requirement.

### 13-5 The Higher Education Provider Guidelines

Higher education providers and the *quality and accountability requirements are also dealt with in the Higher Education Provider Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Higher Education Provider Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 16—What is a higher education provider?

## Subdivision 16-A—General

### 16-1 Meaning of *higher education provider*

(1) A ***higher education provider*** is a body corporate that is approved under this Division.

(2) Despite subsection (1), a body other than a body corporate may be approved under this Division as a ***higher education provider*** if the body is covered by an exemption under subsection (3).

(3) The Minister may, in writing, exempt a body for the purposes of this section if the body is established by or under a law of the Commonwealth, a State or a Territory.

(4) If the Minister exempts a body under subsection (3), references in this Act, other than in this section, to a body corporate are taken to include the body.

(5) An exemption given under this section is not a legislative instrument.

### 16-5 When a body becomes or ceases to be a higher education provider

(1) A *listed provider is taken to be approved as a higher education provider from the commencement of this Act.

(1A) A *Table C provider is taken to be approved as a higher education provider from the commencement of the provision that included the provider in Table C in section 16-22.

(2) A body corporate:
(a) that is not a *listed provider or a *Table C provider; or
(b) that is a listed provider or a Table C provider that has previously ceased to be a higher education provider;

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becomes a provider if approved by the Minister under section 16-25.

(3) A higher education provider ceases to be a provider if the provider's approval is revoked or suspended under Division 22 or the notice of the provider's approval ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*.

## Subdivision 16-B—Which bodies are listed providers?

### 16-10 Listed providers

The following are ***listed providers***:

(a) a *Table A provider;

(b) a *Table B provider.

### 16-15 Table A providers

(1) The following are ***Table A providers***:

| **Table A providers** |
|---|
| **Providers** |
| Australian National University |
| Central Queensland University |
| Charles Darwin University |
| Charles Sturt University |
| Curtin University |
| Deakin University |
| Edith Cowan University |
| Federation University Australia |
| Flinders University |
| Griffith University |
| James Cook University |
| La Trobe University |

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| **Table A providers** |
|---|
| **Providers** |
| Macquarie University |
| Monash University |
| Murdoch University |
| Queensland University of Technology |
| Royal Melbourne Institute of Technology |
| Southern Cross University |
| Swinburne University of Technology |
| The University of Adelaide |
| The University of Melbourne |
| The University of Notre Dame Australia |
| The University of Queensland |
| The University of Sydney |
| The University of Western Australia |
| University of Canberra |
| University of Newcastle |
| University of New England |
| University of New South Wales |
| University of South Australia |
| University of Southern Queensland |
| University of Tasmania |
| University of Technology Sydney |
| University of the Sunshine Coast |
| University of Wollongong |
| Victoria University |
| Western Sydney University |
| Australian Catholic University Limited |
| Batchelor Institute of Indigenous Tertiary Education |

(2) However, a body is not a Table A provider if its approval as a higher education provider is revoked or suspended.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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### 16-20 Table B providers

(1) The following are ***Table B providers***:

| **Table B providers** |
|---|
| **Providers** |
| Avondale University |
| Bond University Limited |
| University of Divinity |
| Torrens University Australia Ltd |

(2) However, a body is not a Table B provider if its approval as a higher education provider is revoked or suspended.

### 16-22 Table C providers

(1) The following are ***Table C providers***:

| **Table C providers** |
|---|
| **Providers** |
| Carnegie Mellon University, a non-profit organisation established under Pennsylvania law |

(2) However, a body is not a ***Table C provider*** if its approval as a higher education provider is revoked or suspended.

Note: A Table C provider is not entitled to receive a grant under this Chapter: see section 5-1.

## Subdivision 16-C—How are bodies approved as higher education providers?

### 16-25 Approval by the Minister

(1) The Minister, in writing, may approve a body corporate as a higher education provider if:

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(a) the body:
  (i) is established under the law of the Commonwealth, a State or a Territory; and
  (ii) carries on business in Australia; and
  (iii) has its central management and control in Australia; and

(aa) subject to subsection (2), the body's principal purpose is, or is taken to be, either or both of the following:
  (i) to provide education;
  (ii) to conduct research; and

(b) the body is:
  (i) an *Australian university; or
  (ii) a *self-accrediting entity; or
  (iii) a *non self-accrediting entity; and

(c) the Minister is satisfied that the body will meet the *tuition protection requirements (if applicable); and

(da) the body offers at least one *course of study that leads to a *higher education award; and

(db) the course of study is an *accredited course in relation to the body; and

(e) the body applies for approval as provided for in section 16-40; and

(f) the Minister is satisfied that the body is willing and able to meet the *quality and accountability requirements; and

(fa) the body complies with any requirements set out in the Higher Education Provider Guidelines; and

(fb) the Minister is satisfied that the body has sufficient experience in the provision of higher education; and

(g) the Minister is satisfied that:
  (i) the body; and
  (ii) each person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the body's affairs;

is a fit and proper person.

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(2) For the purpose of paragraph (1)(aa), the Minister may determine that a body's principal purpose is taken to be either or both of the following:

(a) to provide education;

(b) to conduct research;

if the Minister is satisfied that any of the body's purposes do not conflict with the body's purpose of providing education and/or conducting research.

(2A) For the purposes of paragraph (1)(fb), the Minister may have regard to the following:

(a) whether the body has been a *registered higher education provider for 3 or more years;

(b) the history of the body, and each person who makes or participates in making decisions that affect the whole, or a substantial part, of the body's affairs, in delivering higher education;

(c) the scope of courses and level of qualifications the body, and each person who makes or participates in making decisions that affect the whole, or a substantial part, of the body's affairs, has experience in providing.

(3) The Minister must, in deciding whether he or she is satisfied that a person is a fit and proper person, take into account the matters specified in an instrument under subsection (4). The Minister may take into account any other matters he or she considers relevant.

(4) The Minister must, by legislative instrument, specify matters for the purposes of subsection (3).

## 16-27 Body must be a registered higher education provider

Despite section 16-25, the Minister must not approve a body corporate as a higher education provider unless the body is a *registered higher education provider.

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## 16-30 The tuition protection requirements

The ***tuition protection requirements*** are:

(a) the requirements set out in Part 5-1A (including in the Higher Education Provider Guidelines made for the purposes of that Part); and

(b) the requirements set out in the Higher Education Provider Guidelines for the purposes of this paragraph.

## 16-40 Application

(1) A body corporate that is a *registered higher education provider may apply, in writing, to the Minister for approval as a higher education provider under this Act.

(1A) However, if:

(a) the body corporate made an application (the ***earlier application***) under subsection (1); and

(b) the Minister decided not to approve the earlier application;

the body corporate cannot make another application under that subsection within 6 months after the day on which notice of the decision on the earlier application was given to the body corporate.

(2) The application:

(a) must be in the form approved by the Minister; and

(b) must be accompanied by such information as the Minister requests; and

(c) must be accompanied by the fee (if any) prescribed by, or worked out in accordance with the method prescribed by, the Higher Education Provider Guidelines.

Note: The guidelines may prescribe different fees, or methods, for applications made by different kinds of applicant: see subsection 33(3A) of the *Acts Interpretation Act 1901*.

(3) A fee prescribed, or worked out in accordance with a method prescribed, for the purposes of subsection (2) must not be such as to amount to taxation.

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## 16-45 Minister may seek further information

(1) For the purposes of determining an application, the Minister may, by notice in writing, require an applicant to provide such further information as the Minister directs within the period specified in the notice.

(2) If an applicant does not comply with a requirement under subsection (1), the application is taken to have been withdrawn.

(3) A notice under this section must include a statement about the effect of subsection (2).

## 16-50 Minister to decide application

(1) The Minister must:
  (a) decide an application for approval as a higher education provider; and
  (b) cause the applicant to be notified in writing whether or not the applicant is approved as a higher education provider.

(2) For the purposes of paragraph 16-25(1)(f), the Minister may be satisfied that a body corporate is willing and able to meet the *quality and accountability requirements if the body gives the Minister such written undertakings as the Minister requires.

(3) The Minister's decision must be made:
  (a) within 90 days after receiving the application; or
  (b) if further information is requested under section 16-45—within 60 days after the end of the period within which the information was required to be provided under that section;

whichever is the later.

(3A) However, contravention of subsection (3) does not affect the Minister's power to decide the application or the Minister's obligation to comply with subsection (1).

(4) If the Minister decides that an applicant is approved as a higher education provider, the notice must also contain such information

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as is specified in the Higher Education Provider Guidelines as information that must be provided to an applicant upon approval as a higher education provider.

## 16-55 Approvals are legislative instruments

(1) A notice of approval under paragraph 16-50(1)(b) is a legislative instrument.

(2) A decision of the Minister to approve a body corporate as a higher education provider takes effect when the notice of approval commences under the *Legislation Act 2003*.

Note: Section 12 of the *Legislation Act 2003* provides for when a legislative instrument commences.

## 16-60 Conditions of approval

(1) The Minister may impose conditions on a body corporate's approval as a higher education provider. Such conditions need not be imposed at the time notice of approval is given to the provider.

(2) The Minister may vary a condition imposed under subsection (1).

(3) The conditions may include the following:

(a) that a specified limit on the total number of students entitled to *FEE-HELP assistance applies to the provider for a specified period;

(b) that a specified limit on the total amount of FEE-HELP assistance payable to the provider applies to the provider for a specified period;

(c) that FEE-HELP assistance is payable only in relation to specified units of study offered by the higher education provider;

(d) that FEE-HELP assistance is not payable in relation to specified units of study offered by the higher education provider;

(e) that units of study provided in a specified manner or by a specified mode of delivery by the higher education provider

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are units in relation to which FEE-HELP assistance is unavailable.

(4) Subsection (3) does not limit the conditions the Minister may impose on the approval.

## 16-65 Minister to cause higher education provider to be notified of change in condition of approval

The Minister must, within 30 days of his or her decision to impose or vary a condition on a higher education provider, cause the provider to be notified, in writing, of:

(a) the decision; and

(b) the reasons for the decision; and

(c) the period for which the condition is imposed.

## 16-70 Variation of approval if body's name changes

(1) If a body corporate is approved as a higher education provider under section 16-25 and the body's name changes, the Minister may vary the approval to include the new name.

(2) The Minister must notify the body in writing of the variation.

(3) A notice of variation under subsection (2) is a legislative instrument.

(4) The variation takes effect when the notice of variation commences under the *Legislation Act 2003*.

Note: Section 12 of the *Legislation Act 2003* provides for when a legislative instrument commences.

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# Division 19—What are the quality and accountability requirements?

## Subdivision 19-A—General

### 19-1 The quality and accountability requirements

The ***quality and accountability requirements*** are:

(a) the *financial viability requirements (see Subdivision 19-B); and

(b) the *quality requirements (see Subdivision 19-C); and

(c) the *fairness requirements (see Subdivision 19-D); and

(d) the *compliance requirements (see Subdivision 19-E); and

(e) the *contribution and fee requirements (see Subdivision 19-F); and

(f) the *compact and academic freedom requirements (see Subdivision 19-G).

## Subdivision 19-B—The financial viability requirements

### 19-5 Basic requirement

A higher education provider:

(a) must be financially viable; and

(b) must be likely to remain financially viable.

### 19-10 Financial information must be provided

(1) A higher education provider must give to the Minister a financial statement for each *annual financial reporting period for the provider in which:

(a) the provider receives assistance under this Chapter; or

(b) a student of the provider receives assistance under Chapter 3.

(2) The statement:

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(a) must be in the form approved by the Minister; and

(ab) must comply with any requirements prescribed by the Higher Education Provider Guidelines; and

(b) must be provided together with a report on the statement by an independent *qualified auditor; and

(c) must be provided within 6 months after the end of the *annual financial reporting period for which the statement was given.

(2A) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, requirements made for the purposes of paragraph (2)(ab) of this section may make different provision in relation to different kinds of providers, circumstances or any other matter.

(3) An ***annual financial reporting period***, for a higher education provider, is the period of 12 months:

(a) to which the provider's accounts relate; and

(b) that is notified in writing to the Minister as the provider's annual financial reporting period.

### 19-12 Minister to have regard to financial information and matters prescribed in Higher Education Guidelines

In determining whether a higher education provider is financially viable, and likely to remain so, the Minister must have regard to:

(a) any financial statement provided by the provider under section 19-10; and

(b) the matters (if any) prescribed by the Higher Education Provider Guidelines.

## Subdivision 19-C—The quality requirements

### 19-15 Provider must maintain quality

A higher education provider must operate, and continue to operate, at a level of quality:

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(a) that meets the Threshold Standards (within the meaning of the *TEQSA Act); and
(b) that meets the requirements imposed by or under the TEQSA Act on, or in relation to, the provider.

## Subdivision 19-D—The fairness requirements

### 19-30 Basic requirement

A higher education provider must treat fairly:
(a) all of its students; and
(b) all of the persons seeking to enrol with the provider.

### 19-35 Benefits and opportunities must be available equally to all students

(1) A higher education provider that receives assistance under this Chapter in respect of a student, or a class of students, must ensure that the benefits of, and the opportunities created by, the assistance are made equally available to all such students, or students in such class, in respect of whom that assistance is payable.

(2) A higher education provider that receives:
(a) any grant or allocation under this Chapter; or
(b) any payment under section 124-1 on account of amounts of *OS-HELP assistance;
must have open, fair and transparent procedures that, in the provider's reasonable view, are based on merit for making decisions about the selection of students who are to benefit from the grant, allocation or payment.

(3) Subsection (2) does not prevent a higher education provider taking into account, in making such decisions about the selection of students, educational disadvantages that a particular student has experienced.

(4) A higher education provider that receives any payment under section 110-1 on account of amounts of *FEE-HELP assistance for

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a unit of study must have open, fair and transparent procedures that, in the provider's reasonable view, are based on merit for making decisions about:

(a) the selection, from among the persons who seek to enrol with the provider in that unit of study, of persons to enrol; and

(b) the treatment of students undertaking that unit of study.

(5) A higher education provider that receives any payment under section 128D-1 on account of amounts of *STARTUP-HELP assistance for an *accelerator program course must have open, fair and transparent procedures that, in the provider's reasonable view, are based on merit for making decisions about:

(a) the selection, from among the persons who seek to enrol with the provider in that accelerator program course, of persons to enrol; and

(b) the selection of students for receipt of STARTUP-HELP assistance in relation to that accelerator program course; and

(c) the treatment of students undertaking that accelerator program course.

(6) Subsections (4) and (5) do not prevent a higher education provider taking into account, in making decisions mentioned in those subsections, educational disadvantages that a particular student has experienced.

## 19-36 Misrepresenting assistance under Chapter 3

A higher education provider must not represent, whether by publishing or otherwise, that assistance payable under Chapter 3:

(a) is not a loan; or

(b) does not have to be repaid.

Civil penalty: 240 penalty units.

## 19-36A Offering certain inducements

(1) A higher education provider must not offer or provide a benefit, or cause a benefit to be offered or provided, if the benefit would be

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reasonably likely to induce a person to make a *request for Commonwealth assistance in relation to enrolling in a unit of study with the provider.

Civil penalty: 120 penalty units.

(2) Subsection (1) does not apply in relation to a benefit specified in the Higher Education Provider Guidelines.

(3) A higher education provider must not offer or provide a benefit, or cause a benefit to be offered or provided, if the benefit would be reasonably likely to induce a person to make a *request for Commonwealth assistance in relation to enrolling in an *accelerator program course with the provider.

Civil penalty: 120 penalty units.

(4) Subsection (3) does not apply in relation to a benefit specified in the Higher Education Provider Guidelines.

## 19-36B Engaging in cold-calling

(1) This section applies if a higher education provider cold-calls another person to market, advertise or promote a unit of study or a *course of study, or an *accelerator program course.

(2) The higher education provider must not mention the possible availability of assistance payable under Chapter 3 for students undertaking the unit of study or *course of study, or *accelerator program course.

Civil penalty: 60 penalty units.

(3) For the purposes of this section, ***cold-calling*** includes making unsolicited contact with a person:
(a) in person; or
(b) by telephone, email or other form of electronic communication.

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(4) The Higher Education Provider Guidelines may set out conduct that is taken to be ***cold-calling*** for the purposes of this section.

## 19-36C Use of third party contact lists

(1) This section applies if a higher education provider:
  (a) receives a person's contact details from another person; and
  (b) contacts the student:
    (i) to market, advertise or promote a unit of study or a *course of study, or enrol the student in a unit of study or course of study; or
    (ii) to market, advertise or promote an *accelerator program course, or enrol the student in an accelerator program course.

(2) The higher education provider must not mention the possible availability of assistance payable under Chapter 3 for students undertaking the unit of study or *course of study, or *accelerator program course.

Civil penalty: 60 penalty units.

(3) Subsection (2) does not apply in circumstances specified in the Higher Education Provider Guidelines.

## 19-36D Other marketing requirements

(1) The Higher Education Provider Guidelines may set out requirements in relation to the marketing of courses in circumstances where assistance may be payable by the Commonwealth under Chapter 3.

(2) A higher education provider contravenes this subsection if the provider:
  (a) is subject to a requirement under subsection (1); and
  (b) fails to comply with the requirement.

Civil penalty: 60 penalty units.

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## 19-36E Requirements relating to requests for Commonwealth assistance

A higher education provider must not complete any part of a *request for Commonwealth assistance that a student is required to complete.

Civil penalty: 120 penalty units.

## 19-37 Requiring membership of certain organisations or payment of certain amounts

(1) A higher education provider must not:

(a) require a person to be or to become a member of an organisation of students, or of students and other persons; or

(b) require a person enrolled with, or seeking to enrol with, the provider to pay to the provider or any other entity an amount in respect of an organisation of students, or of students and other persons;

unless the person has chosen to be or to become a member of the organisation.

(2) A higher education provider must not require a person enrolled with, or seeking to enrol with, the provider to pay to the provider or any other entity an amount for the provision to students of an amenity, facility or service that is not of an academic nature, unless the person has chosen to use the amenity, facility or service.

(3) Subsection (2) does not apply to an amount that the higher education provider requires the person to pay if the amount is for goods or services that:

(a) are essential for the course of study, or *accelerator program course, in which the person is enrolled or seeking to enrol; and

(b) the person has the choice of acquiring from, but does not acquire from, a supplier other than the higher education provider; and

(c) either:

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(i) are goods that become the property of the person that are not intended to be consumed during the course of study or accelerator program course; or

(ii) consist of food, transport or accommodation associated with provision of field trips in connection with the course of study or accelerator program course.

(4) Subsection (2) does not apply to a *student services and amenities fee that the higher education provider requires the person to pay.

(5) A ***student services and amenities fee*** is an amount:

(a) that a higher education provider requires a person enrolled, or seeking to enrol, with the provider to pay for a period starting on or after 1 January 2012 to support the provision to students of amenities and services not of an academic nature, regardless of whether the person chooses to use any of those amenities and services; and

(b) that is determined by the provider in accordance with the Administration Guidelines; and

(c) that is not more than the amount worked out for that period for the person in accordance with those guidelines; and

(d) that is payable on a day determined in accordance with those guidelines; and

(e) that is such that the total of all amounts that are covered by paragraphs (a), (b), (c) and (d) for the same provider and person is not more than $263, for amounts for periods falling wholly or partly within a calendar year starting on or after 1 January 2012.

Note 1: The Administration Guidelines are made by the Minister under section 238-10.

Note 2: The amount of $263 mentioned in paragraph (5)(e) is indexed under Part 5-6.

Note 3: Paragraph 19-102(3)(b) prevents a student services and amenities fee from being a fee as defined in section 19-102.

(6) If a higher education provider determines a *student services and amenities fee, the provider:

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(a) must publish, in accordance with the Administration Guidelines:
  (i) enough information to enable a person liable to pay the fee to work out the amount of the fee; and
  (ii) notice of the day on which the fee is payable; and
(b) must, on request by a person who is or may become liable to pay the fee, inform the person of the amount of the fee and the day on which it is or would be payable.

## 19-38 Higher education providers' expenditure of student services and amenities fees

(1) A higher education provider must not spend an amount paid to the provider as a *student services and amenities fee to support:
  (a) a political party; or
  (b) the election of a person as a member of:
    (i) the legislature of the Commonwealth, a State or a Territory; or
    (ii) a local government body.

(2) If a higher education provider pays a person or organisation an amount paid to the provider as a *student services and amenities fee, the provider must make the payment on the condition that none of the payment is to be spent by the person or organisation to support:
  (a) a political party; or
  (b) the election of a person as a member of:
    (i) the legislature of the Commonwealth, a State or a Territory; or
    (ii) a local government body.

(3) A higher education provider must not spend, for a purpose other than that specified in subsection (4), an amount paid to the provider as a *student services and amenities fee.

(4) Subsection (3) does not prohibit expenditure for a purpose that relates to the provision of any of the following services:

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(a) providing food or drink to students on a campus of the higher education provider;
(b) supporting a sporting or other recreational activity by students;
(c) supporting the administration of a club most of whose members are students;
(d) caring for children of students;
(e) providing legal services to students;
(f) promoting the health or welfare of students;
(g) helping students secure accommodation;
(h) helping students obtain employment or advice on careers;
(i) helping students with their financial affairs;
(j) helping students obtain insurance against personal accidents;
(k) supporting debating by students;
(l) providing libraries and reading rooms (other than those provided for academic purposes) for students;
(m) supporting an artistic activity by students;
(n) supporting the production and dissemination to students of media whose content is provided by students;
(o) helping students develop skills for study, by means other than undertaking *courses of study or *accelerator program courses in which they are enrolled;
(p) advising on matters arising under the higher education provider's rules (however described);
(q) advocating students' interests in matters arising under the higher education provider's rules (however described);
(r) giving students information to help them in their orientation;
(s) helping meet the specific needs of *overseas students relating to their welfare, accommodation and employment.

Note: Examples of expenditure for a purpose that relates to the provision of a service specified in subsection (4) include:
(a) expenditure by the higher education provider in directly providing the service; and

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(b) expenditure by the higher education provider in getting someone else to provide the service or subsidising the provision of the service by someone else; and

(c) expenditure by the higher education provider on infrastructure for the provision of the service.

(5) Without limiting who is a child of a person for the purposes of paragraph (4)(d), someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

(6) To avoid doubt, subsections (1), (2) and (3) apply to an advance made to a higher education provider on account of *SA-HELP assistance in the same way as they apply to an amount paid to the provider as a *student services and amenities fee.

Note: An amount of SA-HELP assistance paid to a provider is an amount paid to the provider as a student services and amenities fee because, under section 128-1, the SA-HELP assistance is paid to discharge the student's liability to pay the fee.

(7) Subsection (6) does not limit subsection 164-10(2).

Note: Subsection 164-10(2) applies to an advance on account of an amount the conditions that would apply to payment of the amount.

## 19-39 At least 40% of student services and amenities fees must be allocated to student led organisations

(1) A higher education provider must allocate an amount that is equal to, or greater than, 40% of the total amount paid to the provider as *student services and amenities fees in respect of each calendar year, to one or more *student led organisations that relate to the higher education provider for the calendar year, for the purposes of providing student services and amenities.

(2) Amounts must be allocated under subsection (1) before the end of the calendar year in respect of which the *student services and amenities fees were paid to the higher education provider.

(3) An organisation is a ***student led organisation*** that relates to a higher education provider for a particular calendar year if:

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(a) the majority of the persons constituting the governing body (however described) of the organisation are either or both of the following:

(i) students enrolled in a *course of study with the higher education provider during the calendar year;

(ii) students who have been enrolled in a *course of study with the higher education provider during any of the 3 immediately preceding calendar years; and

(b) the majority of the persons constituting the governing body (however described) of the organisation have been democratically elected by students enrolled in a *course of study with the higher education provider when the student votes in the election; and

(c) the organisation satisfies the requirements (if any) specified in the Student Services, Amenities, Representation and Advocacy Guidelines for the purposes of this paragraph.

Note: The Student Services, Amenities, Representation and Advocacy Guidelines are made by the Minister under section 238-10.

## 19-40 Higher education provider may make application in relation to transitional arrangements for student led organisations

(1) The Secretary may, on application under subsection (4), determine that a *Table A provider:

(a) is not required to allocate an amount to one or more student led organisations, in respect of up to 3 calendar years, that would otherwise be required by section 19-39 to be allocated; or

(b) may allocate an amount specified in the determination to one or more student led organisations, in respect of up to 3 calendar years, being an amount lower than would otherwise be required by section 19-39 to be allocated.

(2) The Secretary may, on application under subsection (4), determine that a higher education provider that is not a *Table A provider:

(a) is not required to allocate an amount to one or more student led organisations, in respect of up to 5 calendar years, that

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would otherwise be required by section 19-39 to be allocated; or

(b) may allocate an amount specified in the determination to one or more student led organisations, in respect of up to 5 calendar years, being an amount lower than would otherwise be required by section 19-39 to be allocated.

(3) The Secretary must not make a determination under subsection (1) or (2) unless the Secretary is satisfied:

(a) that unless the Secretary makes the determination, the higher education provider concerned would not be able to maintain key services at an appropriate level for the calendar year or years to which the determination relates; and

(b) that the higher education provider has in place a transition plan that will enable it to comply with section 19-39 after the end of the calendar year or years specified in the determination.

(4) A higher education provider may make an application under this subsection:

(a) in a form approved by the Secretary; and

(b) in accordance with the requirements that the Secretary determines in writing; and

(c) within the period (if any) specified in the Student Services, Amenities, Representation and Advocacy Guidelines for the purposes of this paragraph.

Note: The Student Services, Amenities, Representation and Advocacy Guidelines are made by the Minister under section 238-10.

(5) A determination made under this section is not a legislative instrument.

## 19-42 Assessment of students as academically suited

(1) Before enrolling a student in a unit of study, a higher education provider must assess the student as academically suited to undertake the unit concerned.

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Civil penalty: 120 penalty units.

(1A) Before enrolling a person in an *accelerator program course, a higher education provider must assess the person as academically suited to undertake that accelerator program course.

Civil penalty: 120 penalty units.

(2) The assessment for the purposes of subsection (1) or (1A) must be done in accordance with any requirements specified in the Higher Education Provider Guidelines.

## 19-43 Support for students policy

*Providers must have a support for students policy*

(1) A higher education provider must have a policy (a ***support for students policy***) that deals with the support provided to the provider's students to assist them to successfully complete the units of study in which they are enrolled.

(2) A higher education provider's support for students policy must:
  (a) include information on:
    (i) the provider's processes for identifying students that are at risk of not successfully completing their units of study; and
    (ii) the supports available from or on behalf of the provider to assist students to successfully complete the units of study in which they are enrolled; and
  (b) comply with any requirements specified in the Higher Education Provider Guidelines.

(3) Without limiting paragraph (2)(b), the requirements may relate to the following:
  (a) requirements for the higher education provider's support for students policy to include specified information;
  (b) requirements about the presentation, format and availability of the policy.

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*Provider to comply with support for students policy*

(4) A higher education provider must comply with its support for students policy.

*Provider must report on compliance with support for students policy*

(5) A higher education provider must give a report to the Minister about the provider's compliance with its support for students policy.

(6) The report must:
  (a) include the information required by the Higher Education Provider Guidelines; and
  (b) be given within the period, or at the intervals, specified in the Higher Education Provider Guidelines.

*Civil penalty for non-compliance*

(7) A higher education provider contravenes this subsection if the provider:
  (a) is subject to a requirement under this section; and
  (b) does not comply with the requirement.

Civil penalty: 60 penalty units.

## 19-45 Student grievance and review procedures

*Must have grievance and review procedures*

(1) A higher education provider must have:
  (a) a grievance procedure for dealing with complaints by the provider's students, and persons who seek to enrol in *courses of study or *accelerator program courses with the provider, relating to non-academic matters; and
  (b) a grievance procedure for dealing with complaints by the provider's students relating to academic matters; and

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(c) a review procedure for dealing with review of decisions made by the provider:
(i) under subsection 36-12(2) or 36-20(1); or
(ii) relating to assistance under Chapter 3.

Note: Part 5-7 also deals with reconsideration and review of decisions.

(2) Except where the provider is a *Table A provider, the grievance procedures referred to in paragraphs (1)(a) and (b) must comply with the requirements of the Higher Education Provider Guidelines.

(3) The review procedure referred to in paragraph (1)(c) must comply with the requirements of the Higher Education Provider Guidelines.

*Guidelines may provide for matters relating to reviews*

(4) The Higher Education Provider Guidelines may provide for matters relating to reviews of decisions made by higher education providers:
(a) under subsection 36-12(2) or 36-20(1); or
(b) relating to assistance under Chapter 3;
including procedures that are to be followed by *review officers when reviewing those decisions.

*Provider to comply with procedures*

(5) The provider must comply with its grievance and review procedures.

Civil penalty: 60 penalty units.

*Provider to provide information about procedures*

(6) The provider must publish, and make publicly available, up to date information setting out the procedures.

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*Provider to provide information about other complaint mechanisms*

(7) The provider must publish information about any other complaint mechanisms available to complain about the provider's decisions.

## 19-50 Higher education providers to appoint review officers

(1) A higher education provider must appoint a *review officer to undertake reviews of decisions made by the provider:

(a) under subsection 36-12(2) or 36-20(1); or

(b) relating to assistance under Chapter 3.

Note: The Secretary may delegate to a review officer of a higher education provider the power to reconsider decisions of the provider under Division 209: see subsection 238-1(2).

(2) A ***review officer*** of a higher education provider is a person, or a person included in a class of persons, whom:

(a) the chief executive officer of the provider; or

(b) a delegate of the chief executive officer of the provider;

has appointed to be a review officer of the provider for the purposes of reviewing decisions made by the provider:

(c) under subsection 36-12(2) or 36-20(1); or

(d) relating to assistance under Chapter 3.

## 19-55 Review officers not to review own decisions

A higher education provider must ensure that a *review officer of the provider:

(a) does not review a decision that the review officer was involved in making; and

(b) in reviewing a decision of the provider, occupies a position that is senior to that occupied by any person involved in making the original decision.

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### 19-60 Procedures relating to personal information

(1) A higher education provider must comply with the Australian Privacy Principles in respect of *personal information obtained for the purposes of subsection 36-12(2) or 36-20(1) or Chapter 3 or 4.

(2) A higher education provider must have a procedure under which a student enrolled with the provider may apply to the provider for, and receive, a copy of *personal information that the provider holds in relation to that student.

(3) The provider must comply with:
  (a) the requirements of the Higher Education Provider Guidelines relating to *personal information in relation to students; and
  (b) the procedure referred to in subsection (2).

## Subdivision 19-E—The compliance requirements

### 19-65 Basic requirements

(1) A higher education provider must comply with:
  (a) this Act and the regulations; and
  (b) the Guidelines made under section 238-10 that apply to the provider; and
  (c) a condition imposed on the provider's approval as a higher education provider.

(2) A higher education provider must provide information to the Minister in relation to the affairs of the provider in accordance with the requirements of this Act.

(3) A higher education provider's administrative arrangements must support the provision of assistance under this Act.

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## 19-66 Higher education provider charge

(1) A higher education provider must pay the following when it is due and payable by the provider:

(a) *higher education provider charge;

(b) any penalty for late payment of higher education provider charge.

Note: Higher education provider charge is imposed by the *Higher Education Support (Charges) Act 2019*.

(2) The Higher Education Provider Guidelines may make provision for, or in relation to, all or any of the following matters:

(a) the issue of notices setting out the amount of *higher education provider charge payable by a provider;

(b) when higher education provider charge is due and payable;

(c) the issue of notices extending the time for payment of higher education provider charge;

(d) penalties for late payment of higher education provider charge;

(e) to whom higher education provider charge and any penalties for late payment are payable;

(f) the refund, remission or waiver of higher education provider charge or penalties for late payment;

(g) the review of decisions made under the Higher Education Provider Guidelines in relation to the collection or recovery of higher education provider charge;

(h) any other matters relating to the collection or recovery of higher education provider charge.

## 19-66A Tuition protection requirements

(1) A higher education provider to whom Part 5-1A applies must comply with the *tuition protection requirements.

Note: See section 166-5 for the providers to whom Part 5-1A applies.

Civil penalty: 60 penalty units.

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(2) A higher education provider to whom Part 5-1A applies must pay the following when it is due and payable by the provider:

(a) *HELP tuition protection levy;

(b) any penalty for late payment of HELP tuition protection levy.

Note: HELP tuition protection levy is imposed by the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*.

(3) The Higher Education Provider Guidelines may make provision for, or in relation to, all or any of the following matters:

(a) the issue of notices setting out the amount of *HELP tuition protection levy payable by a provider;

(b) when HELP tuition protection levy is due and payable;

(c) the issue of notices extending the time for payment of HELP tuition protection levy;

(d) penalties for late payment of HELP tuition protection levy;

(e) to whom HELP tuition protection levy and any penalties for late payment are payable;

(f) the refund, remission or waiver of HELP tuition protection levy or penalties for late payment;

(g) the review of decisions made under the Higher Education Provider Guidelines in relation to the collection or recovery of HELP tuition protection levy;

(h) any other matters relating to the collection or recovery of HELP tuition protection levy.

## 19-67 Special requirements for student services, amenities, representation and advocacy in 2012 and later years

(1) A higher education provider that receives a grant under Part 2-2 in respect of the year 2012 or a later year must comply in respect of the year with the requirements of the Student Services, Amenities, Representation and Advocacy Guidelines as those guidelines were in force on the 30 June just before the year.

Note: The Student Services, Amenities, Representation and Advocacy Guidelines are made by the Minister under section 238-10.

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(2) The Student Services, Amenities, Representation and Advocacy Guidelines may provide for:
  (a) requirements for providing students with information about services that are not of an academic nature and that support students; and
  (b) requirements for providing students with access to such services; and
  (c) requirements relating to the representation and advocacy of the interests of students.

(3) However, the Student Services, Amenities, Representation and Advocacy Guidelines cannot require a provider to fund an organisation of students, or of students and other persons.

(4) Subsection 19-65(1) does not apply in relation to the Student Services, Amenities, Representation and Advocacy Guidelines.

## 19-70 Provider to provide statement of general information

(1) A higher education provider must give to the Minister such statistical and other information that the Minister by notice in writing requires from the provider in respect of:
  (a) the provision of higher education by the provider; and
  (b) compliance by the provider with the requirements of this Act.

(2) The information must be provided:
  (a) in a form (if any) approved by the Minister for the information; and
  (b) in accordance with such other requirements as the Minister makes.

(3) A notice under this section must not require the giving of information that a higher education provider is required to give to the Minister under section 19-95.

(4) A higher education provider contravenes this subsection if the provider:
  (a) is subject to a requirement under this section; and

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(b) does not comply with the requirement.

Civil penalty: 60 penalty units.

## 19-71 Co-operation with HESA and TEQSA investigators

(1) A higher education provider must co-operate with *HESA investigators and *TEQSA investigators who are performing functions or exercising powers under this Act.

(2) A higher education provider must not obstruct or hinder a *HESA investigator or a *TEQSA investigator who is performing functions or exercising powers under this Act.

Civil penalty: 60 penalty units.

## 19-72 Providers must keep records

(1) A higher education provider must keep records of a kind, in the manner and for the period specified in the Higher Education Provider Guidelines.

(2) A higher education provider contravenes this subsection if the provider:
(a) is subject to a requirement under this section; and
(b) does not comply with the requirement.

Civil penalty: 60 penalty units.

## 19-73 Providers must publish information

(1) A higher education provider must publish information of the kind, in the manner and within the period specified in the Higher Education Provider Guidelines.

(2) A higher education provider contravenes this subsection if the provider:
(a) is subject to a requirement under this section; and
(b) does not comply with the requirement.

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Civil penalty: 60 penalty units.

### 19-75 Notice of events that affect provider's ability to comply with conditions of Commonwealth assistance

A higher education provider must by writing inform the Minister of any event affecting:

(a) the provider; or

(b) a *related body corporate of the provider;

that may significantly affect the provider's capacity to meet the conditions of grants under this Chapter or the *quality and accountability requirements.

Civil penalty: 60 penalty units.

### 19-77 Notice of events affecting accreditation

A higher education provider must by writing inform the Minister of any event affecting:

(a) the provider; or

(b) a *related body corporate of the provider;

that relates to:

(c) the provider's authority conferred by or under the *TEQSA Act to self-accredit one or more *courses of study; or

(d) TEQSA's accreditation of a course of study that is an *accredited course in relation to the provider.

Civil penalty: 60 penalty units.

### 19-78 Notice of events significantly affecting TEQSA registration

(1) A higher education provider must by writing inform the Minister of any event significantly affecting:

(a) the provider; or

(b) a *related body corporate of the provider;

that relates to the provider's registration as a *registered higher education provider.

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Civil penalty: 60 penalty units.

(2) If a higher education provider informs the Minister of an event under section 19-77, the provider need not inform the Minister of the event under this section.

## 19-80 Compliance assurance

(1) The Minister may require a higher education provider to be audited as to compliance with any one or more of the following requirements:
  (a) the *financial viability requirements;
  (b) the *fairness requirements;
  (c) the *compliance requirements;
  (d) the *contribution and fee requirements.

(2) The audit must be conducted:
  (a) by a body determined in writing by the Minister; and
  (b) at such time or times, and in such manner, as the Minister requires.

(2A) To avoid doubt, if the Minister makes a determination under subsection (2) in relation to *TEQSA, the determination is not a direction for the purposes of subsection 136(2) of the *TEQSA Act.

(3) The provider must:
  (a) fully co-operate with the auditing body in the course of its audit; and
  (b) pay to the auditing body any charges payable for such an audit.

(3A) A higher education provider contravenes this subsection if the provider:
  (a) is being audited under this section; and
  (b) does not co-operate with the auditing body in the course of its audit.

Civil penalty: 60 penalty units.

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(4) A determination made under paragraph (2)(a) is not a legislative instrument.

## 19-82 Compliance notices

*Grounds for giving a compliance notice*

(1) The Minister may give a higher education provider a written notice (a ***compliance notice***) in accordance with this section if the Minister is satisfied that the provider has not complied with, or is aware of information that suggests that the provider may not comply with, one or more of the following:
   (a) this Act or the regulations;
   (b) the Guidelines made under section 238-10 that apply to the provider;
   (c) a condition imposed on the provider's approval as a higher education provider.

*Content of compliance notice*

(2) The compliance notice must:
   (a) set out the name of the provider to which the notice is given; and
   (b) set out brief details of the non-compliance or possible non-compliance; and
   (c) specify action that the provider must take, or refrain from taking, in order to address the non-compliance or possible non-compliance; and
   (d) specify a reasonable period within which the provider must take, or refrain from taking, the specified action; and
   (e) if the Minister considers it appropriate—specify a reasonable period within which the provider must provide the Minister with evidence that the provider has taken, or refrained from taking, the specified action; and
   (f) in any case—state that a failure to comply with the notice is a breach of a *quality and accountability requirement which

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may lead to the provider's approval as a higher education provider being suspended or revoked; and

(g) in any case—set out any other matters specified in the Higher Education Provider Guidelines for the purposes of this paragraph.

*Matters that Minister must consider in giving compliance notice*

(3) In deciding whether to give the compliance notice, the Minister must consider all of the following matters:

(a) whether the non-compliance or possible non-compliance is of a minor or major nature;

(b) the period for which the provider has been approved as a higher education provider;

(c) the provider's history of compliance with:

(i) this Act and the regulations; and

(ii) the Guidelines made under section 238-10 that apply to the provider; and

(iii) any conditions imposed on the provider's approval as a higher education provider;

(d) the impact of the higher education provider's non-compliance or possible non-compliance, and of the proposed compliance notice, on:

(i) the provider's students; and

(ii) the provision of higher education generally;

(e) the public interest;

(f) any other matter specified in the Higher Education Provider Guidelines for the purposes of this paragraph.

*Higher Education provider to comply with compliance notice*

(4) A higher education provider must comply with a compliance notice given to the provider under this section.

Civil penalty: 60 penalty units.

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*Variation and revocation of compliance notice*

(5) The Minister may, by written notice given to the higher education provider, vary or revoke a compliance notice if, at the time of the variation or revocation, the Minister considers that taking such action is in the public interest.

Note: A variation could, for example, specify different action to be taken by the provider or a different period for complying with the notice.

(6) In deciding whether to vary or revoke the compliance notice, the Minister must consider any submissions that are received from the higher education provider before the end of the period mentioned in paragraph (2)(d).

*Compliance notice not required before suspending or revoking approval*

(7) To avoid doubt, the Minister need not give a compliance notice under this section before suspending or revoking the provider's approval as a higher education provider in accordance with Division 22.

## Subdivision 19-F—What are the contribution and fee requirements?

### 19-85 Basic requirement

A higher education provider must charge, in accordance with the requirements of this Act:

(a) *student contribution amounts and *tuition fees for each unit of study in which it enrols students; and

(b) an *accelerator program course fee for each *accelerator program course in which it enrols students.

### 19-87 Determining student contribution amounts for all places in units

(1) This section applies to a unit of study:

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(a) that a higher education provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines; and
(b) in relation to which the provider may advise a person that he or she is a *Commonwealth supported student.

(2) The provider must determine, for places in the unit, one or more *student contribution amounts that are to apply to students who may enrol in the unit during the period.

(2A) In determining more than one *student contribution amount under subsection (2), the provider may have regard to any matters the provider considers appropriate, other than matters specified in the Higher Education Provider Guidelines as matters to which a provider must not have regard.

(3) The provider must not vary a *student contribution amount unless the provider:
(a) does so:
(i) before the date ascertained in accordance with the Higher Education Provider Guidelines; and
(ii) in circumstances specified in the Higher Education Provider Guidelines; or
(b) does so with the written approval of the Minister.

## 19-90 Determining tuition fees for all students

(1) This section applies to a unit of study that a higher education provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines.

(2) The provider must determine, for the unit, one or more *fees that are to apply to students who may enrol in the unit during the period.

(3) In determining more than one *fee under subsection (2), the provider may have regard to any matters the provider considers

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appropriate, other than matters specified in the Higher Education Provider Guidelines as matters to which a provider must not have regard.

(4) The provider must not vary a *fee unless the provider:

(a) does so:

(i) before the date ascertained in accordance with the Higher Education Provider Guidelines; and

(ii) in circumstances specified in the Higher Education Provider Guidelines; or

(b) does so with the written approval of the Minister.

## 19-92 Determining accelerator program course fees for all students

(1) This section applies to an *accelerator program course that a higher education provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines.

(2) The provider must determine one *accelerator program course fee that is to apply to students who may enrol in the course during the period.

(3) A person's ***accelerator program course fee*** for an *accelerator program course is the fee determined for the course under subsection (2).

## 19-95 Schedules of student contribution amounts for places and tuition fees

(1) A higher education provider must give the Minister a schedule of the *student contribution amounts for places, and *tuition fees, determined under sections 19-87 and 19-90 for all the units of study it provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines. It must give the schedule:

(a) in a form approved by the Minister; and

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(b) in accordance with the requirements that the Minister determines in writing.

(2) The provider must:

(a) ensure that the schedule provides sufficient information to enable a person to work out, for each unit of study the provider provides or is to provide:

(i) the person's *student contribution amount; and

(ii) if the provider determined more than one student contribution amount for places in a unit under section 19-87—which of those student contribution amounts applies to the person; and

(aa) ensure that the schedule provides sufficient information to enable a person to work out, for each unit of study the provider provides or is to provide:

(i) the person's *tuition fee; and

(ii) if the provider determined more than one tuition fee for a unit under section 19-90—which of those tuition fees applies to the person; and

(b) publish the schedule for a particular period by the date ascertained in accordance with the Higher Education Provider Guidelines; and

(c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the provider on request and without charge.

Civil penalty: 60 penalty units.

*Replacement schedules*

(3) If:

(a) the provider has given the Minister a schedule (the ***previous schedule***) under:

(i) subsection (1); or

(ii) this subsection; and

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(b) the provider:

(i) varies a *student contribution amount in the previous schedule; or

(ii) varies a *tuition fee in the previous schedule;

the provider must:

(c) by written notice given to the Minister:

(i) withdraw the previous schedule; and

(ii) inform the Minister of the variation; and

(d) give the Minister a replacement schedule incorporating the variation.

Note 1: The provider must comply with subsection 19-87(3) when varying a student contribution amount.

Note 2: The provider must comply with subsection 19-90(4) when varying a tuition fee.

Civil penalty: 60 penalty units.

(4) Subsections (1) and (2) apply to the replacement schedule in a corresponding way to the way in which they apply to the previous schedule.

## 19-97 Schedules of accelerator program course fees

(1) This section applies if a higher education provider is required by section 19-92 to determine an *accelerator program course fee for an *accelerator program course the provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines.

(2) The provider must give the Minister a schedule of the *accelerator program course fees determined under section 19-92 for all the *accelerator program courses it provides or proposes to provide during the period. It must give the schedule:

(a) in a form approved in writing by the Minister (if any); and

(b) in accordance with the requirements that the Minister determines in writing (if any).

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(3) The provider must:

(a) ensure that the schedule provides sufficient information to enable a person to work out, for each *accelerator program course the provider provides or is to provide during the period, the person's *accelerator program course fee; and

(b) publish the schedule for a particular period by the date ascertained in accordance with the Higher Education Provider Guidelines; and

(c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the provider on request and without charge.

Civil penalty: 60 penalty units.

## 19-100 Limits on fees for courses of study

A higher education provider must not charge a person a *fee for a *course of study that exceeds the sum of the person's *tuition fees for all of the units of study undertaken with the provider by the person as part of the course.

## 19-102 Meaning of *fee*

(1) A ***fee*** includes any tuition, examination or other fee payable to a higher education provider by a person enrolled with, or applying for enrolment with, the provider.

(2) A ***fee*** may also include any fee payable to the provider in respect of the granting of a *higher education award.

(3) A ***fee*** does not include a fee that is:

(a) payable in respect of an organisation of students, or of students and other persons; or

(b) payable in respect of the provision to students of amenities or services that are not of an academic nature; or

(c) payable in respect of residential accommodation; or

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(d) imposed in accordance with the Higher Education Provider Guidelines for the imposition of fees in respect of *overseas students; or

(e) payable in respect of studies (other than an *enabling course) that are not permitted to be undertaken for the purpose of obtaining a *higher education award; or

(f) determined, in accordance with the Higher Education Provider Guidelines, to be a fee of a kind that is incidental to studies that may be undertaken with a higher education provider; or

(g) a *student contribution amount payable in respect of a student.

(4) The definition of ***fee*** in this section does not apply for the purposes of section 104-50.

### 19-105 Meaning of *tuition fee*

A person's ***tuition fee*** for a unit of study is:

(a) if only one fee has been determined for the unit under subsection 19-90(2)—that fee; or

(b) if more than one fee has been determined for the unit under that subsection—the fee determined under that subsection that applies to the person.

## Subdivision 19-G—The compact and academic freedom requirements

### 19-110 Table A providers and Table B providers must enter into mission based compacts

(1) A higher education provider that is a *Table A provider or a *Table B provider must, in respect of each year for which a grant is paid to the provider under this Act, enter into a mission based compact with the Commonwealth for a period that includes that year.

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(2) The Minister may, on behalf of the Commonwealth, enter into a mission based compact with a *Table A provider or a *Table B provider.

(3) The mission based compact must include:
  (a) a statement of the provider's mission; and
  (b) a statement of the provider's strategies for teaching and learning; and
  (c) a statement of the provider's strategies for:
    (i) undertaking research; and
    (ii) research training; and
    (iii) innovation; and
  (d) a statement of the provider's strategies for engaging with industry; and
  (e) a statement of the provider's strategies for improving equality of opportunity in higher education.

Note: A mission based compact may include other matters.

(4) The *Secretary must cause a copy of each mission based compact to be published on the Department's website within 28 days after the making of the compact.

## 19-115 Provider to have policy upholding freedom of speech and academic freedom

A higher education provider that is a *Table A provider or a *Table B provider must have a policy that upholds freedom of speech and academic freedom.

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# Division 22—When does a body cease to be a higher education provider?

## Subdivision 22-A—General

### 22-1 Cessation of approval as a provider

(1) A body ceases to be approved as a higher education provider:
  (a) if a decision to revoke the approval is in effect under Subdivision 22-AA, 22-B or 22-D; or
  (b) while the approval is suspended under section 22-30; or
  (c) if the notice of the provider's approval ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*.

(2) If a body ceases to be approved as a higher education provider, the Minister must ensure that *TEQSA is notified, in writing, of the cessation.

## Subdivision 22-AA—Revocation of approval if registration ceases or winding up order made

### 22-2 Automatic revocation of approval if registration ceases

(1) The Minister must revoke a body's approval as a higher education provider if:
  (a) the body is no longer a *registered higher education provider; and
  (b) in a case where *TEQSA has made either of the following decisions under the *TEQSA Act, the decision has not been set aside or quashed, and is no longer *subject to review:
    (i) a decision under section 36 of that Act to refuse an application to renew the body's registration under Part 3 of that Act;

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(ii) a decision under section 101 of that Act to cancel the body's registration under Part 3 of that Act.

(2) The Minister must notify the body in writing of the revocation. The notice must specify that the revocation takes effect on the day that the notice is registered in the *Federal Register of Legislation.

(3) A notice of revocation under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the notice.

(4) A decision of the Minister to revoke a body's approval as a higher education provider takes effect on the day that the notice of revocation under subsection (2) is registered in the *Federal Register of Legislation.

## 22-3 Automatic revocation of approval if winding up order made

(1) The Minister must revoke a body's approval as a higher education provider if:

(a) an order is made by a court, or by the Australian Securities and Investments Commission under Part 5.4C of the *Corporations Act 2001*, for the winding up of the body; and

(b) the order has not been set aside or quashed, and is no longer *subject to review.

(2) The Minister must notify the body in writing of the revocation. The notice must specify that the revocation takes effect on the day that the notice is registered in the *Federal Register of Legislation.

(3) A notice of revocation under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the notice.

(4) A decision of the Minister to revoke a body's approval as a higher education provider takes effect on the day that the notice of revocation under subsection (2) is registered in the *Federal Register of Legislation.

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## Subdivision 22-B—Revocation for cause

### 22-5 Revocation of approval if application for approval as a provider is false or misleading

The Minister may revoke a body's approval as a higher education provider if the Minister:

(a) is satisfied that the body's application under section 16-40 for approval as a higher education provider contained material that was false or misleading; and

(b) complies with the requirements of section 22-20.

### 22-7 Revocation of approval if providing education and/or conducting research ceases to be the body's principal purpose

(1) The Minister may revoke a body's approval as a higher education provider if:

(a) the body's principal purpose is no longer, or is no longer taken to be, either or both of the following:

(i) to provide education;

(ii) to conduct research; and

(c) the Minister complies with the requirements of section 22-20.

(2) The Minister may also revoke a body's approval as a higher education provider if:

(a) the Minister is satisfied that any of the body's purposes conflict with the body's principal purpose of providing education and/or conducting research; and

(b) the Minister complies with the requirements of section 22-20.

### 22-10 Revocation of approval if status or accreditation changes

*Bodies that cease to be Australian universities*

(1) The Minister may revoke a body's approval as a higher education provider if:

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(a) the body was an *Australian university at the last time the body became a higher education provider; and
(b) since that time, the body has ceased to be an Australian university; and
(c) the Minister complies with the requirements of section 22-20.

*Bodies that cease to be self-accrediting entities*

(2) The Minister may revoke a body's approval as a higher education provider if:
(a) the body was a *self-accrediting entity at the last time the body became a higher education provider; and
(b) since that time, the body has ceased to be a self-accrediting entity; and
(c) the Minister complies with the requirements of section 22-20.

*Self-accrediting entities that cease to have authority to accredit courses*

(2A) The Minister may revoke a body's approval as a higher education provider if:
(a) the body was a *self-accrediting entity at the last time the body became a higher education provider; and
(b) the body is no longer authorised by or under the *TEQSA Act to self-accredit a *course of study that the body was authorised to self-accredit at that time; and
(c) the Minister complies with the requirements of section 22-20.

*Bodies that cease to be non self-accrediting entities*

(3) The Minister may revoke a body's approval as a higher education provider if:
(a) the body was a *non self-accrediting entity at the last time the body became a higher education provider; and
(b) since that time, the body has ceased to be a non self-accrediting entity; and
(c) the Minister complies with the requirements of section 22-20.

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*Bodies offering courses that cease to be accredited courses*

(4) The Minister may revoke a body's approval as a higher education provider if:

(a) the body was a *self-accrediting entity or a *non self-accrediting entity at the last time the body became a higher education provider; and

(b) a *course of study offered by the body that was an *accredited course ceases to be an accredited course; and

(c) the Minister complies with the requirements of section 22-20.

*Bodies that no longer meet certain approval criteria*

(5) The Minister may revoke a body's approval as a higher education provider if:

(a) the body no longer meets a requirement set out in:

(i) paragraph 16-25(1)(a); or

(ii) paragraph 16-25(1)(da); and

(b) the Minister complies with the requirements of section 22-20.

## 22-15 Revocation of approval as a provider for a breach of conditions or the quality and accountability requirements

(1) The Minister may revoke a body's approval as a higher education provider if the Minister:

(a) is satisfied that the body has:

(i) breached a condition of a grant made to the body under Part 2-2, 2-2A, 2-3 or 2-4; or

(ii) breached a *quality and accountability requirement; or

(iii) breached a condition imposed on the body's approval; and

(b) is satisfied that it is appropriate to take that action (see subsection (2)); and

(c) complies with the requirements of section 22-20.

Note: Section 16-60 allows conditions to be imposed on the body's approval.

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(2) Without limiting the matters that the Minister may consider in deciding whether it is appropriate under this section to revoke a body's approval as a higher education provider, the Minister may consider any or all of the following matters:

(a) whether the breach in question is of a minor or major nature;

(b) whether the breach has occurred before and, if so, how often;

(c) the impact that the breach may have on the body's students;

(d) the impact of the breach on the higher education provided by the body;

(e) the impact of the breach on Australia's reputation as a provider of high quality higher education;

(f) any other matter set out in the Higher Education Provider Guidelines.

## 22-17 Revocation of approval as a provider if provider etc. not a fit and proper person

(1) The Minister may revoke a body's approval as a higher education provider if the Minister:

(a) is satisfied that:

(i) the body; or

(ii) at least one person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the body's affairs;

is not a fit and proper person; and

(b) complies with the requirements of section 22-20.

(2) The Minister must, in deciding whether he or she is satisfied that a person is not a fit and proper person, take into account the matters specified in an instrument under subsection 16-25(4). The Minister may take into account any other matters he or she considers relevant.

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## Subdivision 22-C—Process for decisions on revocation under Subdivision 22-B

### 22-20 Process for revoking approval

(1) Before revoking a body's approval as a higher education provider under Subdivision 22-B, the Minister must give the body notice in writing:
  (a) stating that the Minister is considering revoking the body's approval; and
  (b) stating the reasons why the Minister is considering revoking the body's approval; and
  (c) inviting the body to make written submissions to the Minister within 28 days concerning why the approval should not be revoked.

(2) In deciding whether or not to revoke a body's approval under Subdivision 22-B, the Minister must consider any submissions received from the body within the 28 day period.

(3) The Minister must notify the body in writing of his or her decision whether to revoke the body's approval under Subdivision 22-B. The notice:
  (a) must be in writing; and
  (b) must be given within the period of 28 days following the period in which submissions may have been given to the Minister under subsection (1); and
  (c) if the Minister decides to revoke the body's approval—must specify that the revocation takes effect on the day that the notice is registered in the *Federal Register of Legislation.

(3A) A notice of revocation under subsection (3) is a legislative instrument.

(4) If no notice is given within the period provided for in subsection (3), the Minister is taken to have decided not to revoke the approval.

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(5) A decision of the Minister to revoke a body's approval as a higher education provider takes effect on the day that the notice of revocation under subsection (3) is registered in the *Federal Register of Legislation.

(6) If the notice of revocation under subsection (3) ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*, then the decision to revoke the approval ceases to have effect at the same time.

## 22-25 Determination retaining approval as a provider in respect of existing students

(1) The Minister may determine, in writing, that a revocation of a body's approval as a higher education provider under Subdivision 22-B is of no effect for the purposes of:

(a) grants to the body under this Chapter; and

(b) assistance payable to the body's students under Chapter 3;

to the extent that the grants or assistance relate to students of the body who have not completed the *courses of study in which they were enrolled with the body on the day referred to in subsection 22-20(5).

(2) The determination may be included in the notice of revocation under subsection 22-20(3).

(3) The body is taken, for the purposes of this Act, to continue to be a higher education provider, but only to the extent referred to in subsection (1).

(4) Subsection (3) does not prevent the Minister subsequently revoking the body's approval as a higher education provider under this Division.

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## 22-30 Suspension of approval as a provider

(1) The Minister may, by legislative instrument, determine that, with effect from a specified day, a body's approval as a higher education provider is suspended pending the making of a decision under Subdivision 22-B as to whether to revoke the body's approval as a provider.

(2) A copy of the determination must be given to the body concerned.

(2A) Before the Minister makes a determination under subsection (1) in respect of a body, the Minister must give the body notice in writing:

(a) stating that the Minister is considering suspending the body's approval; and

(b) stating the reasons why the Minister is considering suspending the body's approval; and

(c) inviting the body to respond to the Minister, in writing, within 14 days of the date of the notice.

(2B) In deciding whether or not to make a determination under subsection (1), the Minister must consider any response received from the body within the 14 day period.

(3) If the Minister makes a determination under subsection (1) in respect of a body, the Minister must give to the body a notice under section 22-20 within a reasonable period of time after giving a copy of the determination to the body.

(4) A determination under this section:

(a) takes effect accordingly on the day specified in the determination; and

(b) ceases to have effect if the Minister decides not to revoke the body's approval as a higher education provider.

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### 22-32 Determination retaining approval as a provider in respect of existing students following suspension of approval

(1) The Minister may determine, in writing, that a suspension of a body's approval as a higher education provider under section 22-30 is of no effect for the purposes of:

(a) grants to the body under this Chapter; and

(b) assistance payable to the body's students under Chapter 3;

to the extent that the grants or assistance relate to students of the body who have not completed the *courses of study in which they were enrolled with the body on the day specified for the purposes of paragraph 22-30(4)(a).

(2) A copy of the determination must be given to the body concerned.

(3) The body is taken, for the purposes of this Act, to continue to be a higher education provider, but only to the extent referred to in subsection (1).

(4) Subsection (3) does not prevent the Minister subsequently revoking the body's approval as a higher education provider under this Division.

(5) A determination made under subsection (1) is not a legislative instrument.

## Subdivision 22-D—Revocation of approval on application

### 22-40 Revocation of approval as a provider on application

(1) The Minister may revoke the approval of a body as a higher education provider if the body requests the Minister in writing to revoke the approval.

(2) The request must be given to the Minister at least 30 days before the day on which the revocation is requested to have effect.

(3) The Minister must cause the body to be notified of the revocation. The notice must:

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(a) be in writing; and
(b) be given to the body at least 14 days before the day on which the revocation is to take effect.

(3A) A notice of revocation under subsection (3) is a legislative instrument.

(4) The revocation has effect on the day requested unless another day is specified in the notice under subsection (3).

## Subdivision 22-E—Notice of approval or revocation ceasing to have effect under the Legislation Act 2003

### 22-45 Notice of approval ceasing to have effect under the *Legislation Act 2003*

(1) This section applies if:
(a) a decision of the Minister to approve a body corporate as a higher education provider has taken effect; and
(b) the body ceases to be approved as a higher education provider because the notice of the approval ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*.

(2) The fact that the body ceases to be approved as a higher education provider does not:
(a) affect:
(i) the operation of this Act, or any instrument made under this Act, in relation to the body before the cessation; or
(ii) anything duly done or suffered in relation to the body before the cessation; or
(b) affect any right, privilege, obligation or liability acquired, accrued or incurred before the cessation; or
(c) affect any penalty, forfeiture or punishment incurred in respect of the body having been a higher education provider; or

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(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the body had not ceased to be approved as a higher education provider.

## 22-50 Notice of revocation ceasing to have effect under the *Legislation Act 2003*

(1) This section applies if:

(a) a decision of the Minister to revoke a body's approval as a higher education provider has taken effect; and

(b) the decision to revoke the approval ceases to have effect because the notice of revocation ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*.

(2) The fact that the decision to revoke the approval ceases to have effect does not:

(a) affect:

(i) the operation of this Act, or any instrument made under this Act, in relation to the body before the cessation; or

(ii) anything duly done or suffered in relation to the body before the cessation; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred before the cessation; or

(c) affect any penalty, forfeiture or punishment incurred in respect of the body before the cessation; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture

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or punishment may be imposed, as if the decision to revoke the approval had not ceased to have effect.

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# Part 2-2—Commonwealth Grant Scheme

## Division 27—Introduction

### 27-1 What this Part is about

Grants are payable under this Part to higher education providers that meet certain requirements. These grants are paid in relation to Commonwealth supported places.

Grants are subject to several conditions relating to the provision of Commonwealth supported places and other matters.

Amounts of grants may be reduced, or some or all of a grant may be repayable if a condition is breached (see Part 2-5).

Note: This Part does not apply to Table C providers: see section 5-1.

### 27-5 Commonwealth Grant Scheme Guidelines

The grants payable under this Part are also dealt with in the Commonwealth Grant Scheme Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Commonwealth Grant Scheme Guidelines are made by the Minister under section 238-10.

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# Division 30—Which higher education providers are eligible for a grant?

## Subdivision 30-A—Basic rules

### 30-1 Eligibility for grants

(1) A grant under this Part is payable, as a benefit to students, to a higher education provider, in respect of the year 2005 or a later year, if:

(a) the provider:

(i) is a *Table A provider; and

(ii) has entered into a funding agreement with the Commonwealth under section 30-25 in respect of a period that includes that year; or

(b) all of the following apply:

(i) the provider is a higher education provider specified in the Commonwealth Grant Scheme Guidelines as a higher education provider that can be paid grants under this Part;

(ii) the Minister has made an allocation under section 30-10 to the provider for that year;

(iii) the provider has entered into a funding agreement with the Commonwealth under section 30-25 in respect of a period that includes that year.

(2) However, a grant is payable to a higher education provider that is not a *Table A provider only if the grant relates only to *national priorities.

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## Subdivision 30-B—Allocation of places

### 30-10 Allocation of places

(1) The Minister may allocate a specified number of Commonwealth supported places for a year to:

(a) a *Table A provider in relation to *designated higher education courses; and

(b) a higher education provider referred to in subparagraph 30-1(1)(b)(i).

Note: The Minister does not allocate places to Table A providers in relation to higher education courses or demand driven higher education courses.

(2) The allocation must specify the distribution of those places between the *funding clusters.

(2A) If the provider has indicated to the Minister its preferred distribution of those places, the Minister must have regard to that preferred distribution in deciding the distribution of those places.

(4) If the provider is not a *Table A provider, the allocation must specify:

(a) that it is only in respect of *national priorities; and

(b) the number of places for each national priority for which the provider is allocated places; and

(c) the number of places (if any) for each *funding cluster that are in respect of *non-grandfathered students; and

(d) the number of places (if any) for each funding cluster (other than the *first funding cluster and the *second funding cluster) that are in respect of *grandfathered students; and

(e) the number of places (if any) for each *grandfathered funding cluster part that are in respect of grandfathered students.

(5) If the allocation made under subsection (1) is made in writing, the allocation is not a legislative instrument.

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## 30-12 Designated higher education courses

(1) Each of the following is a ***designated higher education course*** in relation to a *Table A provider:

(a) a *course of study in medicine;

(b) a *course of study of a kind determined under subsection (2).

(2) The Minister may, by legislative instrument, determine a kind of *course of study for the purposes of paragraph (1)(b).

## 30-15 Funding clusters

The ***funding clusters*** are:

**Funding clusters**

| Item | Funding clusters |
|---|---|
| 1 | Law, Accounting, Administration, Economics, Commerce, Communications, Society and Culture |
| 2 | Education, Clinical Psychology, English, Mathematics, Statistics, Allied Health, Other Health, Built Environment, Computing, Visual and Performing Arts, Professional Pathway Psychology, Professional Pathway Social Work |
| 3 | Nursing, Indigenous and Foreign Languages, Engineering, Surveying, Environmental Studies, Science |
| 4 | Agriculture, Medicine, Dentistry, Veterinary Science, Pathology |
| 5 | *FEE-FREE Uni Ready courses |

## 30-20 National priorities

A ***national priority*** is a particular outcome:

(a) that relates to the provision of higher education; and

(b) that is an outcome specified in the Commonwealth Grant Scheme Guidelines as a national priority.

Note: The following are examples of national priorities:

(a) increasing the number of persons undertaking particular courses of study;

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(b) increasing the number of particular kinds of persons undertaking courses of study;
(c) increasing the number of persons in particular regions undertaking courses of study.

## Subdivision 30-C—Funding agreements

### 30-25 Funding agreements

(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***).

(1A) In negotiating the agreement the Minister must have regard to all of the types of matters that the provider has indicated to the Minister it wishes to be specified in the agreement.

(2) The agreement may specify conditions to which the grants are subject, that are additional to the conditions that apply under Division 36.

Note: It is a condition of the grants that the provider comply with the agreement: see section 36-65.

(2A) However, the agreement must not specify as a condition to which the grants are subject a matter in respect of which the Minister could have made a determination under subsection 36-15(2) (or could have made such a determination but for subsection 36-15(3)).

Note: The Minister has the power under subsection 36-15(2) to determine that students are not to be enrolled as Commonwealth supported students in particular courses. The determination is disallowable (see subsection 36-15(3)).

(2B) Where the agreement specifies conditions to which the grants are subject, that are additional to the conditions that apply under Division 36, those conditions must not relate to industrial relations matters.

(3) Without limiting subsection (2), the agreement may specify:

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(aa) the *number of Commonwealth supported places allocated to the provider for a *funding cluster, or a *grandfathered funding cluster part, for the grant year; and

(a) in relation to one or more of the following:

(i) places in *undergraduate courses of study;

(ii) places in non-research *postgraduate courses of study;

(iii) places in courses of study in medical programs;

(iv) places in courses of study in *FEE-FREE Uni Ready courses;

the minimum *number of Commonwealth supported places that the provider must provide in the grant year or grant years, or the maximum number of Commonwealth supported places that the provider may provide in the grant year or grant years, or both; and

(c) the maximum number of Commonwealth supported places provided by the provider which can have a medical student loading in the grant years; and

(e) the maximum amount of transition fund loading that will be payable to the provider, under the Commonwealth Grant Scheme Guidelines, in the grant years; and

(g) adjustments that will apply to the amount of a grant payable to the provider under this Part if the provider breaches a condition of the grant.

## 30-27 Specification of maximum basic grant amounts in funding agreements

*Maximum basic grant amounts for Table A providers*

(1) Subject to subsections (2), (3) and (5), a funding agreement for a higher education provider that is a *Table A provider:

(a) must specify an amount as the ***maximum basic grant amount*** payable to the provider for a *grant year for *higher education courses; and

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(b) may specify an amount as the ***maximum basic grant amount*** payable to the provider for a *grant year for each of the following:

(i) *designated higher education courses;

(ii) *demand driven higher education courses.

*Table A providers—maximum basic grant amount for higher education courses*

(2) If a funding agreement for a *Table A provider is in respect of 2021, 2022 and 2023, the maximum basic grant amount for the provider for each of those years for *higher education courses must not be less than the amount specified in the Commonwealth Grant Scheme Guidelines for the purposes of this subsection for the provider for each of those years for those courses.

(3) If a funding agreement for a *Table A provider is in respect of other later years, the maximum basic grant amount for the provider for each of those years for *higher education courses must not be less than:

(a) for 2024—the amount specified in the Commonwealth Grant Scheme Guidelines for the purposes of this paragraph for the provider for that year for those courses; and

(b) for any other later year—the maximum basic grant amount specified in the provider's funding agreement for the preceding year for those courses.

(4) Without limiting subsection (2) and paragraph (3)(a), the Commonwealth Grant Scheme Guidelines may:

(a) specify different amounts for different years for the purposes of that subsection; and

(b) specify different amounts for different *Table A providers for the purposes of that subsection or paragraph.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Table A providers—maximum basic grant amount for designated higher education courses*

(5) The maximum basic grant amount for a *Table A provider for a *grant year for *designated higher education courses must not be less than the amount worked out for the year for those courses using the method statement set out in paragraph 33-5(3)(b) with the following modifications:

(a) read a reference in step 1 of that statement to places provided by the provider in a *funding cluster as a reference to places allocated under section 30-10 to the provider in that funding cluster;

(b) disregard paragraph (a) of that step.

*Maximum basic grant amount for non-Table A providers*

(6) Subject to subsection (7), a funding agreement for a higher education provider (other than a *Table A provider) may specify an amount as the ***maximum basic grant amount*** payable to the provider for a *grant year.

(7) The maximum basic grant amount for a higher education provider (other than a *Table A provider) for a *grant year must not be less than the amount worked out for the year using the method statement set out in paragraph 33-5(7)(b) with the following modifications:

(a) read a reference in steps 1, 2 and 3 of that statement to places provided by the provider in a *funding cluster or a *grandfathered funding cluster part as a reference to places allocated under section 30-10 to the provider in that funding cluster or grandfathered funding cluster part;

(b) disregard paragraph (a) of each of those steps.

## 30-28 Funding agreement to be published

The *Secretary must cause a copy of each funding agreement to be published on the Department's website within 28 days after the making of the agreement.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 33—How are grant amounts worked out?

## Subdivision 33-A—Basic rule

### 33-1 How grant amount is worked out

(1) The amount of a grant payable to a higher education provider under this Part for a year is worked out by:

(a) working out the *total basic grant amount for the provider for that year under Subdivision 33-B; and

(b) adding:

(ii) the amount of any medical student loading worked out under the Commonwealth Grant Scheme Guidelines for the provider for that year; and

(iv) the amount of any transition fund loading worked out under the Commonwealth Grant Scheme Guidelines for the provider for that year; and

(v) the amount of any performance funding grant amount worked out under the Commonwealth Grant Scheme Guidelines for the provider for that year.

(2) Advances may be paid to a higher education provider under Subdivision 33-D.

Note: Part 5-1 deals with how payments can be made.

## Subdivision 33-B—Total basic grant amounts

### 33-5 Total basic grant amounts

*Total basic grant amount for Table A providers*

(1) The ***total basic grant amount*** for a *Table A provider for a year is the sum of the following amounts:

(a) the amount for *higher education courses (see subsection (2));

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(b) the amount for *designated higher education courses (see subsections (3) and (4));

(c) the amount for *demand driven higher education courses (see subsections (5) and (6)).

*Table A providers—amount for higher education courses*

(2) For the purposes of paragraph (1)(a), the amount for *higher education courses is the lesser of:

(a) the *maximum basic grant amount for the year for those courses that is specified in the *Table A provider's funding agreement; and

(b) the amount worked out for the year using the following method statement.

*Method statement*

Step 1. For each *funding cluster in which the provider has provided places in those courses in respect of *non-grandfathered students, multiply:

(a) the *number of Commonwealth supported places provided by the provider in those courses in that funding cluster in respect of those students; by

(b) the *Commonwealth contribution amount for a place in that funding cluster.

Step 2. For each *funding cluster (other than the *first funding cluster and the *second funding cluster) in which the provider has provided places in those courses in respect of *grandfathered students, multiply:

(a) the *number of Commonwealth supported places provided by the provider in those courses in that funding cluster in respect of those students; by

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(b) the *Commonwealth contribution amount for a place in that funding cluster.

Step 3. For each *grandfathered funding cluster part in which the provider has provided places in those courses in respect of *grandfathered students, multiply:

(a) the *number of Commonwealth supported places provided by the provider in those courses in that grandfathered funding cluster part in respect of those students; by

(b) the *grandfathered Commonwealth contribution amount for a place in that grandfathered funding cluster part.

Step 4. Add together all of the amounts worked out under steps 1, 2 and 3.

*Table A providers—amount for designated higher education courses*

(3) For the purposes of paragraph (1)(b) and subject to subsection (4), the amount for *designated higher education courses is the lesser of:

(a) the *maximum basic grant amount for the year for those courses that is specified in the *Table A provider's funding agreement; and

(b) the amount worked out for the year using the following method statement.

*Method statement*

Step 1. For each *funding cluster in which the provider has provided places in those courses, multiply the *Commonwealth contribution amount for a place in that funding cluster by the lesser of the following:

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(a) the number that is the sum of the *number of Commonwealth supported places provided by the provider in those courses in that funding cluster in respect of *non-grandfathered students and in respect of *grandfathered students;

(b) the number of Commonwealth supported places allocated to the provider for that funding cluster.

Step 2. Add together all of the amounts worked out under step 1.

(4) If a *maximum basic grant amount for the year for the *designated higher education courses is not specified in the *Table A provider's funding agreement, the amount for those courses is the amount worked out for the year using the method statement set out in paragraph (3)(b).

*Table A providers—amount for demand driven higher education courses*

(5) For the purposes of paragraph (1)(c) and subject to subsection (6), the amount for *demand driven higher education courses is the lesser of:

(a) the *maximum basic grant amount for the year for those courses that is specified in the *Table A provider's funding agreement; and

(b) the amount worked out for the year using the following method statement.

*Method statement*

Step 1. For each *funding cluster in which the provider has provided places in those courses in respect of *non-grandfathered students, multiply:

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(a) the *number of Commonwealth supported places provided by the provider in those courses in that funding cluster in respect of those students; by

(b) the *Commonwealth contribution amount for a place in that funding cluster.

Step 2. For each *funding cluster (other than the *first funding cluster and the *second funding cluster) in which the provider has provided places in those courses in respect of *grandfathered students, multiply:

(a) the *number of Commonwealth supported places provided by the provider in those courses in that funding cluster in respect of those students; by

(b) the *Commonwealth contribution amount for a place in that funding cluster.

Step 3. For each *grandfathered funding cluster part in which the provider has provided places in those courses in respect of *grandfathered students, multiply:

(a) the *number of Commonwealth supported places provided by the provider in those courses in that grandfathered funding cluster part in respect of those students; by

(b) the *grandfathered Commonwealth contribution amount for a place in that grandfathered funding cluster part.

Step 4. Add together all of the amounts worked out under steps 1, 2 and 3.

(6) If a *maximum basic grant amount for the year for the *demand driven higher education courses is not specified in the *Table A provider's funding agreement, the amount for those courses is the

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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amount worked out for the year using the method statement set out in paragraph (5)(b).

*Total basic grant amount for non-Table A providers*

(7) Subject to subsection (8), the ***total basic grant amount*** for a higher education provider (other than a *Table A provider) for a year is the lesser of:

(a) the *maximum basic grant amount for the year that is specified in the provider's funding agreement; and

(b) the amount worked out for the year using the following method statement.

*Method statement*

Step 1. For each *funding cluster in which the provider has provided places in respect of *non-grandfathered students, multiply the *Commonwealth contribution amount for a place in that funding cluster by the lesser of the following:

(a) the *number of Commonwealth supported places provided by the provider in that funding cluster in respect of those students;

(b) the number of Commonwealth supported places allocated to the provider for that funding cluster in respect of those students.

Step 2. For each *funding cluster (other than the *first funding cluster and the *second funding cluster) in which the provider has provided places in respect of *grandfathered students, multiply the *Commonwealth contribution amount for a place in that funding cluster by the lesser of the following:

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(a) the *number of Commonwealth supported places provided by the provider in that funding cluster in respect of those students;

(b) the number of Commonwealth supported places allocated to the provider for that funding cluster in respect of those students.

Step 3. For each *grandfathered funding cluster part in which the provider has provided places in respect of *grandfathered students, multiply the *grandfathered Commonwealth contribution amount for a place in that grandfathered funding cluster part by the lesser of the following:

(a) the *number of Commonwealth supported places provided by the provider in that part in respect of those students;

(b) the number of Commonwealth supported places allocated to the provider for that part in respect of those students.

Step 4. Add together all of the amounts worked out under steps 1, 2 and 3.

(8) If a *maximum basic grant amount for the year is not specified in the funding agreement of the higher education provider referred to in subsection (7), the ***total basic grant amount*** for the provider is the amount worked out for the year using the method statement set out in paragraph (7)(b).

## 33-10 Commonwealth contribution amounts and grandfathered Commonwealth contribution amounts

(1) The ***Commonwealth contribution amount*** for a place in a *funding cluster is the amount specified in the following table in relation to a place in the funding cluster.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Commonwealth contribution amounts** | | |
|---|---|---|
| **Item** | **For a place in this funding cluster:** | **The amount is:** |
| 1 | Law, Accounting, Administration, Economics, Commerce, Communications, Society and Culture | $1,100 |
| 2 | Education, Clinical Psychology, English, Mathematics, Statistics, Allied Health, Other Health, Built Environment, Computing, Visual and Performing Arts, Professional Pathway Psychology, Professional Pathway Social Work | $13,250 |
| 3 | Nursing, Indigenous and Foreign Languages, Engineering, Surveying, Environmental Studies, Science | $16,250 |
| 4 | Agriculture, Medicine, Dentistry, Veterinary Science, Pathology | $27,000 |
| 5 | *FEE-FREE Uni Ready courses | $18,278 |

Note: Commonwealth contribution amounts are indexed under Part 5-6.

(2) The ***grandfathered Commonwealth contribution amount*** for a place in a *grandfathered funding cluster part is the amount specified in the following table in relation to a place in the grandfathered funding cluster part.

| **Grandfathered Commonwealth contribution amounts** | | |
|---|---|---|
| **Item** | **For a place in this grandfathered funding cluster part:** | **The amount is:** |
| 1 | Law, Accounting, Administration, Economics or Commerce | $2,237 |
| 2 | Communications | $13,547 |
| 3 | The Social Studies or Behavioural Science subpart of the Society and Culture part of the first funding cluster | $11,015 |
| 4 | Any other subpart of the Society and Culture | $6,226 |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Grandfathered Commonwealth contribution amounts | | |
|---|---|---|
| **Item** | **For a place in this grandfathered funding cluster part:** | **The amount is:** |
| | part of the first funding cluster | |
| 5 | Education, Clinical Psychology, English, Mathematics, Statistics, Allied Health, Other Health, Built Environment or Computing | $13,250 |
| 6 | Visual and Performing Arts | $13,547 |
| 7 | Professional Pathway Psychology or Professional Pathway Social Work | $11,015 |
| 8 | *FEE-FREE Uni Ready courses | $18,278 |

Note: Grandfathered Commonwealth contribution amounts are indexed under Part 5-6.

## 33-30 Working out the number of Commonwealth supported places provided

(1) The ***number of Commonwealth supported places*** that a higher education provider has provided in respect of *non-grandfathered students during a particular year is a number equal to the number worked out as follows:

*Method statement*

Step 1. For each unit of study (other than any unit that is an *ineligible work experience unit for a *non-grandfathered student) that the provider provided that had its *census date during the year, multiply:

(a) the *EFTSL value of the unit; by

(b) the number of non-grandfathered students enrolled with the provider in that unit as *Commonwealth supported students.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Step 2. Add together all of the amounts worked out under step 1.

(1A) The ***number of Commonwealth supported places*** that a higher education provider has provided in respect of *grandfathered students during a particular year is a number equal to the number worked out as follows:

*Method statement*

Step 1. For each unit of study (other than any unit that is an *ineligible work experience unit for a *grandfathered student) that the provider provided that had its *census date during the year, multiply:

(a) the *EFTSL value of the unit; by

(b) the number of grandfathered students enrolled with the provider in that unit as *Commonwealth supported students.

Step 2. Add together all of the amounts worked out under step 1.

(2) For the purposes of this section, if:

(a) a unit of study provided by the provider forms part of more than one *course of study; and

(b) the provider determines under subsection 169-28(2) an *EFTSL value of the unit for each such course;

the unit is taken to be a different unit of study in respect of each such course.

(3) To work out the *number of Commonwealth supported places that a higher education provider has provided as mentioned in an item of column 1 of the following table, apply the method statement in subsection (1) or (1A) (as the case requires) to the units of study mentioned in column 2 of that item.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Working out the number of Commonwealth supported places provided | | |
|---|---|---|
| **Item** | **Column 1**<br>**To work out the number of Commonwealth supported places provided in …** | **Column 2**<br>**apply the method statement in subsection (1) or (1A) (as the case requires) to …** |
| 1 | a *funding cluster or a *grandfathered funding cluster part | units provided by the provider in the funding cluster or the grandfathered funding cluster part. |
| 2 | *higher education courses in a *funding cluster or a *grandfathered funding cluster part | units provided by the provider in the funding cluster, or the grandfathered funding cluster part, in those courses. |
| 3 | *designated higher education courses in a *funding cluster | units provided by the provider in the funding cluster in those courses. |
| 4 | *demand driven higher education courses in a *funding cluster or a *grandfathered funding cluster part | units provided by the provider in the funding cluster, or the grandfathered funding cluster part, in those courses. |

### 33-35 Funding clusters, or parts of funding clusters, in which units are included

The Commonwealth Grant Scheme Guidelines may specify:

(a) how to determine, for the purposes of this Act, the *funding cluster, or the part of a funding cluster, in which units of study are included; or

(b) the particular funding cluster, or the particular part of a particular funding cluster, in which a particular unit is included for the purposes of this Act.

## Subdivision 33-C—Adjustments

### 33-37 Adjustments for breach of section 19-37

(1) A higher education provider's *total basic grant amount for a year is reduced by an adjustment in respect of the year if, on one or more occasions during the year, the provider breaches a condition imposed under section 19-37.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) The adjustment under subsection (1) is an amount worked out using the formula:

Reduction amount × Total places provided

where:

***reduction amount*** is $100.

Note: The reduction amount is indexed under Part 5-6.

***total places provided*** is the sum of the following:

(a) the *number of Commonwealth supported places that the higher education provider has provided in respect of *non-grandfathered students for the year;

(b) the number of Commonwealth supported places that the higher education provider has provided in respect of *grandfathered students for the year.

(3) This section does not apply in relation to a breach of a condition imposed under section 19-37 by a higher education provider if:

(a) the breach consists of requiring a person to pay money to the provider or another entity; and

(b) as a result of the requirement, the person paid money to the provider or other entity; and

(c) the Minister has given a written notice to the provider under subsection (4); and

(d) the provider or other entity repays the money to the person within 28 days after the Minister gave the notice to the provider.

(4) If the Minister becomes aware that:

(a) a higher education provider has breached a condition imposed under section 19-37; and

(b) the breach consists of requiring a person to pay money to the provider or another entity;

the Minister must give to the provider a written notice:

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(c) requiring repayment, within 28 days after the notice is given, of any money paid to the provider or any other entity as a result of the requirement; and

(d) stating that failure to repay any such money within that period will result in a reduction under this section of the provider's *total basic grant amount for the year in question.

The notice may relate to more than one breach.

(5) A failure by the Minister to give a notice under subsection (4) in relation to a breach of a condition imposed under section 19-37 does not prevent this section from applying in relation to the breach.

(6) This section does not apply more than once in relation to a higher education provider's *total basic grant amount for a year.

## Subdivision 33-D—Special purpose advances

### 33-40 Advances for certain purposes

(1) The Minister may, if an amount has been specified under subsection (3A), determine that an advance is payable to a higher education provider, in respect of a year, in relation to expenditure of the provider for such purposes as the Minister determines.

(2) The Minister may pay an advance to the provider under subsection (1) on such conditions (if any) as the Minister determines.

(3) The total of the advances in respect of a year must not exceed the amount specified by the Minister under subsection (3A).

(3A) The Minister may, by legislative instrument, specify an amount for the purposes of subsection (3).

(4) If the Minister determines an advance for the provider in respect of a year, the amounts of grant payable to the provider under section 33-1 in respect of:

(a) the year next following that year; or

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(b) the 2 years next following that year; or

(c) the 3 years next following that year;

are reduced by amounts that equal in total the amount of the advance.

(5) Determinations under subsections (1) and (2), and reductions under subsection (4), must be made in accordance with Commonwealth Grant Scheme Guidelines.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 36—What are the conditions of receiving a grant?

## Subdivision 36-A—General

### 36-1 Condition of grant to comply with this Division

(1) A higher education provider receives a grant under this Part on condition that the provider complies with this Division.

(2) Without limiting subsection (1), the following provisions of this Division do not of their own force require the provider to do any act or thing.

## Subdivision 36-B—Conditions relating to Commonwealth supported students

### 36-5 Meaning of *Commonwealth supported student*

(1) A person is a ***Commonwealth supported student***, in relation to a unit of study, if:

(a) the higher education provider with which he or she is enrolled in that unit has advised the person in writing that he or she is a Commonwealth supported student:

(i) in relation to the unit; or

(ii) if the person is undertaking a *course of study with the provider of which the unit forms a part—in relation to that course of study; and

(b) at the end of the *census date for the unit, the higher education provider would not have been prohibited under this Subdivision from so advising the person.

(3) However, the person is not a Commonwealth supported student in relation to the unit if he or she notifies an *appropriate officer of the provider that he or she does not wish to be a Commonwealth supported student in relation to the unit.

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(4) A notice under subsection (3):
  (a) must be in writing; and
  (b) must be given on or before the *census date for the unit.

(5) In addition, the person is not a *Commonwealth supported student in relation to the unit of study if the *Secretary determines that the person is not a genuine student in relation to the unit.

(6) In determining whether a person is a genuine student for the purposes of subsection (5), the *Secretary must have regard to the matters (if any) specified in the Higher Education Provider Guidelines.

(7) If a determination under subsection (5) is made in writing, the determination is not a legislative instrument.

## 36-10 Advice on whether a person is a Commonwealth supported student—general

*When a provider must not advise that a person is Commonwealth supported*

(1) A higher education provider must not advise a person that he or she is a *Commonwealth supported student in relation to a unit of study unless:
  (a) the provider has entered into a funding agreement under section 30-25 for the year in which the person is undertaking the unit; and
  (b) the unit contributes to the requirements of a *course of study in which the person is enrolled with that provider or another higher education provider; and
  (ba) the person has been assessed by the higher education provider, in accordance with section 19-42, as academically suited to undertake the unit; and
  (c) the person meets the citizenship or residency requirements for the purposes of this paragraph (see subsections (2) and (2A)); and

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(d) if the course of study is a course of study other than a *FEE-FREE Uni Ready course—the unit is *covered by the person's Student Learning Entitlement; and

(e) the person:

(i) enrolled in the unit on or before the *census date for the unit; and

(ii) at the end of the census date, remained so enrolled; and

(f) if:

(i) the census date for the unit is on or after 1 January 2021 and before 1 January 2023 and the person commenced the course of study on or after 1 January 2021; or

(ii) the census date for the unit is on or after 1 January 2023;

the person meets the *student identifier requirements for the purposes of this paragraph (see subsection (2C)).

*When a person meets the citizenship or residency requirements*

(2) A person meets the citizenship or residency requirements for the purposes of paragraph (1)(c) if the person is:

(a) an Australian citizen; or

(b) a citizen of New Zealand who will be resident within Australia for the duration of the unit; or

(c) a *permanent visa holder who will be resident within Australia for the duration of the unit.

(2A) In determining, for the purposes of subparagraph (2)(b) or (c), whether a person will be resident within Australia for the duration of the unit of study, disregard any period of residence outside Australia if:

(a) it cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or

(b) it is required for the purpose of completing a requirement of that unit.

(2B) Despite subsections (2) and (2A), a person does not meet the citizenship or residency requirements under subsection (2), if the

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higher education provider reasonably expects that he or she will not undertake in Australia any units of study contributing to the *course of study of which the unit forms a part.

*When a person meets the student identifier requirements*

(2C) A person meets the *student identifier requirements for the purposes of paragraph (1)(f) if:

(a) the person has a student identifier immediately before the census date; and

(b) before the census date, the person notifies the person's student identifier to:

(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary.

(2D) A notification under paragraph (2C)(b) may be included in a *request for Commonwealth assistance that the person has given to the higher education provider in relation to:

(a) the unit of study for which the assistance is sought; or

(b) the *course of study of which the unit forms a part; or

(c) any other unit of study forming part of that course.

*Persons who do not wish to be Commonwealth supported*

(3) A higher education provider must not advise a person that he or she is a *Commonwealth supported student in relation to a unit of study if the person has notified an *appropriate officer of the provider that he or she does not wish to be a Commonwealth supported student in relation to the unit.

(4) A notice under subsection (3):

(a) must be in writing; and

(b) must be given on or before the *census date for the unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Additional requirement for non-Table A providers*

(5) A higher education provider that is not a *Table A provider must not advise a person that he or she is a *Commonwealth supported student in relation to a unit of study unless:

(a) the unit in which the person is enrolled is within a *national priority; and

(b) the provider has received a grant under this Part for that national priority for the year in which the person is undertaking the unit; and

(c) if the national priority is a *course of study that has been specified in the Commonwealth Grant Scheme Guidelines to be a national priority—the unit is contributing to the requirements of that course.

*Additional requirement relating to work experience in industry*

(6) A higher education provider must not advise a person that he or she is a *Commonwealth supported student in relation to a unit of study that wholly consists of *work experience in industry unless:

(a) the unit forms part of a *course of study; and

(b) the person is enrolled, or has previously been enrolled, in another unit of study in that course:

(i) that does not, or did not, wholly consist of work experience in industry; and

(ii) in relation to which the person is, or was, a Commonwealth supported student.

*Units of study at full fee summer or winter schools*

(7) A higher education provider must not advise a person that he or she is a *Commonwealth supported student in relation to a unit of study if:

(a) the person undertakes the unit wholly during a summer school period (the ***current summer school period***) or a winter school period (the ***current winter school period***); and

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(b) the provider has determined that this subsection applies to the unit.

(8) A higher education provider may determine that subsection (7) applies to a unit of study only if each person who could undertake the unit during the current summer school period or current winter school period could undertake, or could have undertaken, the unit during a period other than a summer school period or winter school period as part of a *course of study undertaken by the person with the higher education provider.

(9) The higher education provider must make the determination:
(a) before the start of the current summer school period, if the determination relates to a unit undertaken during a summer school period; or
(b) before the start of the current winter school period, if the determination relates to a unit undertaken during a winter school period.

(10) In this section:

***summer school period*** means a period that starts on or after 1 November in a year and ends after 1 January, but before 1 March, in the following year.

***winter school period*** means a period that starts on or after 1 June in a year and ends on or before 31 August in that year.

## 36-12 Advice on whether a person is a Commonwealth supported student—unreasonable study load

(1) A higher education provider must not advise a person that the person is a *Commonwealth supported student in relation to a unit of study (the ***new unit***) if the sum of the following amounts is more than 2:
(a) the *EFTSL value of the new unit;
(b) the sum of the EFTSL values of each other unit of study:

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(i) that has a *census date during the 12 month period ending on the census date for the new unit; and

(ii) for which the person is entitled to *HECS-HELP assistance or *FEE-HELP assistance, or would be so entitled but for the previous operation of this section, or section 104-1AA, in relation to the other unit of study.

(2) Subsection (1) does not apply if the higher education provider determines that undertaking the new unit will not impose an unreasonable study load on the person, having regard to:

(a) whether the person has the demonstrated capacity and capability to successfully complete units of study that have a total EFTSL value of more than 2; and

(b) the matters (if any) specified by the Higher Education Provider Guidelines for the purposes of this paragraph.

(3) A decision of a higher education provider under subsection (2) must be in accordance with the requirements (if any) specified in the Higher Education Provider Guidelines.

(4) If a determination under subsection (2) is made in writing, the determination is not a legislative instrument.

## 36-15 Persons not to be advised they are Commonwealth supported

(1A) A higher education provider must not advise a person that the person is a *Commonwealth supported student in relation to a unit of study if:

(a) the unit contributes to the requirements of a *course of study; and

(b) the course of study is, or is to be, undertaken by the person primarily at an overseas campus.

(1) A higher education provider must not advise a person enrolled in a unit of study with the provider that the person is a *Commonwealth supported student in relation to the unit if:

(a) the enrolment is in an *employer reserved place; or

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the unit forms part of a *bridging course for overseas-trained professionals; or

(c) the unit forms part of a course to which a determination under subsection (2) applies.

(2) The Minister may, by legislative instrument, determine that:

(a) a specified *course of study is not one in respect of which students, or students of a specified kind, may be enrolled in units of study as *Commonwealth supported students; or

(b) a *course of study of a specified type is not one in respect of which students, or students of a specified kind, may be enrolled in units of study as *Commonwealth supported students.

(3) In deciding whether to make a determination under subsection (2), the Minister must have regard to the effect of the determination on students undertaking the course, or a course of that type.

(4) A determination of the Minister under subsection (2) must not be made later than 6 months before the day that students are able next to commence the specified course, or a course of that type, with the provider.

(5) A higher education provider must not advise a person that the person is a *Commonwealth supported student in relation to a unit of study if:

(a) the provider has completed any part of a *request for Commonwealth assistance that the person is required to complete; and

(b) the request relates to the person enrolling in the unit of study or, where the unit forms part of a *course of study undertaken with the provider, the course of study.

## 36-20 Providers to repay amounts—special circumstances

(1) A higher education provider must, on the *Secretary's behalf, determine that this section applies to a person if:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) the person has been enrolled as a *Commonwealth supported student with the provider in a unit of study; and

(b) the unit would, if completed, form part of a *course of study undertaken with that provider or another higher education provider; and

(c) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and

(d) the provider is satisfied that special circumstances apply to the person (see section 36-21); and

(e) the person applies in writing to that provider for either or both:

(i) the repayment of any amounts that the person paid in relation to his or her *student contribution amount for the unit; or

(ii) the remission of the person's *HECS-HELP debt in relation to the unit; and

(f) either:

(i) the application is made before the end of the application period under section 36-22; or

(ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note 1: A HECS-HELP debt of a person to whom this section applies is remitted under subsection 137-5(4).

Note 2: A decision that this section does not apply to a person is reviewable under Part 5-7.

(2) If the provider determines that this section applies to a person, the provider must:

(a) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to his or her *student contribution amount for the unit; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) pay to the Commonwealth an amount equal to any *HECS-HELP assistance to which the person was entitled for the unit.

(3) Subsection (2) does not apply to the provider if:
(a) the person enrolled in the unit as a *replacement unit; or
(b) it is determined that section 36-24A applies to the person; or
(c) section 36-24BA applies in relation to the provider in relation to the unit.

(4) The Higher Education Provider Guidelines may, in setting out the *tuition protection requirements, specify, in relation to circumstances to which paragraph (3)(a) applies:
(a) the amount (if any) that is to be paid to the person; and
(b) the amount (if any) that is to be paid to the Commonwealth; and
(c) the person (if any) who is to pay the amounts.

(5) If a determination made under subsection (1) is made in writing, the determination is not a legislative instrument.

## 36-21 Special circumstances

(1) For the purposes of paragraph 36-20(1)(d), special circumstances apply to the person if and only if the higher education provider is satisfied that circumstances apply to the person that:
(a) are beyond the person's control; and
(b) do not make their full impact on the person until on or after the *census date for the unit of study; and
(c) make it impracticable for the person to complete the requirements for the unit during the period during which the person undertook, or was to undertake, the unit.

(2) The Administration Guidelines may specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph (1)(a), (b) or (c). A decision of a higher education provider under this section must be in accordance with any such guidelines.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: Guidelines made for the purposes of this subsection also have effect for the purposes of subsections 97-30(2) and 104-30(2) (re-crediting a person's HELP balance).

## 36-22 Application period

(1) For the purposes of subparagraph 36-20(1)(f)(i), if:

(a) the person has withdrawn his or her enrolment in the unit of study; and

(b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsection (1) does not apply, the application period for the application is the period of 12 months after the end of the period during which the person undertook, or was to undertake, the unit.

## 36-23 Dealing with applications

(1) If:

(a) the application under paragraph 36-20(1)(e) is made before the end of the application period under section 36-22; or

(b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

## 36-24A Providers to repay amounts—provider defaults

(1) A higher education provider must, on the *Secretary's behalf, determine that this section applies to a person if:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) the person has been enrolled as a *Commonwealth supported student with the provider in a unit of study; and

(b) the unit would, if completed, form part of a *course of study undertaken with the provider; and

(c) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider *defaulted in relation to the person; and

(d) Part 5-1A applied to the provider at the time the provider defaulted in relation to the person; and

(e) any of the following apply:

(i) the provider identifies, under paragraph 166-25(4)(b) that there is no suitable *replacement unit or *replacement course for the person;

(ii) the person elects, under subparagraph 166-25(7)(a)(iii), to have an amount equal to the amounts of *HECS-HELP assistance that the person received for the unit re-credited to the student's *HELP balance;

(iii) the *Higher Education Tuition Protection Director decides, under paragraph 166-26B(2)(b) that the Director is not satisfied that there is a suitable replacement course for the person;

(iv) the person elects, under subparagraph 166-26B(4)(a)(iii), to have an amount equal to the amounts of HECS-HELP assistance that the person received for the unit re-credited to the student's HELP balance.

Note: A HECS-HELP debt of a person to whom this section applies is remitted under subsection 137-5(4).

(2) The provider must pay to the Commonwealth an amount equal to any *HECS-HELP assistance to which the person was entitled for the unit.

(3) If a determination made under subsection (1) is made in writing, the determination is not a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 36-24B Providers to repay amounts—no tax file numbers

(1) This section applies to a person if a higher education provider cancels the person's enrolment in a unit of study under subsection 193-5(1).

Note: A HECS-HELP debt of a person to whom this section applies is remitted under subsection 137-5(4).

(2) The provider must:

(a) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to his or her *student contribution amount for the unit; and

(b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1.

## 36-24BA Providers to repay amounts—person's SLE amount re-credited in special circumstances

(1) This section applies if:

(a) a person has been enrolled as a *Commonwealth supported student with a higher education provider in a unit of study; and

(b) the person's *SLE amount has been re-credited under section 79-1 with an amount equal to the *EFTSL value of the unit.

(2) The provider must:

(a) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to the person's *student contribution amount for the unit; and

(b) pay to the Commonwealth an amount equal to any *HECS-HELP assistance to which the person was entitled for the unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 36-24BB Providers to repay amounts—provider completes request for assistance

(1) This section applies to a person if the person's *HELP balance is re-credited with an amount relating to *HECS-HELP assistance for a unit of study under section 97-45.

Note: The person's HECS-HELP debt relating to the unit is taken to be remitted if the person's HELP balance is re-credited in relation to the unit under section 97-45: see section 137-5.

(2) The higher education provider must:

(a) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to the person's *student contribution amount for the unit; and

(b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1.

(3) Subsection (2) does not apply to the provider if:

(a) the person enrolled in the unit as a *replacement unit; or

(b) it is determined that section 36-24A applies to the person in relation to the unit.

(4) The Higher Education Provider Guidelines may, in setting out the *tuition protection requirements, specify, in relation to circumstances to which paragraph (3)(a) applies:

(a) the amount (if any) that is to be paid to the person; and

(b) the amount (if any) that is to be paid to the Commonwealth; and

(c) the person (if any) who is to pay the amounts.

## 36-24BC Providers to repay amounts—person not entitled to assistance

(1) This section applies to a person if the person's *HELP balance is re-credited with an amount relating to *HECS-HELP assistance for a unit of study under section 97-50.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: The person's HECS-HELP debt relating to the unit is taken to be remitted if the person's HELP balance is re-credited in relation to the unit under section 97-50: see section 137-5.

(2) The higher education provider must:

(a) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to the person's *student contribution amount for the unit; and

(b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1.

(3) Subsection (2) does not apply to the provider if:

(a) the person enrolled in the unit as a *replacement unit; or

(b) it is determined that section 36-24A applies to the person in relation to the unit.

(4) The Higher Education Provider Guidelines may, in setting out the *tuition protection requirements, specify, in relation to circumstances to which paragraph (3)(a) applies:

(a) the amount (if any) that is to be paid to the person; and

(b) the amount (if any) that is to be paid to the Commonwealth; and

(c) the person (if any) who is to pay the amounts.

## 36-24C Secretary may act if provider is unable to

If a higher education provider is unable to act for one or more of the purposes of subsection 36-12(2) or 36-20(1), section 36-21, 36-22 or 36-23 or subsection 36-24A(1), the *Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 36-C—Conditions relating to enrolment

### 36-25 Continued support for Commonwealth supported students

(1) A higher education provider must advise a person who is enrolled in a unit of study with the provider, as part of a *course of study being undertaken with the provider, that he or she is a *Commonwealth supported student in relation to the unit if:

(a) the person is or has been a Commonwealth supported student in relation to one or more other units of study, undertaken with the provider, as part of the course; and

(b) the provider is not prohibited, under Subdivision 36-B, from so advising the person.

(2) A *Table A provider (the ***host provider***) must advise a person who is enrolled in a unit of study with the provider, as part of a *course of study being undertaken with another Table A provider (the ***home provider***), that he or she is a *Commonwealth supported student in relation to the unit if:

(a) the person is or has been a Commonwealth supported student in relation to one or more other units of study in the course undertaken with the home provider; and

(b) the person must undertake the unit, because it is required to complete the course; and

(c) the host provider is not prohibited, under Subdivision 36-B, from so advising the person.

(3) If a higher education provider has, under subparagraph 36-5(1)(a)(ii), advised a person that he or she is a Commonwealth supported student in relation to a *course of study with the provider, then the higher education provider is taken to have advised the person that he or she is a Commonwealth supported student in relation to each unit of study undertaken with the provider, as part of that course.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 36-30 Providers to enrol persons as Commonwealth supported students

*Table A providers*

(1) If:

(a) a person is to be enrolled with a *Table A provider in a unit of study; and

(aa) the unit to be undertaken with the provider forms part of an *undergraduate course of study; and

(b) the provider is not prohibited, under Subdivision 36-B, from advising the person that he or she is a *Commonwealth supported student in relation to the unit;

the provider must enrol the person in the unit as a Commonwealth supported student.

(2) Subsection (1) does not apply in respect of a person's enrolment with a *Table A provider in a unit of study that forms part of an *undergraduate course of study if:

(a) the person commences the undergraduate course of study with the provider before 1 January 2009; or

(b) both:

(i) the person transfers to the undergraduate course of study with the provider on or after 1 January 2009 from another undergraduate course of study in which the person was enrolled with the provider before 1 January 2009; and

(ii) the person had not completed that other undergraduate course of study; or

(c) all of the following apply:

(i) the person was offered, and accepted, a place (other than a Commonwealth supported place) in the undergraduate course of study with the provider before 1 January 2009;

(ii) the undergraduate course of study was to commence before 1 January 2009;

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(iii) with the provider's approval, the person commences the course of study after that time; or

(d) at the time the person commences the undergraduate course of study with the provider, the person is an *overseas student.

*Other higher education providers*

(3) If a person is to be enrolled, with a higher education provider that is not a *Table A provider, in a unit of study, the provider must enrol the person in the unit as a *Commonwealth supported student if:

(a) completion of the unit is in furtherance of a *national priority; and

(b) places have been allocated to the provider under section 30-10 in respect of that national priority for the year in which the person is enrolled in the unit; and

(c) the provider is not prohibited, under Subdivision 36-B, from advising the person that the person is a Commonwealth supported student in relation to the unit.

(4) Subsection (3) does not apply, and is taken never to have applied, in relation to that enrolment if:

(a) in respect of the year in which the person is enrolled in the unit, the provider has already filled, or fills, all of the *number of Commonwealth supported places in respect of that *national priority; or

(b) the person notifies an *appropriate officer of the provider that he or she does not wish to be a *Commonwealth supported student in relation to the unit.

*Notices under paragraph (4)(b)*

(5) A notice under paragraph (4)(b):

(a) must be in writing; and

(b) must be given on or before the *census date for the unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 36-40 Providers to cancel enrolments in certain circumstances

(1) A higher education provider must cancel a person's enrolment in a unit of study with the provider if the person:

(a) is enrolled as a *Commonwealth supported student in relation to the unit; and

(b) has not, on or before the *census date for the unit:

(i) completed, and signed, a *request for Commonwealth assistance in relation to the unit or, where the unit forms part of a *course of study undertaken with the provider, in relation to the course of study; and

(ii) given it to an *appropriate officer of the provider.

(2) A higher education provider must cancel a person's enrolment in a unit of study with the provider if the person:

(a) is enrolled as a *Commonwealth supported student in relation to the unit; and

(b) is not entitled to *HECS-HELP assistance for the unit; and

(c) has not, on or before the *census date for the unit, paid to the provider the whole of the person's *student contribution amount for the unit.

However, this subsection does not apply if the person's student contribution amount for the unit is a nil amount.

(3) A ***request for Commonwealth assistance***, in relation to a person enrolling in a unit of study with a higher education provider (where access to the unit was not provided by *Open Universities Australia), means a document:

(a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the unit or, where the unit forms part of a *course of study undertaken with the provider, in relation to the course of study; and

(b) that is in the form approved by the Minister.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 36-D—Conditions relating to student contribution amounts

### 36-45 Limits on student contribution amounts

If a person is enrolled with a higher education provider in a unit of study as a *Commonwealth supported student, the provider must not charge, as the person's *student contribution amount for the unit, an amount that exceeds the amount worked out as follows:

| | | |
|---|---|---|
| *Maximum student contribution amount for a place | × | The *EFTSL value of the unit |

## Subdivision 36-E—Conditions relating to tuition fees

### 36-55 Tuition fees for non-Commonwealth supported students

*Tuition fees for units of study*

(1) A higher education provider must not determine, as a person's *tuition fee for a unit of study, an amount that is less than the highest *student contribution amount that the provider would charge any person who is a *Commonwealth supported student in relation to the unit.

(2) Subsection (1) does not apply if the person is enrolled in an *employer reserved place. However, the provider must not charge, as the person's *tuition fees for the unit, amounts that are such that the sum of:

(a) the tuition fees; and

(b) the *employer contribution amount for the unit;

is less than the *student contribution amount referred to in subsection (1).

(3) If a person:

(a) is enrolled in study with a higher education provider on a *non-award basis; and

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(b) could have enrolled in that study as a unit of study if the enrolment were not on a non-award basis;

the provider must not charge, as the person's *fees for the study, amounts that in total are less than the highest amount that the provider would charge any person:

(c) who may enrol in the study as a unit of study; and

(d) who is a *Commonwealth supported student in relation to the unit.

## Subdivision 36-F—Other conditions

### 36-60 Providers to meet the quality and accountability requirements

A higher education provider must meet the *quality and accountability requirements.

### 36-65 Providers to comply with funding agreement

A higher education provider must comply with any funding agreement the provider enters into under section 30-25.

### 36-70 Providers to comply with the Commonwealth Grant Scheme Guidelines

(1) The Commonwealth Grant Scheme Guidelines may specify conditions that higher education providers must comply with for the purposes of this Division.

(2) A higher education provider must comply with all such conditions in respect of any year for which the provider receives a grant under this Part.

(3) However, the provider need not comply with such a condition during a particular year if the condition comes into force on or after the day on which the provider entered into a funding agreement under section 30-25 in respect of a period that includes that year.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 2-2A—Indigenous student assistance grants

## Division 38—Indigenous student assistance grants

### 38-1 What this Part is about

Grants for assisting Indigenous persons are payable under this Part to Table A providers and Table B providers.

Note: This Part does not apply to Table C providers: see section 5-1.

### 38-5 Indigenous Student Assistance Grants Guidelines

Grants under this Part are also dealt with in the Indigenous Student Assistance Grants Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Indigenous Student Assistance Grants Guidelines are made by the Minister under section 238-10.

### 38-10 Eligibility for grants under this Part

(1) A *Table A provider or *Table B provider is, subject to subsection (3), eligible for grants under this Part, in respect of the year 2017 or a later year, for the following purposes:

(a) assisting *Indigenous persons (who may or may not be students) to undertake higher education;

(b) increasing the number of:

(i) *Indigenous persons enrolling in courses leading to *higher education awards; and

(ii) students who are Indigenous persons progressing in and completing courses leading to higher education awards.

(2) Without limiting subsection (1), the purposes mentioned in that subsection may be achieved through the following means:

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(a) providing scholarships;
(b) providing academic support, including supplementary tuition;
(c) providing pastoral care;
(d) implementing strategies to:
(i) accelerate improvements to Indigenous student outcomes in higher education; or
(ii) foster culturally-safe learning environments in higher education.

(3) If the Indigenous Student Assistance Grants Guidelines:
(a) provide for a grant; and
(b) specify extra conditions of eligibility to receive the grant;
then a *Table A provider or *Table B provider is not eligible for the grant unless the provider complies with those extra conditions.

## 38-15 Guidelines may provide for grants

(1) The Indigenous Student Assistance Grants Guidelines may provide for one or more grants to *Table A providers and *Table B providers for purposes specified in subsection 38-10(1).

(2) If the Indigenous Student Assistance Grants Guidelines provide for one or more grants of a particular type, the guidelines may also specify all or any of the following matters for the grants:
(a) the grants' objectives;
(b) the extra conditions of eligibility to receive the grants;
(c) the amount, being part of the amount referred to in section 38-45 for a year, that will be spent on grants of that type in that particular year;
(d) the indexation of that amount for subsequent years, using the method of indexation set out in Part 5-6;
(e) the amounts of the grants, or the methods by which the amounts of the grants will be determined;
(f) the year or years in respect of which the grants are payable;
(g) the conditions that apply to the grants.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 38-20 Approval of grants

The Minister may, by notifiable instrument, approve a grant under this Part in respect of a year to a particular higher education provider that is eligible for such a grant.

## 38-25 Conditions on grants

(1) A grant is made on the following conditions:

(a) if the grant is provided for by the Indigenous Student Assistance Grants Guidelines and the guidelines specify conditions that apply to the grant:

(i) on the conditions provided for in the guidelines; and

(ii) also on the condition that the higher education provider receiving the grant must meet the *quality and accountability requirements;

(b) if paragraph (a) does not apply:

(i) on such conditions (if any) as the Minister determines under subsection (2); and

(ii) also on the condition that the higher education provider receiving the grant must meet the quality and accountability requirements.

(2) For the purposes of subparagraph (1)(b)(i), the Minister may, by notifiable instrument, determine conditions that apply to one or more grants that a particular higher education provider receives.

## 38-30 Amounts of grants

(1) The amount of a grant is:

(a) if:

(i) the grant is provided for by the Indigenous Student Assistance Grants Guidelines; and

(ii) the guidelines specify the amount of the grant, or a method by which the amount of the grant is to be determined;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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the specified amount, or the amount determined by the specified method; or

(b) if paragraph (a) does not apply—the amount determined by the Minister under subsection (2).

(2) For the purposes of paragraph (1)(b), the Minister may, by notifiable instrument, determine the amounts of one or more grants that a particular higher education provider receives.

## 38-35 Amounts payable under this Part

If:

(a) a higher education provider meets, in respect of a year, the requirements of the Indigenous Student Assistance Grants Guidelines for the purposes of section 38-15 in relation to a grant; or

(b) the Minister approves, under section 38-20, a grant to a higher education provider in respect of a year;

there is payable to the provider concerned, in respect of that year, an amount equal to the amount referred to in section 38-30 in respect of that grant.

## 38-40 Rollover of grant amounts

(1) If:

(a) a higher education provider to which a grant under this Part has been made in respect of a year fails to spend an amount of that grant; and

(b) the *Secretary determines under subsection (3) that this section is to apply to the provider in respect of that grant;

then so much of the unspent amount as the Secretary determines under that subsection is taken to be granted to the provider under this Part in respect of the next following year.

(2) The grant is taken to be made:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) under the same conditions as the conditions of the original grant, except the grant is taken to be made in respect of the next following year; or

(b) under such other conditions as the Secretary determines under subsection (4).

(3) For the purposes of subsection (1), the Secretary may, by notifiable instrument, determine:

(a) that this section is to apply to a particular higher education provider in respect of one or more grants; and

(b) for each grant, an amount of the unspent amount of the grant.

(4) For the purposes of paragraph (2)(b), the Secretary may, by notifiable instrument, determine conditions that apply to one or more grants made to a particular higher education provider.

## 38-45 Maximum payments for grants under this Part

(1) The total payments made under this Part in respect of a year must not exceed the amount determined by the Minister under subsection (2) in respect of the year.

(2) The Minister may, by legislative instrument, determine the total payments made under this Part in respect of a year.

Note: A single instrument may determine amounts for multiple years.

(3) A determination under subsection (2) for a year must be made before the start of that year.

(4) The Minister may, by legislative instrument, at any time before the end of a year, vary a determination made under subsection (2) for the year.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 2-3—Other grants

## Division 41—Other grants

### 41-1 What this Part is about

Grants under this Part are payable to higher education providers and other eligible bodies for a variety of purposes.

Note: This Part does not apply to Table C providers: see section 5-1.

### 41-5 The Other Grants Guidelines

Other grants are also dealt with in the Other Grants Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Other Grants Guidelines are made by the Minister under section 238-10.

### 41-10 Eligibility for grants under this Part

(1) Subject to subsection (2), a body corporate referred to in an item in the third column of the table is eligible for grants under this Part, in respect of the year 2005 or a later year, for the purposes specified in the second column of that item.

**Eligibility for grants under this Part**

| Item | Purpose of grant | Who is eligible |
|---|---|---|
| 1 | Grants to promote equality of opportunity in higher education | *Table A providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 2 | Grants to promote the productivity of higher education providers | *Table A providers |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Eligibility for grants under this Part** | | |
|---|---|---|
| **Item** | **Purpose of grant** | **Who is eligible** |
| 4 | Grants to support national institutes specified in the Other Grants Guidelines for the purposes of this item | *Table A providers |
| 5 | Grants to support the capital development projects of higher education providers | *Table A providers and *Table B providers |
| 6 | Grants to assist with the cost of higher education providers' superannuation liabilities | *Table A providers |
| 7 | Grants to support research by, and the research capability of, higher education providers | *Table A providers and *Table B providers |
| 8 | Grants to support the training of research students | *Table A providers and *Table B providers |
| 9 | Grants to foster collaboration and reform in higher education | *Table A providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 9A | Grants to support diversity and structural reform | *Table A providers, *Table B providers that are universities, and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 9B | Grants to support structural adjustment | *Table A providers and *Table B providers that are universities |
| 10 | Grants to support the development of systemic infrastructure used by higher education providers | *Table A providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Eligibility for grants under this Part | | |
|---|---|---|
| **Item** | **Purpose of grant** | **Who is eligible** |
| 11 | Grants for activities that:<br>(a) assure and enhance the quality of Australia's higher education sector; or<br>(b) foster an understanding of the importance of, or promote research and scholarship in, science, social science or the humanities in Australia; or<br>(c) support open access to higher education across Australia. | *Table A providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 11A | Grants to support arrangements to increase industry-led study and postgraduate research | *Table A providers, *Table B providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 12 | Grants to assist higher education providers with the transitional costs of changes to maximum student contribution amounts | Higher education providers that have provided Commonwealth-supported places for any year |
| 13 | Grants to encourage higher education providers to engage with industry | *Table A providers |
| 14 | Grants to assist higher education providers to undertake programs of research, in areas of national priority, that progress development of technologies and services to a state of commercial investor readiness | *Table A providers, *Table B providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |
| 15 | Grants to assist higher education providers to provide payments to students who are undertaking mandatory practicums as part of their *course of study | *Table A providers, *Table B providers and bodies corporate that are specified in the Other Grants Guidelines for the purposes of this item |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) If the Other Grants Guidelines:

(a) specify a program under which grants for a particular purpose specified in the table are to be paid; and

(b) specify extra conditions of eligibility to receive a grant under the program;

then a body corporate specified in the table in respect of those grants is not eligible for such a grant unless it complies with those extra conditions.

## 41-15 Grants may be paid under programs

(1) The Other Grants Guidelines may specify one or more programs under which grants for particular purposes specified in the table in subsection 41-10(1) are to be paid.

(2) If the Other Grants Guidelines specify a program for a grant for a particular purpose, the guidelines may also specify all or any of the following matters for the program:

(a) the program's objectives;

(b) the extra conditions of eligibility to receive a grant under the program;

(c) the amount, being a part of the amount referred to in section 41-45 for a year, that will be spent on the program in that particular year;

(d) the indexation of that amount for subsequent years, using the method of indexation set out in Part 5-6;

(e) the method by which the amount of grants under the program will be determined;

(f) whether grants under a program are in respect of a year or a project;

(g) the conditions that apply to grants under the program.

## 41-20 Approval of grants

The Minister may approve a grant under this Part in respect of a year or a project to a body corporate that is eligible for such a grant.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 41-25 Conditions on grants

(1) A grant is made on the following conditions:

(a) if the grant is made under a program and the Other Grants Guidelines specify conditions that apply to a grant under that program—on the conditions provided for in the guidelines;

(b) if the body receiving the grant is a higher education provider—on the condition that the body must meet the *quality and accountability requirements;

(c) on such other conditions (if any) as the Minister determines in relation to the grant under subsection (2).

(2) The Minister may, in writing, determine conditions in relation to a grant for the purposes of paragraph (1)(c).

(3) A determination under subsection (2) is not a legislative instrument.

## 41-30 Amount of a grant

The amount of a grant is:

(a) if the grant is made under a program and the Other Grants Guidelines specify a method by which the amount of grants under the program are to be determined—the amount determined by that method; or

(b) if paragraph (a) does not apply—the amount determined in writing by the Minister.

## 41-35 Amounts payable under this Part

If:

(a) a body corporate meets, in respect of a year, the requirements of the Other Grants Guidelines made for the purposes of section 41-15 in relation to a program; or

(b) the Minister approves, under section 41-20, a grant to a body corporate in respect of a year or project;

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there is payable to the body corporate concerned, in respect of that year or project, an amount equal to the amount referred to in section 41-30 in respect of that grant.

## 41-40 Rollover of grant amounts

(1) If a body to which a grant (the ***original grant***) under this Part has been made in respect of a year fails to spend an amount (the ***unspent amount***) of the grant before the end of the year, then:

(a) unless paragraph (b) applies—the unspent amount is taken to be granted to the body under this Part in respect of the next following year; or

(b) if the *Secretary specifies an amount (not greater than the unspent amount) in relation to the body and the original grant in a determination under subsection (1A)—the specified amount is taken to be granted to the body under this Part in respect of the next following year.

(1A) The *Secretary may, in writing, make a determination for the purposes of paragraph (1)(b) specifying an amount in relation to a body and a grant.

(2) The amount taken to be granted under subsection (1) is taken to be granted for the same purpose as the original grant.

(3) The grant taken to be made under subsection (1) is taken to be made:

(a) under the same conditions as the conditions of the original grant—except the grant is taken to be made in respect of the next following year; or

(b) under such other conditions as are determined by the *Secretary.

(4) Subsection (1) does not apply to a body in relation to a grant if the *Secretary specifies the body in relation to the grant in a determination under subsection (5).

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(5) The *Secretary may, in writing, make a determination for the purposes of subsection (4) specifying a body in relation to a grant.

(6) A determination under subsection (1A) or (5) is not a legislative instrument.

## 41-45 Maximum payments for other grants under this Part

(1) The total payments made under this Part in respect of a year referred to in the table must not exceed the amount specified next to that year in the table.

**Maximum payments for other grants under this Part**

| Item | Year | Amount |
|---|---|---|
| 1 | 2005 | $1,539,636,000 |
| 2 | 2006 | $1,716,942,000 |
| 3 | 2007 | $1,768,622,000 |
| 4 | 2008 | $1,912,350,000 |
| 5 | 2009 | $1,883,928,000 |
| 6 | 2010 | $1,874,910,000 |
| 7 | 2011 | $2,032,393,000 |
| 8 | 2012 | $2,114,960,000 |
| 9 | 2013 | (a) if paragraph (b) does not apply—$2,274,359,000; or<br>(b) if the Minister determines an amount under subsection (1A) in respect of 2013—that amount |
| 10 | 2014 | (a) if paragraph (b) does not apply—$2,225,794,000; or<br>(b) if the Minister determines an amount under subsection (1A) in respect of 2014—that amount |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Maximum payments for other grants under this Part | | |
|---|---|---|
| **Item** | **Year** | **Amount** |
| 11 | 2015 | (a) if paragraph (b) does not apply—$2,231,354,000; or<br>(b) if the Minister determines an amount under subsection (1A) in respect of 2015—that amount |
| 12 | 2016 | (a) if paragraph (b) does not apply—$2,219,169,000; or<br>(b) if the Minister determines an amount under subsection (1A) in respect of 2016—that amount |
| 13 | 2017 and each later year | The amount determined by the Minister under subsection (1B) in respect of that year |

(1A) The Minister may, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2013 but before 1 January 2017.

(1B) The Minister must, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2017.

(1C) A determination under subsection (1B) for a year must be made before the start of that year.

(1D) The Minister may, in writing, vary a determination under subsection (1A) or (1B) for a year at any time before the end of that year.

(2) Payments made in respect of a project in a year are taken, for the purposes of subsection (1) to have been made in respect of that year.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 41-95 Alternative constitutional bases

(1) In addition to the effect that it has apart from this section, this Part has the effect it would have if each reference in this Part to a grant were expressly confined to a grant:

(a) to a corporation to which paragraph 51(xx) of the Constitution applies for the purposes of carrying out the corporation's activities; or

(b) for one or more of the following purposes (as well as for a purpose described in section 41-10):

(i) a purpose related to trade or commerce with another country, among the States, between a State and a Territory, between 2 Territories or within a Territory;

(ii) a purpose involving the use of postal, telegraphic, telephonic, and other like services;

(iii) a purpose relating to astronomical or meteorological observations;

(iv) a purpose relating to census or statistics;

(v) a purpose relating to aliens;

(vi) a purpose relating to old-age pensions;

(vii) a purpose relating to the provision of benefits to students or sickness benefits;

(viii) a purpose relating to Aboriginal or Torres Strait Islander people;

(ix) a purpose relating to external affairs;

(x) a purpose relating to the executive power of the Commonwealth;

(xi) a purpose relating to a matter that is peculiarly adapted to the government of a nation and that cannot otherwise be carried on for the benefit of the nation; or

(c) in or in relation to a Territory.

(2) A term used in this section and the Constitution has the same meaning in this section as it has in the Constitution.

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# Division 42—Australia's Economic Accelerator

## Subdivision 42-A—Research commercialisation strategy and investment plan

### 42-1 Research commercialisation strategy

(1) The *AEA Advisory Board must make a written strategy, to be known as the research commercialisation strategy, to:

(a) outline the vision, aims and objectives for translation and commercialisation of university research in areas of national priority; and

(b) identify new and emerging technologies in areas of national priority; and

(c) identify and propose ways of addressing regulatory, financial and cultural barriers to translating and commercialising university research in areas of national priority.

Note: For variation and revocation of a strategy, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(1A) The strategy must not be inconsistent with *Australia's greenhouse gas emissions reduction targets.

(2) The first strategy must be made as soon as practicable after this section commences. A subsequent strategy must be made and in force as soon as the current strategy ceases to be in force.

(3) A strategy is in force for 5 years.

(4) The *AEA Advisory Board must give a copy of a strategy to the Minister as soon as practicable after making it.

(5) The Minister must cause a copy of a strategy to be laid before each House of the Parliament.

(6) A strategy made under subsection (1) is not a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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### 42-5 Investment plan

(1) The *AEA Advisory Board must, in relation to each year, formulate written policies for the *Australia's Economic Accelerator program, dealing with the following matters in relation to the year:
  (a) areas of national priority;
  (b) the total amount of funding available;
  (c) any other matters the AEA Advisory Board considers appropriate to deal with to ensure the program meets the program's objectives.

(2) The *AEA Advisory Board must ensure that the policies are consistent with the research commercialisation strategy in force under section 42-1.

(3) A member of the *AEA Advisory Board, or a person performing functions or exercising powers under the *Australia's Economic Accelerator program, must not act inconsistently with policies formulated under subsection (1).

## Subdivision 42-B—Advisory Board

### 42-10 Australia's Economic Accelerator Advisory Board

The Australia's Economic Accelerator Advisory Board (***AEA Advisory Board***) is established.

### 42-15 Functions of the AEA Advisory Board

The *AEA Advisory Board has the following functions:
  (a) to advise the Minister in relation to translation and commercialisation of university research;
  (b) to advise the Minister in relation to the *Australia's Economic Accelerator program, including in relation to objectives, conditions of eligibility and conditions of grants;
  (c) to oversee the performance of functions by priority managers engaged under section 42-75;

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(d) any other functions conferred on the *AEA Advisory Board by this Act or the Other Grants Guidelines;
(e) to do anything incidental or conducive to the performance of the above functions.

## 42-20 Annual report

(1) The *AEA Advisory Board must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the AEA Advisory Board's operations during the year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains provisions about annual reports.

(2) The report must include details of:
(a) achievements and outcomes in translating and commercialising university research in areas of national priority; and
(b) regulatory, financial and cultural barriers to translating and commercialising university research in areas of national priority and proposed ways of addressing them.

## 42-25 Membership of the AEA Advisory Board

The *AEA Advisory Board consists of the following members:
(a) the Chair;
(b) the Deputy Chair;
(c) not fewer than 4, and not more than 6, other members.

## 42-30 Appointment of members of the AEA Advisory Board

(1) Members of the *AEA Advisory Board are to be appointed, on a part-time basis, by the Minister by written instrument.

(2) A member holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

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Note: Subject to subsection (3), a member may be reappointed—see section 33AA of the *Acts Interpretation Act 1901*.

(3) A member cannot be appointed for more than 3 consecutive periods.

(4) The Minister must appoint one member to be the Chair and another to be the Deputy Chair.

(5) The Minister must ensure that the members collectively:
  (a) possess experience and knowledge in research and its translation and commercialisation; and
  (b) represent the sectors of government, industry, business and research.

## 42-35 Acting AEA Advisory Board members

*Acting by operation of law*

(1) The Deputy Chair of the *AEA Advisory Board is to act as the Chair of the AEA Advisory Board:
  (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
  (b) during any period, or during all periods, when the Chair:
    (i) is absent from duty; or
    (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to persons acting as the Chair, see section 33A of the *Acts Interpretation Act 1901*.

*Acting appointments*

(2) The Minister may, by written instrument, appoint a member to act as the Deputy Chair of the *AEA Advisory Board:
  (a) during a vacancy in the office of Deputy Chair of the AEA Advisory Board (whether or not an appointment has previously been made to the office); or

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(b) during any period, or during all periods, when the Deputy Chair of the AEA Advisory Board:
(i) is acting as the Chair of the AEA Advisory Board; or
(ii) is absent from duty; or
(iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

(3) The Minister may, by written instrument, appoint a person to act as a member (other than the Chair or Deputy Chair) of the *AEA Advisory Board:
(a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
(b) during any period, or during all periods, when a member:
(i) is acting as the Deputy Chair; or
(ii) is absent from duty; or
(iii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

*Experience and knowledge etc. of acting members*

(4) Subsection 42-30(5) applies to an appointment under this section in the same way as it applies to an appointment under section 42-30.

## 42-40 Remuneration and allowances

(1) A member of the *AEA Advisory Board is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by rules made under subsection (4).

(2) A member of the *AEA Advisory Board is to be paid the allowances that are prescribed by rules made under subsection (4).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

(4) The Minister may, by legislative instrument, make rules prescribing matters for the purposes of this section.

### 42-45 Leave of absence

The Minister may grant leave of absence to a member of the *AEA Advisory Board on the terms and conditions that the Minister determines.

### 42-50 Disclosure of interests to the Minister

A member of the *AEA Advisory Board must give written notice to the Minister of any direct or indirect pecuniary interest that the member has or acquires and that conflicts or could conflict with the proper performance of the member's functions.

### 42-55 Disclosure of interests to the AEA Advisory Board

(1) A member of the *AEA Advisory Board who has an interest, pecuniary or otherwise, in relation to either of the following must disclose the nature of the interest to a meeting of the AEA Advisory Board:
   (a) a decision by the AEA Advisory Board to recommend, or not recommend, approval of a grant under the *Australia's Economic Accelerator program;
   (b) another matter being considered or about to be considered by the AEA Advisory Board.

(2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.

(3) The disclosure must be recorded in the minutes of the meeting of the *AEA Advisory Board.

(4) Unless the *AEA Advisory Board determines otherwise, the member:

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(a) must not be present during any deliberation by the AEA Advisory Board on the matter; and

(b) must not take part in any decision of the AEA Advisory Board with respect to the matter.

(5) For the purposes of making a determination under subsection (4), the member:

(a) must not be present during any deliberation of the *AEA Advisory Board for the purpose of making the determination; and

(b) must not take part in making the determination.

(6) A determination under subsection (4) must be recorded in the minutes of the meeting of the *AEA Advisory Board.

## 42-60 Resignation

(1) A member of the *AEA Advisory Board may resign the member's appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

## 42-65 Termination

The Minister may terminate the appointment of a member of the *AEA Advisory Board for misbehaviour, or if any of the following applies:

(a) the member is unable to perform the duties of the member's office because of physical or mental incapacity;

(b) the member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with the member's creditors; or

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(iv) makes an assignment of the member's remuneration for the benefit of the member's creditors;

(c) the member is absent, except on leave of absence, from 3 consecutive meetings of the AEA Advisory Board;

(d) the member fails, without reasonable excuse, to comply with section 42-50 or 42-55 (which deal with the disclosure of interests).

### 42-70 Other terms and conditions

A member of the *AEA Advisory Board holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined, in writing, by the Minister.

## Subdivision 42-C—Priority managers

### 42-75 Priority managers

(1) The Secretary may, on behalf of the Commonwealth, engage persons to be known as priority managers:

(a) to perform any functions conferred by the Other Grants Guidelines on priority managers in relation to the *Australia's Economic Accelerator program; and

(b) to provide technical and specialist advisory services to assist the *AEA Advisory Board in performing any functions conferred by the Guidelines on the Board in relation to the Australia's Economic Accelerator program.

(2) The persons are to be engaged on the terms and conditions that the Secretary determines.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 2-4—Commonwealth scholarships

## Division 46—Commonwealth scholarships

### 46-1 What this Part is about

Grants for scholarships are made to higher education providers who pay the scholarships to students for the purposes of the students' education.

Certain scholarships may be paid directly to students.

Note: This Part does not apply to Table C providers: see section 5-1.

### 46-5 The Commonwealth Scholarships Guidelines

*Commonwealth scholarships are also dealt with in the Commonwealth Scholarships Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Commonwealth Scholarships Guidelines are made by the Minister under section 238-10.

### 46-10 Classes of Commonwealth scholarships

There are 3 classes of *Commonwealth scholarships:

(a) directly-paid standard scholarships; and

(aa) indirectly-paid standard scholarships; and

(b) postgraduate research scholarships.

Note: The Commonwealth Scholarships Guidelines set out the kinds of scholarships in each class.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 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)(b)(i) 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.

## 46-15 Eligibility of higher education providers to receive grants for certain Commonwealth scholarships

(1) *Table A providers, and higher education providers to which subparagraph 30-1(1)(b)(i) applies, are eligible to receive a grant from the Commonwealth to pay, as a benefit to students, indirectly-paid standard *Commonwealth scholarships to their students.

(2) *Table A providers and *Table B providers are eligible to receive a grant from the Commonwealth to pay, as a benefit to students, postgraduate research *Commonwealth scholarships to their students.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) A provider that is eligible to receive a grant under subsection (1) or (2) is an ***eligible scholarship provider***.

## 46-20 Other matters relating to Commonwealth scholarships

(1) The Commonwealth Scholarships Guidelines may provide for *Commonwealth scholarships.

*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.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Other Commonwealth scholarships*

(2) Without limiting subsection (1), the Commonwealth Scholarships Guidelines may provide for the following matters in relation to indirectly-paid standard *Commonwealth scholarships and postgraduate research Commonwealth scholarships:

(a) the kinds of scholarships that are to be indirectly-paid standard Commonwealth scholarships;

(b) the kinds of scholarships that are to be postgraduate research Commonwealth scholarships;

(c) which students are eligible for each kind of scholarship;

(e) the conditions that apply to each kind of scholarship;

(f) how the amounts of grants to an *eligible scholarship provider are to be determined;

(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) how grants to providers are to be made;

(j) how providers are to determine the amount of each scholarship;

(k) the indexation of amounts of scholarships, using the method of indexation set out in Part 5-6;

(l) how providers are to pay scholarships;

(m) information that providers are to give the Minister, the *Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*);

(n) information that providers are to give to:

(i) the Repatriation Commission; or

(ii) the Military Rehabilitation and Compensation Commission; or

(iii) the Secretary, or an employee, of the Department administered by the Minister who administers the *Veterans' Entitlements Act 1986*; or

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(iv) the Secretary, or an employee, of the Department administered by the Minister who administers the *Military Rehabilitation and Compensation Act 2004*.

## 46-25 Condition of grants

It is a condition of a grant to a higher education provider under this Part that the higher education provider to whom the grant is payable must meet the *quality and accountability requirements.

## 46-30 Amounts payable under this Part

The amount that is payable under this Part to an *eligible scholarship provider is the amount worked out in accordance with the Commonwealth Scholarships Guidelines.

## 46-35 Rollover of grant amounts

(1) If a higher education provider to which a grant (the ***original grant***) under this Part has been made in respect of a year fails to spend an amount (the ***unspent amount***) of the grant before the end of the year, then:

(a) unless paragraph (b) applies—the unspent amount is taken to be granted to the provider under this Part in respect of the next following year; or

(b) if the *Secretary specifies an amount (not greater than the unspent amount) in relation to the provider and the original grant in a determination under subsection (1A)—the specified amount is taken to be granted to the provider under this Part in respect of the next following year.

(1A) The *Secretary may, in writing, make a determination for the purposes of paragraph (1)(b) specifying an amount in relation to a higher education provider and a grant.

(2) The amount taken to be granted under subsection (1) is taken to be granted:

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(a) under the same conditions as the conditions of the original grant—except the grant is taken to be made in respect of the next following year; or

(b) under such other conditions as are determined by the *Secretary.

(3) Subsection (1) does not apply to a higher education provider in relation to a grant if the *Secretary specifies the provider in relation to the grant in a determination under subsection (4).

(4) The *Secretary may, in writing, make a determination for the purposes of subsection (3) specifying a higher education provider in relation to a grant.

(5) A determination under subsection (1A) or (4) is not a legislative instrument.

## 46-40 Maximum payments for Commonwealth scholarships

(1) The total payments made under this Part in respect of a year referred to in the table must not exceed the amount specified next to that year in the table.

**Maximum payments for Commonwealth Scholarships**

| Item | Year | Amount |
|---|---|---|
| 1 | 2004 | $124,212,000 |
| 2 | 2005 | $151,452,000 |
| 3 | 2006 | $179,733,000 |
| 4 | 2007 | $209,569,000 |
| 5 | 2008 | $239,305,000 |
| 6 | 2009 | $290,104,000 |
| 7 | 2010 | $304,553,000 |
| 8 | 2011 | $316,212,000 |
| 9 | 2012 | $319,056,000 |

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| Maximum payments for Commonwealth Scholarships | | |
|---|---|---|
| **Item** | **Year** | **Amount** |
| 10 | 2013 | (a) if paragraph (b) does not apply—$300,217,000; or<br>(b) if the Minister determines an amount under subsection (2) in respect of 2013—that amount |
| 11 | 2014 | (a) if paragraph (b) does not apply—$305,166,000; or<br>(b) if the Minister determines an amount under subsection (2) in respect of 2014—that amount |
| 12 | 2015 | (a) if paragraph (b) does not apply—$307,456,000; or<br>(b) if the Minister determines an amount under subsection (2) in respect of 2015—that amount |
| 13 | 2016 | (a) if paragraph (b) does not apply—$307,329,000; or<br>(b) if the Minister determines an amount under subsection (2) in respect of 2016—that amount |
| 14 | 2017 and each later year | The amount determined by the Minister under subsection (3) in respect of that year |

(2) The Minister may, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2013 but before 1 January 2017.

(3) The Minister must, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2017.

(4) A determination under subsection (3) for a year must be made before the start of that year.

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(5) The Minister may, in writing, vary a determination under subsection (2) or (3) for a year at any time before the end of that year.

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# Part 2-5—Reduction and repayment of grants

## Division 51—Introduction

### 51-1 What this Part is about

Bodies may have their grants reduced, or be required to repay a grant, for breaches of conditions of grants under Part 2-2, 2-2A, 2-3 or 2-4.

Note: This Part does not apply to Table C providers: see section 5-1.

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# Division 54—In what circumstances may a grant be reduced or required to be repaid?

## 54-1 Decision as to reduction or repayment of a grant

(1) The Minister may determine:

(a) that an amount of a grant made, or to be made, to a body under Part 2-2, 2-2A, 2-3 or 2-4 is to be reduced; or

(b) that an amount of a grant made to a body under Part 2-2, 2-2A, 2-3 or 2-4 is to be repaid to the Commonwealth.

(2) The Minister may make a determination under subsection (1) if:

(a) the body breaches a condition of a grant made to the body under Part 2-2, 2-2A, 2-3 or 2-4, whether or not that grant is the grant to be reduced or repaid; and

(b) the Minister is satisfied that it is appropriate to take that action (see section 54-5); and

(c) the Minister complies with the requirements of Division 60.

## 54-5 Appropriateness of requiring reduction or repayment of grant

Without limiting the matters that the Minister may consider in deciding whether it is appropriate under subsection 54-1(1) to take particular action, the Minister may consider any or all of the following matters:

(a) whether the breach is of a minor or major nature;

(b) whether the breach has occurred before and, if so, how often;

(ba) if the breach is a breach of a condition imposed under section 19-37—the amount of any adjustment under section 33-37 in relation to that breach, or any other breach by the body, during the same year;

(c) if the body is a higher education provider—the impact that the breach may have on the body's students;

(d) if the body is a higher education provider—the impact of the breach on the higher education provided by the body;

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(e) the impact of the breach on Australia's reputation as a provider of high quality higher education.

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# Division 57—What is the amount of a reduction or repayment?

## 57-1 Reduction in amount of grants

If an amount of a grant is to be reduced under this Part, it must be reduced by an amount determined by the Minister in writing.

## 57-5 Amount of the repayment

(1) If an amount of a grant is to be repaid under this Part, the amount to be repaid is the amount that the Minister determines in writing.

(2) The amount to be repaid must not exceed the amount of the grant.

(4) The amount to be repaid is a debt owed to the Commonwealth by the body to which the grant was paid.

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# Division 60—How are decisions reducing a grant or requiring repayment of a grant made?

## 60-1 Procedure prior to decision

(1) Before making a decision under paragraph 54-1(a) or (b) in respect of a body, the Minister must give to the body notice in writing:
  (a) stating that the Minister is considering reducing the body's grant, or requiring the repayment of a grant made to the body, as the case may be; and
  (b) stating the amount of the proposed reduction or repayment and the reasons why the Minister is considering taking that action; and
  (c) inviting the body to make written submissions to the Minister within 28 days on either or both of the following matters:
    (i) why that action should not be taken;
    (ii) why the amount of the proposed reduction or repayment should be reduced; and
  (d) informing the body that, if no submission is received under paragraph (c) within the time required, the action will take effect on the day after the last day for making submissions.

(2) In deciding whether to take the action, the Minister must consider any submissions received from the body within the 28 day period.

## 60-5 Notification of decision

(1) The Minister must notify the body in writing of his or her decision on whether or not to take the action. The notice:
  (a) must be in writing; and
  (b) if a submission was received from the body within the 28 day period—must specify the day that the decision is to take effect; and

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(c) must be given within the period of 28 days following the period in which submissions may have been given to the Minister under subsection 60-1(1).

(2) If no notice is given within the period provided for in paragraph (1)(c), the Minister is taken to have decided not to take the action.

## 60-10 When a decision takes effect

If the Minister's decision is to take the action, the decision takes effect:

(a) if no submission was made under subsection 60-1(1)—on the day after the last day for making submissions; or

(b) if such a submission was made—on the day specified in the notice under subsection 60-5(1).

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# Chapter 3—Assistance to students

## Division 65—Introduction

### 65-1 What this Chapter is about

This Chapter deals with a person's Student Learning Entitlement and provides for 5 kinds of assistance that the Commonwealth provides to students.

Note: The Commonwealth meets all or part of the higher education costs of students who are enrolled in places funded under Part 2-2.

A person may be entitled to HECS-HELP assistance for a unit of study for which the person is a Commonwealth supported student if, among other things, the unit is covered by the person's Student Learning Entitlement. Part 3-1 deals with a person's Student Learning Entitlement.

The 5 kinds of assistance available under this Chapter are:

- HECS-HELP assistance—assistance to meet a student's liability to pay student contribution amounts for units of study that are Commonwealth supported (see Part 3-2);
- FEE-HELP assistance—assistance to meet a student's liability to pay tuition fees for units of study that are not Commonwealth supported (see Part 3-3);
- OS-HELP assistance—assistance to a student who, as part of his or her course of study, is to undertake study overseas (see Part 3-4);
- SA-HELP assistance—assistance to a student on whom a student services and amenities fee is imposed (see Part 3-5); and

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- STARTUP-HELP assistance—assistance to a student undertaking an accelerator program course (see Part 3-7).

The Commonwealth pays the assistance to the relevant higher education provider either (in the case of HECS-HELP assistance, FEE-HELP assistance, SA-HELP assistance and STARTUP-HELP assistance) to discharge the student's liability, or (in the case of OS-HELP assistance) to pay to students on the Commonwealth's behalf.

The assistance is (in most cases) in the form of a loan from the Commonwealth to the student.

Note: Chapter 4 deals with the repayment of loans made under this Chapter.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3-1—Student Learning Entitlement

## Division 70—Introduction

### 70-1 What this Part is about

A person may be entitled to HECS-HELP assistance for a unit of study for which the person is a Commonwealth supported student if, among other things, the unit is covered by the person's Student Learning Entitlement.

Broadly speaking, a person will start with an SLE amount that is equivalent to 7 years of full-time study. However, the person's SLE amount may be added to for the purposes of certain courses of study or in certain circumstances.

A person's SLE amount is reduced as the person undertakes units of study as a Commonwealth supported student. A unit of study undertaken as part of a FEE-FREE Uni Ready course does not reduce the person's SLE amount. The person's SLE amount may also be re-credited in certain circumstances.

### 70-5 The Student Learning Entitlement Guidelines

*Student Learning Entitlement is also dealt with in the Student Learning Entitlement Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Student Learning Entitlement Guidelines are made by the Minister under section 238-10.

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# Division 73—Student Learning Entitlement and SLE amount

## 73-1 Student Learning Entitlement and SLE amount

(1) A person's ***Student Learning Entitlement*** is an entitlement that consists of:

(a) *ordinary SLE that the person has; and

(b) any *additional SLE that the person has; and

(c) any *lifelong SLE that the person has.

(2) A person's ***SLE amount*** at a particular time is the sum of the following amounts:

(a) the amount of *ordinary SLE that the person has under subsection 73-5(3);

(b) the amount of any *additional SLE that the person has under subsection 73-10(3);

(c) the amount of any *lifelong SLE that the person has under subsection 73-15(3);

taking into account any reduction that has occurred before that time under Division 76 and any re-crediting that has occurred before that time under Division 79.

## 73-5 Ordinary SLE

*Persons who have ordinary SLE*

(1) If a person is an *eligible person on 1 January 2022, the person has, on that day, ordinary SLE.

(2) If a person becomes (by birth or otherwise) an *eligible person on a day after 1 January 2022, the person has, on the earliest such day, ordinary SLE.

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*Amount of ordinary SLE*

(3) The amount of *ordinary SLE that the person has on the day referred to in subsection (1) or (2) (as the case may be) is an amount equal to 7 *EFTSL.

*Eligible person*

(4) An ***eligible person*** is:
  (a) an Australian citizen; or
  (b) a citizen of New Zealand; or
  (c) a *permanent visa holder.

## 73-10 Additional SLE

(1) A person has additional SLE if:
  (a) the person is enrolled in a *course of study with a higher education provider; and
  (b) the course is specified, or is a course of a kind specified, in the Student Learning Entitlement Guidelines for the purposes of this paragraph; and
  (c) the person meets any other requirements specified in the Student Learning Entitlement Guidelines.

(2) The person has *additional SLE on the day that the person enrols in the *course of study.

(3) The amount of *additional SLE that the person has on that day is an amount (expressed in *EFTSL) worked out in accordance with the Student Learning Entitlement Guidelines.

## 73-15 Lifelong SLE

(1) A person has lifelong SLE in the circumstances specified in the Student Learning Entitlement Guidelines.

(2) The person has *lifelong SLE on the day specified in the Student Learning Entitlement Guidelines.

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(3) The amount of *lifelong SLE that a person has on that day is an amount (expressed in *EFTSL) worked out in accordance with the Student Learning Entitlement Guidelines.

## 73-20 Student Learning Entitlement is not transferable

A person's *Student Learning Entitlement cannot be transferred to, or used by, another person.

## 73-25 Ceasing to be an eligible person

(1) A person ceases to have *Student Learning Entitlement if the person ceases to be an *eligible person.

(2) If a person who ceased to be an *eligible person at a particular time (the ***cessation time***) becomes an eligible person again at a later time, the person has, at that later time, the same *SLE amount (if any) that the person had at the cessation time.

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# Division 76—Reduction of a person's SLE amount

## 76-1 Reduction of a person's SLE amount

(1) A higher education provider must, on the *Secretary's behalf, reduce a person's *SLE amount at a particular time if:

(a) the person enrolled in a unit of study as part of a *course of study (other than a *FEE-FREE Uni Ready course) with the provider; and

(b) at the end of the *census date for the unit, the person remained so enrolled; and

(c) the person is a *Commonwealth supported student in relation to the unit; and

(d) the unit is not:

(i) an *ineligible work experience unit for the person; or

(ii) a *replacement unit; and

(e) the person has, on or before the census date for the unit, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance in relation to:

(i) the unit; or

(ii) where the course of study of which the unit forms a part is undertaken with the provider—the course of study.

Note: A person's SLE amount must be re-credited in certain circumstances: see Division 79.

(2) The amount of the reduction is an amount equal to the *EFTSL value of the unit of study.

(3) The reduction takes effect immediately after the *census date for the unit of study.

(4) If a higher education provider reduces a person's *SLE amount at a particular time under subsection (1), the provider must, in accordance with the Student Learning Entitlement Guidelines and

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on the *Secretary's behalf, reduce any one or more of the following amounts to take account of the reduction under that subsection:

(a) an amount of *ordinary SLE (if any) that the person has at that time;

(b) an amount of *additional SLE (if any) that the person has at that time;

(c) an amount of *lifelong SLE (if any) that the person has at that time.

(5) If a higher education provider is unable to act for the purposes of subsection (1) or (4), the *Secretary may act as if any one or more of the references in that subsection to the provider were a reference to the Secretary.

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# Division 79—Re-crediting a person's SLE amount

## Subdivision 79-A—Re-crediting a person's SLE amount in special circumstances

### 79-1 Re-crediting a person's SLE amount if special circumstances apply to the person

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *SLE amount at a particular time with an amount equal to the *EFTSL value of a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the unit would, if completed, form part of a *course of study undertaken with that provider or another higher education provider; and

(c) the unit is not:

(i) an *ineligible work experience unit for the person; or

(ii) a *replacement unit; and

(d) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and

(e) one or more *up-front payments have been made in relation to the unit and the amount of that payment, or the sum of those payments, is equal to 100% of the person's *student contribution amount for the unit; and

(f) the provider is satisfied that special circumstances apply to the person (see section 79-5); and

(g) the person applies, in writing, to the provider for the re-crediting of the person's SLE amount; and

(h) either:

(i) the application is made before the end of the application period for the application under section 79-10; or

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(ii) the provider waives the requirement that the application be made before the end of that period on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: It is a condition of a grant to the provider under Part 2-2 that the provider repay certain amounts relating to the unit: see section 36-24BA.

(2) If a higher education provider re-credits a person's *SLE amount at a particular time under subsection (1), the provider must, in accordance with the Student Learning Entitlement Guidelines and on the *Secretary's behalf, re-credit any one or more of the following amounts to take account of the re-credit under that subsection:

(a) an amount of *ordinary SLE (if any) that the person has at that time;

(b) an amount of *additional SLE (if any) that the person has at that time;

(c) an amount of *lifelong SLE (if any) that the person has at that time.

Note: A refusal to re-credit one or more of those amounts is reviewable under Part 5-7.

(3) If a higher education provider is unable to act for any one or more of the purposes of subsection (1) or (2), or section 79-5, 79-10 or 79-15, the *Secretary may act as if any one or more of the references in those provisions to the provider were a reference to the Secretary.

## 79-5 Special circumstances

(1) For the purposes of paragraph 79-1(1)(f), special circumstances apply to a person who made an application under paragraph 79-1(1)(g) for the re-crediting of the person's *SLE amount if, and only if, the higher education provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

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(b) do not make their full impact on the person until on or after the *census date for the unit of study in question; and

(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

(2) The Student Learning Entitlement Guidelines may specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph (1)(a), (b) or (c). A decision of a higher education provider under subsection (1) must be in accordance with any such guidelines.

## 79-10 Application period

(1) If:

(a) the person who applied under paragraph 79-1(1)(g) for the re-crediting of the person's *SLE amount with an amount equal to the *EFTSL value of a unit of study has withdrawn the person's enrolment in the unit with a higher education provider; and

(b) the provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsection (1) does not apply, the application period for an application made under paragraph 79-1(1)(g) is the period of 12 months after the end of the period during which the applicant undertook, or was to undertake, the unit of study.

## 79-15 Dealing with applications

(1) If:

(a) an application is made to a higher education provider under paragraph 79-1(1)(g) before the end of the application period for the application under section 79-10; or

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(b) a higher education provider waives the requirement that an application made to the provider under that paragraph be made before the end of that period on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the application and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

Note: Refusals of applications are reviewable under Part 5-7.

## Subdivision 79-B—Re-crediting a person's SLE amount if the person's HELP balance is re-credited

### 79-20 Re-crediting a person's SLE amount if the person's HELP balance is re-credited

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *SLE amount at a particular time with an amount equal to the *EFTSL value of a unit of study if the person's *HELP balance is re-credited under any of the following provisions with an amount equal to the amount of *HECS-HELP assistance that the person received for the unit of study:

(a) subsection 97-25(2) (which deals with the main case of re-crediting a person's HELP balance);

(b) subsection 97-27(1) (which deals with the re-crediting of a person's HELP balance if the person does not have a tax file number);

(c) subsection 97-42(1) (which deals with the re-crediting of a person's HELP balance if a higher education provider defaults);

(d) subsection 97-45(1) (which deals with the re-crediting of a person's HELP balance if a higher education provider completes a *request for Commonwealth assistance);

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(e) subsection 97-50(1) (which deals with the re-crediting of a person's HELP balance if the person was not entitled to assistance).

(2) If a higher education provider re-credits a person's *SLE amount at a particular time under subsection (1), the provider must, in accordance with the Student Learning Entitlement Guidelines and on the *Secretary's behalf, re-credit any one or more of the following amounts to take account of the re-credit under that subsection:

(a) an amount of *ordinary SLE (if any) that the person has at that time;

(b) an amount of *additional SLE (if any) that the person has at that time;

(c) an amount of *lifelong SLE (if any) that the person has at that time.

(3) If a higher education provider is unable to act for the purposes of subsection (1) or (2), the *Secretary may act as if any one or more of the references in that subsection to the provider were a reference to the Secretary.

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# Division 82—Unit of study covered by a person's Student Learning Entitlement

## 82-1 Unit of study covered by a person's Student Learning Entitlement—person's SLE amount not exceeded at enrolment

*Person enrolled in one unit of study only*

(1) A unit of study is ***covered by a person's Student Learning Entitlement*** if:

(a) the person enrolled in the unit (the ***relevant unit***) as a part of a *course of study with a higher education provider; and

(b) at the time of that enrolment, the person had not enrolled in any other units of study as a part of that course, or as a part of another course of study, with that provider or with another higher education provider that have *census dates that will occur after that time; and

(c) the *EFTSL value of the relevant unit does not exceed the person's *SLE amount as at that time; and

(d) if:

(i) the person's SLE amount as at that time includes an amount of *additional SLE in relation to a particular course of study; and

(ii) the EFTSL value of the relevant unit exceeds the amount worked out by subtracting that amount of additional SLE from the person's SLE amount as at that time;

the person enrolled in the relevant unit as a part of that particular course of study.

*Person enrolled in more than one unit of study*

(2) A unit of study is ***covered by a person's Student Learning Entitlement*** if:

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(a) the person enrolled in the unit (the ***relevant unit***) as a part of a *course of study with a higher education provider; and

(b) at the time of that enrolment, the person had also enrolled in one or more other units of study as a part of that course, or as a part of another course of study, with that provider or with another higher education provider; and

(c) those other units have *census dates that will occur after that time; and

(d) the person is a *Commonwealth supported student in relation to each of those other units; and

(e) the sum of the following does not exceed the person's *SLE amount as at that time:

(i) the *EFTSL value of the relevant unit;

(ii) the sum of the EFTSL values of each of those other units; and

(f) if:

(i) the person's SLE amount as at that time includes an amount of *additional SLE in relation to a particular course of study; and

(ii) the EFTSL value of the relevant unit exceeds the amount worked out by subtracting that amount of additional SLE from the person's SLE amount as at that time;

the person enrolled in the relevant unit as a part of that particular course of study.

## 82-5 Unit of study covered by a person's Student Learning Entitlement—person's SLE amount exceeded at enrolment

(1) This section applies if:

(a) the person enrolled in a unit of study (the ***relevant unit***) as a part of a *course of study with a higher education provider (the ***relevant provider***); and

(b) at the time of that enrolment (the ***enrolment time***), the person had also enrolled in one or more other units of study as a part

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of that course, or as a part of another course of study, with the relevant provider or with another higher education provider; and

(c) those other units have *census dates that will occur after the enrolment time; and

(d) the person is a *Commonwealth supported student in relation to each of those other units; and

(e) the sum of the following exceeds the person's *SLE amount as at the enrolment time:

(i) the *EFTSL value of the relevant unit;

(ii) the sum of the EFTSL values of each of those other units.

(2) The relevant unit is ***covered by a person's Student Learning Entitlement*** if:

(a) the person notifies an *appropriate officer of the relevant provider that the person does not wish to be a *Commonwealth supported student in relation to one or more of those other units of study (the ***excluded units***); and

(b) the sum of the following does not exceed the person's *SLE amount as at the enrolment time:

(i) the *EFTSL value of the relevant unit;

(ii) the sum of the EFTSL values of each of those other units that are not excluded units; and

(c) if:

(i) the person's SLE amount as at that time includes an amount of *additional SLE in relation to a particular course of study; and

(ii) the EFTSL value of the relevant unit exceeds the amount worked out by subtracting that amount of additional SLE from the person's SLE amount as at that time;

the person enrolled in the relevant unit as a part of that particular course of study.

(3) A notice under paragraph (2)(a) must be given:

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(a) in writing; and
(b) on or before the *census date for the relevant unit.

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# Part 3-2—HECS-HELP assistance

## Division 87—Introduction

### 87-1 What this Part is about

A student may be entitled to HECS-HELP assistance for units of study for which he or she is Commonwealth supported, if certain requirements are met.

The amount of assistance to which the student may be entitled is based on his or her student contribution amounts for the units, less any up-front payments. The assistance is paid to a higher education provider to discharge the student's liability to pay his or her student contribution amounts.

Note 1: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

Note 2: This Part does not apply to Table C providers: see section 5-1.

### 87-5 The HECS-HELP Guidelines

*HECS-HELP assistance is also dealt with in the HECS-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The HECS-HELP Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 90—Who is entitled to HECS-HELP assistance?

## 90-1 Entitlement to HECS-HELP assistance

A student is entitled to *HECS-HELP assistance for a unit of study in which the student is enrolled with a higher education provider as part of a *course of study if:

(aa) the course of study is an *accredited course in relation to the provider; and

(a) the student meets the citizenship or residency requirements under section 90-5; and

(b) the *census date for the unit is on or after 1 January 2005; and

(ba) the student's *HELP balance is greater than zero; and

(c) the student is a *Commonwealth supported student in relation to the unit; and

(e) the student:

(i) enrolled in the unit on or before the census date for the unit; and

(ii) at the end of the census date, remained so enrolled; and

(f) the student *meets the tax file number requirements (see section 187-1); and

(g) the student has, on or before the census date, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance in relation to the unit or, where the course of study of which the unit forms a part is undertaken with the provider, in relation to the course of study.

Note: For transitional provisions relating to paragraph (ba), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

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## 90-5 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to a unit of study if:

(a) the student is an Australian citizen; or

(b) the student:

(i) is a *permanent humanitarian visa holder, an *eligible former permanent humanitarian visa holder or a *Pacific engagement visa holder; and

(ii) will be resident in Australia for the duration of the unit.

(2) In determining, for the purpose of subparagraph (1)(b)(ii), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or

(b) is required for the purpose of completing a requirement of that unit.

(2A) A student also meets the citizenship or residency requirements under this section in relation to a unit of study if the student:

(a) is a New Zealand citizen who will be resident in Australia for the duration of the unit; and

(b) either:

(i) holds a special category visa under the *Migration Act 1958*; or

(ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (2B) (the ***test day***); and

(ii) was a *dependent child when he or she first began to be usually resident in Australia; and

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(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

(2AA) In determining, for the purpose of paragraph (2A)(a), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or

(b) is required for the purpose of completing a requirement of that unit.

(2B) For the purposes of subsection (2A), the day is the earlier of:

(a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that formed part of the same *course of study—the day the student first made such a request; or

(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

(3) Despite subsections (1), (2) and (2A), a student does not meet the citizenship or residency requirements in relation to a unit of study if the provider reasonably expects that the student will not undertake in Australia any units of study contributing to the *course of study of which the unit forms a part.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 93—How are amounts of HECS-HELP assistance worked out?

## 93-1 The amount of HECS-HELP assistance for a unit of study

The amount of *HECS-HELP assistance to which a student is entitled for a unit of study is the difference between:

(a) his or her *student contribution amount for the unit; and

(b) the sum of any *up-front payments made in relation to the unit.

Note: A lesser amount may be payable because of section 93-20.

## 93-5 Student contribution amounts

(1) A person's ***student contribution amount*** for a unit of study is the amount worked out as follows:

$$\text{The person's student contribution amount for a place in the unit} \times \text{The *EFTSL value of the unit}$$

where the person's ***student contribution amount for a place*** in the unit is:

(a) if only one student contribution amount has been determined for places in the unit under subsection 19-87(2)—that student contribution amount; or

(b) if more than one student contribution amount has been determined for places in the unit under that subsection—the student contribution amount determined under that subsection that applies to the person.

(2) A person's *student contribution amount for a place in a unit must not exceed the *maximum student contribution amount for a place in the unit that applies in respect of that person.

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(3) A person's ***student contribution amount*** for a unit of study is nil if the person undertakes the unit as part of a *FEE-FREE Uni Ready course. This subsection has effect despite subsection (1).

(4) If an amount worked out by using the formula in subsection (1) is an amount made up of dollars and cents, round the amount down to the nearest dollar.

## 93-10 Maximum student contribution amount for a place

The ***maximum student contribution amount for a place*** in a unit of study is the amount specified in respect of a person in the following table in relation to the *funding cluster in which the unit is included.

**Maximum student contribution amounts for a place**

| Item | For a place in a unit of study included in this funding cluster: | The amount in respect of a non-grandfathered student is: | The amount in respect of a grandfathered student is: |
|---|---|---|---|
| 1 | Law, Accounting, Administration, Economics, Commerce, Communications, Society and Culture | $14,500. | (a) for a place in a unit in Law, Accounting, Administration, Economics or Commerce—$11,355; or<br>(b) for a place in a unit in Communications or Society and Culture—$6,804. |

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| Maximum student contribution amounts for a place | | | |
|---|---|---|---|
| **Item** | **For a place in a unit of study included in this funding cluster:** | **The amount in respect of a non-grandfathered student is:** | **The amount in respect of a grandfathered student is:** |
| 2 | Education, Clinical Psychology, English, Mathematics, Statistics, Allied Health, Other Health, Built Environment, Computing, Visual and Performing Arts, Professional Pathway Psychology or Professional Pathway Social Work | (a) for a place in a unit in Education, Clinical Psychology, English, Mathematics or Statistics—$3,950; or<br>(b) for a place in a unit in Allied Health, Other Health, Built Environment, Computing, Visual and Performing Arts, Professional Pathway Psychology or Professional Pathway Social Work—$7,950. | (a) for a place in a unit in Education, Clinical Psychology, English, Mathematics or Statistics—$3,950; or<br>(b) for a place in a unit in Allied Health, Other Health, Built Environment or Computing—$7,950; or<br>(c) for a place in a unit in Visual and Performing Arts, Professional Pathway Psychology or Professional Pathway Social Work—$6,804. |
| 3 | Nursing, Indigenous and Foreign Languages, Engineering, Surveying, Environmental Studies, Science | (a) for a place in a unit in Nursing or Indigenous and Foreign Languages—$3,950; or<br>(b) for a place in a unit in Engineering, Surveying, Environmental Studies or Science—$7,950. | (a) for a place in a unit in Nursing or Indigenous and Foreign Languages—$3,950; or<br>(b) for a place in a unit in Engineering, Surveying, Environmental Studies or Science—$7,950. |

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| Maximum student contribution amounts for a place | | | |
|---|---|---|---|
| **Item** | **For a place in a unit of study included in this funding cluster:** | **The amount in respect of a non-grandfathered student is:** | **The amount in respect of a grandfathered student is:** |
| 4 | Agriculture, Medicine, Dentistry, Veterinary Science, Pathology | (a) for a place in a unit in Agriculture—$3,950; or<br>(b) for a place in a unit in Medicine, Dentistry or Veterinary Science—$11,300; or<br>(c) for a place in a unit in Pathology—$7,950. | (a) for a place in a unit in Agriculture—$3,950; or<br>(b) for a place in a unit in Medicine, Dentistry or Veterinary Science—$11,300; or<br>(c) for a place in a unit in Pathology—$7,950. |

Note 1: The Commonwealth Grant Scheme Guidelines may specify how to determine the funding cluster, or the part of a funding cluster, in which units of study are included or the particular funding cluster, or the particular part of a particular funding cluster, in which a particular unit of study is included: see section 33-35.

Note 2: Maximum student contribution amounts for places are indexed under Part 5-6.

## 93-15 Up-front payments

(1) An ***up-front payment***, in relation to a unit of study for which a person is liable to pay his or her *student contribution amount, is a payment of all or part of the student's student contribution amount for the unit, other than a payment of *HECS-HELP assistance under this Part.

(2) The payment must be made on or before the *census date for the unit.

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## 93-20 Amounts of HECS-HELP assistance, FEE-HELP assistance and VET FEE-HELP assistance must not exceed the HELP balance

*Amount of HECS-HELP assistance for one unit*

(1) The amount of *HECS-HELP assistance to which a student is entitled for a unit of study is an amount equal to the student's *HELP balance on the *census date for the unit if:

(a) there is no other:

(i) unit of study, with the same census date, for which the student is entitled to *HECS-HELP assistance; or

(ii) unit of study, with the same census date, for which the student is entitled to *FEE-HELP assistance; or

(iii) *VET unit of study, with the same census date, for which the student is entitled to *VET FEE-HELP assistance; and

(b) the amount of HECS-HELP assistance to which the student would be entitled under section 93-1 for the unit would exceed that HELP balance.

Note 1: For transitional provisions relating to subparagraph (a)(i), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

*Amount of HECS-HELP assistance for more than one unit*

(2) If the sum of:

(a) the amount of *HECS-HELP assistance to which a student would be entitled under section 93-1 for a unit of study; and

(b) any other amounts of:

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(i) HECS-HELP assistance to which the student would be entitled under that section for other units that have the same *census date as that unit; and

(ii) *FEE-HELP assistance to which the student would be entitled under section 107-1 for other units that have the same census date as that unit; and

(iii) *VET FEE-HELP assistance to which the student would be entitled under clause 52 of Schedule 1A for other units that have the same census date as that unit;

would exceed the student's *HELP balance on the census date for the unit, then, despite subsection (1) of this section, the total amount of HECS-HELP assistance, FEE-HELP assistance and VET FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that HELP balance.

Example: Kate has a HELP balance of $2,000, and is enrolled in 4 units with the same census date. The student contribution amount for each unit is $600. There are no up-front payments for the units. The total amount of HECS-HELP assistance to which Kate is entitled for the units is $2,000, even though the total amount of the student contribution amounts for the units is $2,400.

Note 1: For transitional provisions relating to subparagraph (b)(i), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

(3) If the student referred to in subsection (2) has enrolled in the units with more than one higher education provider or *VET provider, the student must notify each provider of the proportion of the total amount of *HECS-HELP assistance, *FEE-HELP assistance or *VET FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

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# Division 96—How are amounts of HECS-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

## 96-1 Payments to higher education providers

If a student is entitled to an amount of *HECS-HELP assistance for a unit of study with a higher education provider, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of HECS-HELP assistance; and

(b) pay to the provider the amount lent in discharge of the student's liability to pay his or her *student contribution amount for the unit.

## 96-10 Implications for student's liability to higher education provider for student contribution amount

If, under Division 97, a student's *HELP balance is re-credited with an amount relating to *HECS-HELP assistance for a unit of study, the student is discharged from all liability to pay or account for so much of the student's *student contribution amount for the unit as is equal to that amount.

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# Division 97—Re-crediting of HELP balances in relation to HECS-HELP assistance

## 97-23 Purpose

The purpose of this Division is to set out the circumstances in which a person's *HELP balance is to be re-credited with an amount equal to the amounts of *HECS-HELP assistance that the person has received for a unit of study.

Note: For transitional provisions relating to this Division, see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

## 97-25 Main case of re-crediting a person's HELP balance in relation to HECS-HELP assistance

(1) If section 97-42 applies to re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person has received for a unit of study, then this section does not apply in relation to that unit.

(2) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and

(c) the provider is satisfied that special circumstances apply to the person (see section 97-30); and

(d) the person applies in writing to the provider for re-crediting of the HELP balance; and

(e) either:

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(i) the application is made before the end of the application period under section 97-35; or

(ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

(3) If the higher education provider is unable to act for one or more of the purposes of subsection (2), or section 97-30, 97-35 or 97-40, the *Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

## 97-27 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—no tax file number

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) subsection 193-5(1) applies to the person in relation to the unit.

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

## 97-30 Special circumstances

(1) For the purposes of paragraph 97-25(2)(c), special circumstances apply to the person if, and only if, the higher education provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the unit of study in question; and

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(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

(2) If the Administration Guidelines specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph 36-21(1)(a), (b) or (c), any decision of a higher education provider under this section must be in accordance with any such guidelines.

Note: The matters referred to in paragraphs 36-21(1)(a), (b) and (c) (which relate to special circumstances that apply to repaying an amount of student contribution or HECS-HELP) are identical to the matters referred to in paragraphs (1)(a), (b) and (c) of this section.

## 97-35 Application period

(1) If:

(a) the person applying under paragraph 97-25(2)(d) for the re-crediting of the person's *HELP balance in relation to a unit of study has withdrawn his or her enrolment in the unit; and

(b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsection (1) does not apply, the application period for the application is the period of 12 months after the period during which the person undertook, or was to undertake, the unit.

## 97-40 Dealing with applications

(1) If:

(a) the application is made under paragraph 97-25(2)(d) before the end of the relevant application period; or

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(b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

Note: Refusals of applications are reviewable under Part 5-7.

## 97-42 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—provider defaults

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider *defaulted in relation to the person and the unit; and

(c) Part 5-1A applied to the provider at the time the provider defaulted in relation to the person; and

(d) any of the following apply:

(i) the provider identifies, under paragraph 166-25(4)(b) that there is no suitable *replacement unit or *replacement course for the person;

(ii) the person elects, under subparagraph 166-25(7)(a)(iii), to have an amount equal to the amounts of HECS-HELP assistance that the person received for the unit re-credited to the student's HELP balance;

(iii) the *Higher Education Tuition Protection Director decides, under paragraph 166-26B(2)(b) that the

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Director is not satisfied that there is a suitable replacement course for the person;

(iv) the person elects, under subparagraph 166-26B(4)(a)(iii), to have an amount equal to the amounts of HECS-HELP assistance that the person received for the unit re-credited to the student's HELP balance.

Note: A HECS-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see subsection 137-5(5).

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

## 97-45 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—provider completes request for assistance

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if the provider completes any part of the *request for Commonwealth assistance in relation to the unit that the person is required to complete.

Note: A HECS-HELP debt relating to a unit of study is taken to be remitted if the HELP balance in relation to the unit is re-credited under this section: see subsection 137-5(5).

(2) The *Secretary may re-credit the person's *HELP balance under this section if the provider is unable to do so.

## 97-50 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—person not entitled to assistance

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a

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unit of study if the provider or the Secretary is satisfied that the person was not entitled to receive HECS-HELP assistance for the unit of study with the provider.

Note 1: For example, a person is not entitled to HECS-HELP assistance for a unit of study if the person is not a Commonwealth supported student in relation to the unit: see section 90-1.

Note 2: Subdivision 36-B sets out circumstances in which a higher education provider must not advise a person that the person is a Commonwealth supported student in relation to a unit of study.

Note 3: A HECS-HELP debt relating to a unit of study is taken to be remitted if the HELP balance in relation to the unit is re-credited under this section: see subsection 137-5(5).

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

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# Part 3-3—FEE-HELP assistance

## Division 101—Introduction

### 101-1 What this Part is about

A student may be entitled to FEE-HELP assistance for units of study for which he or she is not Commonwealth supported, if certain requirements are met.

The amount of assistance to which the student may be entitled is based on his or her tuition fees for the units, but there is a limit on the total amount of assistance that the student can receive. The assistance is paid to a higher education provider or, if the student accesses units through Open Universities Australia, that body, to discharge the student's liability to pay his or her tuition fees.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

### 101-5 The FEE-HELP Guidelines

*FEE-HELP assistance is also dealt with in the FEE-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The FEE-HELP Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 104—Who is entitled to FEE-HELP assistance?

## Subdivision 104-A—Basic rules

### 104-1 Entitlement to FEE-HELP assistance

(1) Subject to this section and sections 104-1AA, 104-2, 104-3 and 104-4, a student is entitled to *FEE-HELP assistance for a unit of study if:

(a) the student meets the citizenship or residency requirements under section 104-5; and

(ac) the student has been assessed by the higher education provider as academically suited to undertake the unit concerned; and

(b) the student's *HELP balance is greater than zero; and

(c) the *census date for the unit is on or after 1 January 2005; and

(d) the student is not a *Commonwealth supported student in relation to the unit; and

(e) the unit meets the course requirements under section 104-10; and

(f) the unit:

(i) is, or is to be, undertaken as part of a *course of study; or

(ii) is a unit access to which was provided by *Open Universities Australia; or

(iii) is part of a *bridging course for overseas-trained professionals; and

(g) the student:

(i) enrolled in the unit on or before the census date for the unit; and

(ii) at the end of the census date, remained so enrolled; and

(ga) if:

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(i) subparagraph (f)(i) applies, the census date for the unit is on or after 1 January 2021 and before 1 January 2023 and the student commenced the course of study on or after 1 January 2021; or

(ii) subparagraph (f)(i), (ii) or (iii) applies and the census date for the unit is on or after 1 January 2023;

the student meets the *student identifier requirements under subsection (5); and

(h) the student *meets the tax file number requirements (see section 187-1); and

(i) the student has, on or before the census date:

(i) if access to the unit was provided by Open Universities Australia—completed, signed and given to an *appropriate officer of Open Universities Australia a *request for Commonwealth assistance in relation to the unit; or

(ii) in any other case—completed, signed and given to an appropriate officer of the higher education provider a request for Commonwealth assistance in relation to the unit or, where the course of study of which the unit forms a part is, or is to be, undertaken with the provider, in relation to the course of study.

(1AA) A student is not entitled to *FEE-HELP assistance for a unit of study if the *Secretary determines that the student is not a genuine student in relation to the unit.

(1AB) In determining whether a student is a genuine student for the purposes of subsection (1AA), the *Secretary must have regard to the matters (if any) specified in the Higher Education Provider Guidelines.

(1AC) If a determination under subsection (1AA) is made in writing, the determination is not a legislative instrument.

(1B) The assessment for the purposes of paragraph (1)(ac) must be done in accordance with any requirements specified in the Higher

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Education Provider Guidelines made for the purposes of section 19-42.

(2) A student is not entitled to *FEE-HELP assistance for a unit of study if:

(a) the unit forms a part of a *course of study; and

(b) the course of study is, or is to be, undertaken by the student primarily at an overseas campus.

(3) A student is not entitled to *FEE-HELP assistance for a unit of study provided, or to be provided, by a higher education provider if:

(a) a limit on the total number of students entitled to FEE-HELP assistance, or on the total amount of FEE-HELP assistance payable to the provider, applies to the provider; and

(b) provision of FEE-HELP assistance to the student would exceed that limit.

(4) A student is not entitled to *FEE-HELP assistance for a unit of study with a higher education provider if the higher education provider completes any part of the *request for Commonwealth assistance in relation to the unit that the student is required to complete.

*When a student meets the student identifier requirements*

(5) A student meets the *student identifier requirements under this subsection if:

(a) the student has a student identifier immediately before the census date; and

(b) before the census date, the student notifies the student's student identifier to:

(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(6) A notification under paragraph (5)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to:

(a) the unit of study for which the assistance is sought; or

(b) the *course of study of which the unit forms a part; or

(c) any other unit of study forming part of that course.

## 104-1AA Student has unreasonable study load

(1) A student is not entitled to *FEE-HELP assistance for a unit of study (the ***new unit***) provided, or to be provided, by a higher education provider if the sum of the following amounts is more than 2:

(a) the *EFTSL value of the new unit;

(b) the sum of the EFTSL values of each other unit of study:

(i) that has a *census date during the 12 month period ending on the census date for the new unit; and

(ii) for which the person is entitled to *HECS-HELP assistance or *FEE-HELP assistance, or would be so entitled but for the previous operation of this section, or section 36-12, in relation to the other unit of study.

(2) Subsection (1) does not apply if the higher education provider determines that undertaking the new unit will not impose an unreasonable study load on the person, having regard to:

(a) whether the person has the demonstrated capacity and capability to successfully complete units of study that have a total EFTSL value of more than 2; and

(b) the matters (if any) specified by the Higher Education Provider Guidelines for the purposes of this paragraph.

(3) A decision of a higher education provider under subsection (2) must be in accordance with the Higher Education Provider Guidelines.

(4) If a determination under subsection (2) is made in writing, the determination is not a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 104-2 Failure by a student to complete previous units accessed through Open Universities Australia

A student is not entitled to *FEE-HELP assistance for a unit of study access to which is provided by *Open Universities Australia if:

(a) the student has already undertaken 8 or more other units of study, access to which was provided by Open Universities Australia; and

(b) the student did not successfully complete at least 50% of those other units.

## 104-3 Failure by Open Universities Australia to comply with FEE-HELP Guidelines etc.

(1) The Minister may determine, by legislative instrument, that there is to be no entitlement to *FEE-HELP assistance for a specified year for units of study to which access is provided by *Open Universities Australia, if the Minister is satisfied that Open Universities Australia has, during the 2 years immediately preceding the specified year, failed to comply with the FEE-HELP Guidelines or with subsection (5).

(2) Without limiting the generality of what may be included in the FEE-HELP Guidelines, they may include any or all of the following:

(a) requirements relating to the financial viability of *Open Universities Australia;

(b) requirements relating to the quality of tuition accessed through Open Universities Australia;

(c) requirements relating to fairness in the treatment of persons accessing, or seeking to access, tuition through Open Universities Australia;

(d) requirements relating to compliance with this Act, the regulations and other Guidelines made under this Act;

(e) requirements relating to *tuition fees for units of study accessed through Open Universities Australia;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(f) requirements relating to the provision of information to the Commonwealth by Open Universities Australia that is relevant in any way to the provision of *FEE-HELP assistance to students accessing units of study through Open Universities Australia, or the repayment of the *HELP debts of those students;

(g) administrative requirements of the kinds imposed on higher education providers under Parts 5.2 and 5.3 of this Act.

(3) A student is not entitled to *FEE-HELP assistance for a unit of study if:

(a) access to the unit is provided by *Open Universities Australia; and

(b) the Minister has made a determination under subsection (1) in relation to the year during which the unit is accessed; and

(c) the determination was made before 1 July in the year immediately preceding that year.

(5) *Open Universities Australia must comply with section 19-37 as if it were a higher education provider.

## 104-4 Failure by Open Universities Australia to set tuition fees and census date

(1) This section applies to a unit of study access to which is provided by *Open Universities Australia during a period ascertained in accordance with the FEE-HELP Guidelines.

(2) *Open Universities Australia must determine, for the unit, one or more *fees that are to apply to students to whom Open Universities Australia provides access to the unit during the period.

(2AA) In determining more than one *fee under subsection (2), *Open Universities Australia may have regard to any matters Open Universities Australia considers appropriate, other than matters specified in the FEE-HELP Guidelines as matters to which Open Universities Australia must not have regard.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2A) *Open Universities Australia must not vary a *fee unless Open Universities Australia:

(a) does so:

(i) before the date ascertained in accordance with the FEE-HELP Guidelines; and

(ii) in circumstances specified in the FEE-HELP Guidelines; or

(b) does so with the written approval of the Minister.

(3) A ***fee*** includes any tuition, examination or other fee payable to *Open Universities Australia by those students in relation to the unit.

(4) A ***fee*** does not include a fee:

(a) payable in respect of an organisation of students, or of students and other persons; or

(b) payable in respect of the provision to students of amenities or services that are not of an academic nature; or

(c) payable in respect of residential accommodation.

*Census date*

(5) *Open Universities Australia must set a particular date to be the *census date for the unit for the period.

(5A) *Open Universities Australia must not vary a *census date unless Open Universities Australia:

(a) does so:

(i) before the date ascertained in accordance with the FEE-HELP Guidelines; and

(ii) in circumstances specified in the FEE-HELP Guidelines; or

(b) does so with the written approval of the Minister.

*Consequence of failure to set tuition fees and census date*

(6) If *Open Universities Australia does not:

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(a) determine a *fee in accordance with subsection (2) for the unit for the period; or

(b) determine a *census date in accordance with subsection (5) for the unit for the period;

no student to whom Open Universities Australia provides access to the unit for that period is entitled to *FEE-HELP assistance for the unit.

## 104-5 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to a unit of study if:

(a) the student is an Australian citizen; or

(b) the student:

(i) is a *permanent humanitarian visa holder, an *eligible former permanent humanitarian visa holder or a *Pacific engagement visa holder; and

(ii) will be resident in Australia for the duration of the unit; or

(c) in the case of a student who is undertaking, or is to undertake, the unit as part of a *bridging course for overseas-trained professionals—the student is a *permanent visa holder who will be resident in Australia for the duration of the unit.

(2) In determining, for the purpose of subparagraph (1)(b)(ii) or paragraph (1)(c), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or

(b) is required for the purpose of completing a requirement of that unit.

(2A) A student also meets the citizenship or residency requirements under this section in relation to a unit of study if the student:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) is a New Zealand citizen who will be resident in Australia for the duration of the unit; and

(b) either:

(i) holds a special category visa under the *Migration Act 1958*; or

(ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (2B) (the ***test day***); and

(ii) was a *dependent child when he or she first began to be usually resident in Australia; and

(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

(2AA) In determining, for the purpose of paragraph (2A)(a), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or

(b) is required for the purpose of completing a requirement of that unit.

(2B) For the purposes of subsection (2A), the day is the earlier of:

(a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that formed part of the same *course of study—the day the student first made such a request; or

(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) Despite subsections (1), (2) and (2A), a student does not meet the citizenship or residency requirements in relation to a unit of study if the provider reasonably expects that the student will not undertake in Australia any units of study contributing to the *course of study, or the *bridging course for overseas-trained professionals, of which the unit forms a part.

(4) Despite subsections (1), (2) and (2A), a student does not meet the citizenship or residency requirements in relation to a unit of study to which access was provided by *Open Universities Australia if the student was not resident in Australia on the day the student gave the *request for Commonwealth assistance in relation to the unit as referred to in subparagraph 104-1(1)(i)(i).

## 104-10 Course requirements

(1) The course requirements for *FEE-HELP assistance for a unit of study are that:

(a) if the unit is being undertaken as part of a *course of study, the course is not a course that:

(i) is subject to a determination under subsection (2); or

(ii) is with a higher education provider that is subject to a determination under subsection (2); and

(b) if the unit is being undertaken as part of a course of study with a higher education provider:

(i) the course of study is an *accredited course in relation to the provider; or

(ia) the course of study is a *microcredential course; or

(ii) if the provider is a *self-accrediting entity—the course of study is an *enabling course.

(2) The Minister may, by legislative instrument, determine that:

(a) a specified course provided by a specified higher education provider is a course in relation to which *FEE-HELP assistance is unavailable; or

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(b) all courses provided by a specified higher education provider are courses in relation to which FEE-HELP assistance is unavailable.

(3) In deciding whether to make a determination under subsection (2), the Minister must have regard to the effect of the determination on students undertaking the course or courses.

### 104-12 Secretary may act if provider is unable to

If a higher education provider is unable to act for the purposes of subsection 104-1AA(2), the *Secretary may act as if one or more of the references in that provision to a higher education provider were a reference to the Secretary.

## Subdivision 104-B—Re-crediting HELP balances in relation to FEE-HELP assistance

### 104-25 Main case of re-crediting a person's HELP balance in relation to FEE-HELP assistance

(1A) If section 104-42 applies to re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person has received for a unit of study, then this section does not apply in relation to that unit.

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(aa) access to the unit was not provided by *Open Universities Australia; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake the unit; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(c) the provider is satisfied that special circumstances apply to the person (see section 104-30); and

(d) the person applies in writing to the provider for re-crediting of the HELP balance; and

(e) either:

(i) the application is made before the end of the application period under section 104-35; or

(ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

(2) *Open Universities Australia must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person has received for a unit of study if:

(a) access to the unit was provided by Open Universities Australia; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and

(c) Open Universities Australia is satisfied that special circumstances apply to the person (see section 104-30); and

(d) the person applies in writing to Open Universities Australia for re-crediting of the HELP balance; and

(e) either:

(i) the application is made before the end of the application period under section 104-35; or

(ii) Open Universities Australia waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: A FEE-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) If the provider is unable to act for one or more of the purposes of subsection (1), or section 104-30, 104-35 or 104-40, the *Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

(4) If *Open Universities Australia is unable to act for one or more of the purposes of subsection (2), or section 104-30, 104-35 or 104-40, the *Secretary may act as if one or more of the references in those provisions to Open Universities Australia were a reference to the Secretary.

## 104-27 Re-crediting a person's HELP balance in relation to FEE-HELP assistance—no tax file number

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) subsection 193-10(1) applies to the person in relation to the unit.

(2) *Open Universities Australia must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person has received for a unit of study if subsection 193-10(2) applies to the person in relation to the unit.

Note: A FEE-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-10.

(3) The *Secretary may re-credit the person's *HELP balance under subsection (1) or (2) if the provider or *Open Universities Australia is unable to do so.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 104-30 Special circumstances

(1) For the purposes of paragraph 104-25(1)(c), special circumstances apply to the person if and only if the higher education provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the unit of study in question; and

(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake the unit.

(2) If the Administration Guidelines specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph 36-21(1)(a), (b) or (c), any decision of a higher education provider under this section must be in accordance with any such guidelines.

Note: The matters referred to in paragraphs 36-21(1)(a), (b) and (c) (which relate to special circumstances that apply to repaying an amount of student contribution or HECS-HELP) are identical to the matters referred to in paragraphs (1)(a), (b) and (c) of this section.

(3) For the purposes of paragraph 104-25(2)(c), special circumstances apply to the person if and only if *Open Universities Australia is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the unit of study in question; and

(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

## 104-35 Application period

(1) If:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) the person applying under 104-25(1)(d) for the re-crediting of the person's *HELP balance in relation to a unit of study has withdrawn his or her enrolment in the unit; and

(b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(1A) If:

(a) the person applying under paragraph 104-25(2)(d) for the re-crediting of the person's *HELP balance in relation to a unit of study has withdrawn from the unit; and

(b) *Open Universities Australia gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsections (1) and (1A) do not apply, the application period for the application is the period of 12 months after the period during which the person undertook, or was to undertake, the unit.

## 104-40 Dealing with applications

(1) If:

(a) the application is made under paragraph 104-25(1)(d) before the end of the relevant application period; or

(b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(1A) If:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) the application is made under paragraph 104-25(2)(d) before the end of the relevant application period; or

(b) *Open Universities Australia waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

Open Universities Australia must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision of the application.

(2) The notice must include a statement of the reasons for the decision.

Note: Refusals of applications are reviewable under Part 5-7.

## 104-42 Re-crediting a person's HELP balance if provider defaults or person elects re-crediting

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider *defaulted in relation to the person; and

(c) Part 5-1A applied to the provider at the time the provider defaulted in relation to the person; and

(d) any of the following apply:

(i) the provider identifies, under paragraph 166-25(4)(b), that there is no suitable *replacement unit or *replacement course for the person;

(ii) the person elects, under subparagraph 166-25(7)(a)(iii), to have an amount equal to the amounts of FEE-HELP assistance that the person received for the unit re-credited to the student's HELP balance;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(iii) the *Higher Education Tuition Protection Director decides, under paragraph 166-26B(2)(b), that the Director is not satisfied that there is a suitable replacement course for the person;

(iv) the person elects, under subparagraph 166-26B(4)(a)(iii), to have an amount equal to the amounts of FEE-HELP assistance that the person received for the unit re-credited to the student's HELP balance.

Note: A FEE-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see subsection 137-10(4).

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the Secretary is satisfied that the provider has failed to do so within a reasonable period.

## 104-43 Re-crediting a person's HELP balance in relation to FEE-HELP assistance if not a genuine student

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the Secretary has determined under subsection 104-1(1AA) that the student is not a genuine student in relation to the unit.

Note: A FEE-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see subsection 137-10(4).

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 104-44 Re-crediting a person's HELP balance in relation to FEE-HELP assistance if provider completes request for assistance etc.

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if the higher education provider completes any part of the *request for Commonwealth assistance in relation to the unit that the student is required to complete.

Note: A FEE-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited under this section: see subsection 137-10(4).

(2) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if the Secretary is satisfied that the student was not entitled to receive FEE-HELP assistance for the unit of study with the higher education provider.

(3) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *FEE-HELP assistance that the person received for a unit of study if the student has not has been assessed by the higher education provider as academically suited to undertake the unit concerned.

(4) The *Secretary may re-credit the person's *HELP balance under this section if the provider is unable to do so.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 104-C—Bridging courses for overseas-trained professionals

### 104-45 Meaning of *bridging course for overseas-trained professionals*

*Courses consisting of subjects or units*

(1) One or more subjects or units in which a person is enrolled with a higher education provider, or to which access is provided by *Open Universities Australia, are together a ***bridging course for overseas-trained professionals*** if:

(a) the person holds an *assessment statement issued by an *assessing body for a *listed professional occupation; and

(b) the statement is to the effect that, in the body's opinion, if the person were successfully to undertake additional studies of a kind specified in the statement, the person would meet the *requirements for entry to that occupation; and

(c) the person undertakes, or proposes to undertake, those additional studies by:

(i) enrolling, or proposing to enrol, on a *non-award basis, in those subjects or units with the provider; or

(ii) accessing, or proposing to access, those subjects or units through Open Universities Australia; and

(d) the total student load imposed on the person in relation to those subjects or units does not exceed the student load that, in the opinion of the provider or Open Universities Australia, represents the load imposed on a full-time student for one year; and

(e) those subjects or units relate to the assessment statement.

*Courses consisting of occupation-related courses of instruction*

(2) One or more occupation-related courses of instruction in which a person is enrolled with a higher education provider, or to which access is provided by *Open Universities Australia, are together a ***bridging course for overseas-trained professionals*** if:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) the person holds an *assessment statement issued by an *assessing body for a *listed professional occupation; and

(b) the statement is to the effect that, in the body's opinion, if the person were to be successful in one or more examinations specified in the statement, the person would meet the *requirements for entry to that occupation; and

(c) the person prepares, or proposes to prepare, for those examinations by:

(i) enrolling, or proposing to enrol, on a *non-award basis, in those occupation-related courses of instruction with the provider; or

(ii) accessing, or proposing to access, those occupation-related courses of instruction through Open Universities Australia; and

(d) the total student load imposed on the person in relation to those courses does not exceed the student load that, in the opinion of the provider or Open Universities Australia, represents the load imposed on a full-time student for one year; and

(e) those courses relate to the assessment statement.

*Courses consisting of tuition and training programs*

(3) A tuition and training program in which a person is enrolled with a higher education provider, or to which access is provided by *Open Universities Australia, is a ***bridging course for overseas-trained professionals*** if:

(a) the person holds an *assessment statement issued by an *assessing body for a *listed professional occupation; and

(b) the statement is to the effect that, in the body's opinion, if the person were to undertake a tuition and training program of a kind specified in the statement, the person would meet the *requirements for entry to that occupation; and

(c) the person undertakes, or proposes to undertake, such a program by:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(i) enrolling, or proposing to enrol, on a *non-award basis, in a tuition and training program with the provider; or

(ii) accessing, or proposing to access, a tuition and training program through Open Universities Australia; and

(d) the total student load imposed on the person in relation to that program does not exceed the student load that, in the opinion of the provider or Open Universities Australia, represents the load imposed on a full-time student for one year; and

(e) that program relates to the assessment statement.

## 104-50 Assessment statements

(1) An *assessing body for a *listed professional occupation may give to a person who:

(a) holds a qualification that:

(i) was awarded in a foreign country; and

(ii) relates to that occupation; and

(b) proposes to seek entry to that occupation:

(i) in Australia; or

(ii) if the assessing body is an *assessing body of a State or Territory—in that State or Territory;

a written statement to the effect that, in the body's opinion, if the person were to do any or all of the things referred to in subsection (2), the person would meet the *requirements for entry to that occupation. The statement is an ***assessment statement***.

(2) The statement may refer to any or all of the following:

(a) successfully undertaking additional studies of a kind specified in the statement;

(b) being successful in one or more examinations specified in the statement;

(c) successfully undertaking a tuition and training program of a kind specified in the statement.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: A statement could specify one of the things mentioned in paragraph (a), (b) or (c) or any combination of the things mentioned in those paragraphs.

(3) This section does not affect the power of an *assessing body to charge fees for an *assessment statement under subsection (1).

## 104-55 Meaning of *assessing body*

(1) An ***assessing body*** for a particular *listed professional occupation is a person or body specified in the FEE-HELP Guidelines as an assessing body for that occupation.

(2) This section does not prevent 2 or more persons or bodies from being assessing bodies for the same *listed professional occupation.

(3) The FEE-HELP Guidelines may limit the specification of a person or body as an assessing body for a particular *listed professional occupation to:

(a) a particular State; or

(b) the Australian Capital Territory; or

(c) the Northern Territory.

Such an assessing body is an ***assessing body of a State or Territory***.

## 104-60 Meaning of *listed professional occupations*

(1) A ***listed professional occupation*** is an *occupation specified in the FEE-HELP Guidelines as a listed professional occupation.

(2) To avoid doubt, an *occupation may be specified even if it is not one of the traditional professions.

## 104-65 Occupation includes part of an occupation

(1) An ***occupation*** includes a part of an occupation specified in the FEE-HELP Guidelines as an occupation in its own right.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) The following are examples of ways in which a part of an occupation can be specified:
   (a) so much of an occupation as has a bachelor degree (or equivalent) entry requirement;
   (b) so much of an occupation as consists of a particular specialisation.

## 104-70 Requirements for entry to an occupation

(1) The ***requirements for entry***, to a *listed professional occupation, are the educational requirements:
   (a) for entry to that occupation in Australia; or
   (b) if the requirements are referred to in an *assessment statement given by an *assessing body of a State or Territory for that occupation—for entry to that occupation in that State or Territory.

(2) A requirement for entry to a *listed professional occupation may:
   (a) be imposed by or under a law; or
   (b) be imposed by or under the rules of a body; or
   (c) consist of eligibility for membership of a body; or
   (d) arise as a generally accepted employment or industry practice.

(3) However, neither of the following is a requirement for entry to a *listed professional occupation:
   (a) English language training relating to general aspects of written communication or verbal communication, or both; or
   (b) being successful in:
      (i) the Occupational English Test administered by Language Australia; or
      (ii) any other English language test, where that test does not form an integral part of an occupation-related study unit, an occupation-related course of instruction or an occupation-related tuition and training program.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 107—How are amounts of FEE-HELP assistance worked out?

## 107-1 The amount of FEE-HELP assistance for a unit of study

The amount of *FEE-HELP assistance to which a student is entitled for a unit of study is the difference between:

(a) the student's *tuition fee for the unit; and

(b) the sum of any *up-front payments made in relation to the unit.

Note: A lesser amount may be payable because of section 107-10.

## 107-5 Up-front payments

(1) An ***up-front payment***, in relation to a unit of study for which a student is liable to pay a *tuition fee, is a payment of all or part of the student's tuition fee for the unit, other than a payment of *FEE-HELP assistance under this Part.

(2) The payment must be made on or before the *census date for the unit.

## 107-10 Amounts of FEE-HELP assistance, HECS-HELP assistance and VET FEE-HELP assistance must not exceed the HELP balance

*Amount of FEE-HELP assistance for one unit*

(1) The amount of *FEE-HELP assistance to which a student is entitled for a unit of study is an amount equal to the student's *HELP balance on the *census date for the unit if:

(a) there is no other:

(i) unit of study, with the same census date, for which the student is entitled to FEE-HELP assistance; or

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(ia) unit of study, with the same census date, for which the student is entitled to HECS-HELP assistance; or

(ii) *VET unit of study, with the same census date, for which the student is entitled to *VET FEE-HELP assistance; and

(b) the amount of FEE-HELP assistance to which the student would be entitled under section 107-1 for the unit would exceed that HELP balance.

Note 1: For transitional provisions relating to subparagraph (a)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

*Amount of FEE-HELP assistance for more than one unit*

(2) If the sum of:

(a) the amount of *FEE-HELP assistance to which a student would be entitled under section 107-1 for a unit of study; and

(b) any other amounts of:

(i) FEE-HELP assistance to which the student would be entitled under that section for other units that have the same *census date as that unit; and

(ia) *HECS-HELP assistance to which the student would be entitled under section 93-1 for other units that have the same census date as that unit; and

(ii) *VET FEE-HELP assistance to which the student would be entitled under clause 52 of Schedule 1A for other units that have the same census date as that unit;

would exceed the student's *HELP balance on the census date for the unit, then, despite subsection (1) of this section, the total amount of FEE-HELP assistance, HECS-HELP assistance and VET FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that HELP balance.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Example: Kath has a HELP balance of $2,000, and is enrolled in 4 units with the same census date. Kath's tuition fee for each unit is $600. The total amount of FEE-HELP assistance to which Kath is entitled for the units is $2,000, even though the total amount of her tuition fees for the units is $2,400.

Note 1: For transitional provisions relating to subparagraph (b)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

(3) If the student has enrolled in the units with more than one higher education provider or *VET provider, and access to none of the units was provided by *Open Universities Australia, the student must notify each provider of the proportion of the total amount of *FEE-HELP assistance,*HECS-HELP assistance or *VET FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

(4) If access to some, but not all, of the units of study was provided by *Open Universities Australia, the student must:

(a) notify Open Universities Australia of the proportion of the total amount of *FEE-HELP assistance that is to be payable in relation to units access to which was provided by Open Universities Australia; and

(b) notify each higher education provider or *VET provider at which the student is enrolled in a unit, access to which was not provided by Open Universities Australia, of the proportion of the total amount of FEE-HELP assistance,*HECS-HELP assistance or *VET FEE-HELP assistance that is to be payable in relation to that unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 110—How are amounts of FEE-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

## 110-1 Payments

(1) If a student is entitled to an amount of *FEE-HELP assistance for a unit of study with a higher education provider, and access to the unit was not provided by *Open Universities Australia, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of FEE-HELP assistance; and

(b) pay the amount lent to the provider in discharge of the student's liability to pay his or her *tuition fee for the unit.

(2) If a student is entitled to an amount of *FEE-HELP assistance for a unit of study and access to the unit was provided by *Open Universities Australia, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of FEE-HELP assistance; and

(b) pay the amount lent to Open Universities Australia in discharge of the student's liability to pay his or her *tuition fee for the unit.

## 110-5 Effect of HELP balance being re-credited

(1) If, under subsection 104-25(1) or 104-27(1) or section 104-42, 104-43 or 104-44, a person's *HELP balance is re-credited with an amount relating to *FEE-HELP assistance for a unit of study, the provider must pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under subsection 110-1(1).

Note: The provider must repay the amount under subsection (1) even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(1A) Subsection (1) does not apply to the provider if:

(a) the person's *HELP balance was re-credited under subsection 104-25(1) (main case of re-crediting a person's HELP balance); and

(b) the person enrolled in the unit as a *replacement unit.

(1B) The Higher Education Provider Guidelines may, in setting out the *tuition protection requirements, specify, in relation to the re-crediting of a person's *HELP balance in circumstances to which subsection (1A) applies:

(a) the amount (if any) that is to be paid to the Commonwealth; and

(b) the person (if any) who is to pay the amounts.

(2) If, under subsection 104-25(2) or 104-27(2), *Open Universities Australia re-credits a person's *HELP balance with an amount relating to *FEE-HELP assistance for a unit of study, Open Universities Australia must pay to the Commonwealth an amount equal to the amount (if any) that was paid to Open Universities Australia for the unit under subsection 110-1(2).

## 110-10 Implications for student's liability to higher education provider for student tuition fee

If, under Subdivision 104-B, a student's *HELP balance is re-credited with an amount relating to *FEE-HELP assistance for a *unit of study, the student is discharged from all liability to pay or account for so much of the student's *tuition fee for the unit as is equal to that amount.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3-4—OS-HELP assistance

## Division 115—Introduction

### 115-1 What this Part is about

Students may be entitled to OS-HELP assistance for periods during which they are undertaking study overseas, if they meet certain requirements. In particular, their higher education provider must have selected them for OS-HELP assistance.

The amount of OS-HELP assistance is limited to a maximum amount for each period of study, and only 2 such periods can attract OS-HELP assistance.

The purpose of OS-HELP assistance is to help students based in Australia to do part of their course of study overseas.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

### 115-5 The OS-HELP Guidelines

*OS-HELP assistance is also dealt with in the OS-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The OS-HELP Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 118—Who is entitled to OS-HELP assistance?

## 118-1 Entitlement to OS-HELP assistance

(1) A student is entitled to *OS-HELP assistance in relation to a period of 6 months if:

(a) the student meets the citizenship or residency requirements under section 118-5; and

(b) the student has not received OS-HELP assistance in relation to more than one other period of 6 months; and

(c) the student is enrolled in a *course of study with a higher education provider (the ***home provider***); and

(ca) the course of study is an *accredited course in relation to the home provider; and

(d) the student meets the prior study requirements under section 118-7; and

(e) the student meets the overseas study requirements under section 118-10; and

(f) on the completion of that study outside Australia, the student will have to complete units of study that have a total EFTSL value of at least 0.125 EFTSL in order to complete the course requirements for that course of study; and

(g) the student *meets the tax file number requirements (see section 187-1); and

(h) the student has completed, signed and given to an *appropriate officer of the home provider a *request for Commonwealth assistance in relation to that course of study; and

(ha) the student has applied to the home provider for receipt of OS-HELP assistance in relation to the period; and

(hb) if the student made the application on or after 1 January 2021—the student meets the *student identifier requirements under section 118-12; and

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(i) the home provider has selected the student for receipt of OS-HELP assistance in relation to the period (see section 118-15).

(2) However, the student is not entitled to *OS-HELP assistance in relation to that period if:

(a) another higher education provider has granted OS-HELP assistance to the student in relation to:

(i) that period; or

(ii) a period that overlaps with that period; or

(b) the student applies to the home provider for the assistance after the student has completed the study in relation to the period.

(3) To avoid doubt, the student may be outside Australia when the student applies to the home provider for receipt of *OS-HELP assistance.

## 118-2 Entitlement to supplementary amount for Asian language study

(1) A student is entitled to a *supplementary amount for Asian language study in relation to a period of 6 months if:

(a) the student is entitled to *OS-HELP assistance in relation to that period; and

(b) the OS-HELP assistance is for overseas study in Asia; and

(c) the student undertakes intensive study in an Asian language in preparation for undertaking that overseas study; and

(d) the student has applied to the home provider for receipt of a supplementary amount for Asian language study in relation to the period; and

(e) the home provider has selected the student for receipt of a supplementary amount for Asian language study in relation to the period (see section 118-15).

Note: If a student is entitled to a supplementary amount for Asian language study, the amount of OS-HELP assistance to which the student is entitled may include an amount for that language study in addition to

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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the amount the student may receive for overseas study: see section 121-1.

(2) However, the student is not entitled to a *supplementary amount for Asian language study in relation to that period if the student applies to the home provider for the assistance after the student has completed the intensive study in an Asian language in relation to the period.

(3) For the purposes of subsection (1), the OS-HELP Guidelines may specify circumstances in which a student undertakes intensive study in an Asian language in preparation for undertaking overseas study in Asia.

## 118-5 Citizenship or residency requirements

(1) The citizenship or residency requirements for *OS-HELP assistance are that the student in question is:

(a) an Australian citizen; or

(b) a *permanent humanitarian visa holder, an *eligible former permanent humanitarian visa holder or a *Pacific engagement visa holder; or

(c) a student to whom subsection (2) applies.

(2) This subsection applies to a student who:

(a) is a New Zealand citizen; and

(b) either:

(i) holds a special category visa under the *Migration Act 1958*; or

(ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (3) (the ***test day***); and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(ii) was a *dependent child when he or she first began to be usually resident in Australia; and

(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

(3) For the purposes of subsection (2), the day is the earlier of:

(a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter in relation to the *course of study the student is enrolled in with the home provider—the day the student first made such a request; or

(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the period.

## 118-7 Prior study requirements

The prior study requirements for *OS-HELP assistance are that:

(a) the student in question has completed units of study in Australia that count towards the course requirements for the *course of study; and

(b) the units of study have a total *EFTSL value of at least one *EFTSL; and

(c) the student was a *Commonwealth supported student in relation to the units.

## 118-10 Overseas study requirements

The overseas study requirements for *OS-HELP assistance are that:

(a) the student in question:

(i) is undertaking full-time study; and

(ii) will be outside Australia while undertaking that study; and

(b) the study commences on or after 1 January 2005; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(c) the study outside Australia will count towards the course requirements of the *course of study in which the student is enrolled with the home provider.

Note: For paragraph (a), the study need not be at a higher education provider's overseas campus or with an overseas higher education institution.

## 118-12 Student identifier requirements

(1) The *student identifier requirements for *OS-HELP assistance are that:

(a) the student in question had a student identifier immediately before the student made the application referred to in paragraph 118-1(1)(hb); and

(b) before making, or at the time of making, the application referred to in paragraph 118-1(1)(hb), the student notified the student's student identifier to:

(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary.

(2) A notification under paragraph (1)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to:

(a) the unit of study for which the assistance is sought; or

(b) the *course of study of which the unit forms a part; or

(c) any other unit of study forming part of that course.

## 118-15 Selection of students for receipt of OS-HELP assistance and supplementary amounts for Asian language study

(1) The OS-HELP Guidelines may set out principles and procedures that higher education providers must follow in deciding whether to select students for receipt of *OS-HELP assistance or *supplementary amounts for Asian language study.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Section 118-15

(3) Any decision by a higher education provider whether to select a student for receipt of *OS-HELP assistance or a *supplementary amount for Asian language study must be made in accordance with the OS-HELP Guidelines.

(4) Without limiting the matters that may be included in the OS-HELP Guidelines made for the purposes of subsection (3), those guidelines may deal with:

(a) the number of its students whom higher education providers may select for receipt of *OS-HELP assistance or *supplementary amounts for Asian language study; or

(b) how that number is to be determined.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 121—How are amounts of OS-HELP assistance worked out?

## 121-1 The amount of OS-HELP assistance for a period

(1) The amount of *OS-HELP assistance to which a student is entitled for a period of 6 months is the sum of the following amounts determined by the higher education provider to which the student applied for selection for receipt of the assistance:

(a) the amount determined by the provider for the overseas study (see subsections (2) and (3));

(b) if the student is entitled to a *supplementary amount for Asian language study—the supplementary amount determined by the provider for that language study (see subsections (4) and (5)).

*Determining amounts for overseas study*

(2) The amount determined for overseas study must not exceed:

(a) the amount specified in the application; or

(b) the *maximum OS-HELP (overseas study) amount for a period of 6 months.

(3) The amount determined for overseas study must not be less than the higher education provider's *minimum OS-HELP (overseas study) amount, if the provider has a minimum OS-HELP (overseas study) amount.

*Determining supplementary amounts for Asian language study*

(4) The supplementary amount determined for Asian language study must not exceed:

(a) the amount specified in the application; or

(b) the *maximum OS-HELP (Asian language study) amount for a period of 6 months.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(5) The supplementary amount determined for Asian language study must not be less than the higher education provider's *minimum OS-HELP (Asian language study) amount, if the provider has a minimum OS-HELP (Asian language study) amount.

## 121-5 Maximum OS-HELP (overseas study) amount

(1) The ***maximum OS-HELP (overseas study) amount***, for a period of 6 months, is:

(a) if the *OS-HELP assistance is for overseas study undertaken in Asia—$7,500; or

(b) in any other case—$6,250.

Note: The maximum OS-HELP (overseas study) amount is indexed under Part 5-6.

(2) For the purposes of subsection (1), the OS-HELP Guidelines may specify whether overseas study undertaken at a particular place is undertaken in Asia.

## 121-10 Minimum OS-HELP (overseas study) amount

(1) A higher education provider may determine, in writing, its *minimum OS-HELP (overseas study) amount.

(2) The determination has effect until:

(a) it is replaced by a later determination; or

(b) it is revoked.

## 121-15 Maximum OS-HELP (Asian language study) amount

The ***maximum OS-HELP (Asian language study) amount***, for a period of 6 months, is $1,000.

Note: The maximum OS-HELP (Asian language study) amount is indexed under Part 5-6.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 121-20 Minimum OS-HELP (Asian language study) amount

(1) A higher education provider may determine, in writing, its ***minimum OS-HELP (Asian language study) amount***.

(2) The determination has effect until:
  (a) it is replaced by a later determination; or
  (b) it is revoked.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 124—How are amounts of OS-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

## 124-1 Amounts of OS-HELP assistance are lent to students

(1) If a student is entitled to an amount of *OS-HELP assistance for a period of 6 months, the Commonwealth must, as a benefit to the student, lend to the student the amount of OS-HELP assistance.

(2) The higher education provider that selected the student for receipt of *OS-HELP assistance in relation to the period must, on the Commonwealth's behalf, pay to the student the amount lent.

(2A) The OS-HELP Guidelines may provide that a student who is entitled to a *supplementary amount for Asian language study may be paid:

(a) an amount for that language study; and

(b) an amount for the overseas study;

at different times determined in accordance with those guidelines.

(2B) If a student is paid amounts at different times as mentioned in subsection (2A), each amount is taken to be a separate loan for the purposes of section 137-15 (OS-HELP debts).

(3) The Commonwealth must make payments to the higher education provider on account of amounts the provider pays under this section on the Commonwealth's behalf.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3-5—SA-HELP assistance

## Division 125—Introduction

### 125-1 What this Part is about

A student may be entitled to SA-HELP assistance for a student services and amenities fee imposed on him or her by a higher education provider, if certain requirements are met.

The amount of the assistance is the amount of the fee, less any amounts of the fee paid on or before the day the fee is payable (except any SA-HELP assistance paid under this Part). The assistance is paid to the provider to discharge the student's liability to pay the fee.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 126—Who is entitled to SA-HELP assistance?

## 126-1 Entitlement to SA-HELP assistance

(1) A student is entitled to *SA-HELP assistance for a *student services and amenities fee imposed on the student for a period by a higher education provider if:

(a) the student meets the citizenship or residency requirements under section 126-5; and

(b) on the day on which the fee is payable, the student is enrolled with the provider in one or more of the following:

(i) a *course of study or a *bridging course for overseas-trained professionals;

(ii) an *accelerator program course; and

(c) the student *meets the tax file number requirements (see section 187-1); and

(d) the student has, on or before the day on which the fee is payable, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance in relation to the fee; and

(e) if the day on which the fee is payable is on or after 1 January 2023—the student meets the *student identifier requirements under section 126-10.

(2) A ***request for Commonwealth assistance***, in relation to a *student services and amenities fee imposed for a period on a person who is enrolled with a higher education provider in one or more of the courses mentioned in paragraph (1)(b), means a document:

(a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the fee for the period; and

(b) that is in the form approved by the Minister.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 126-5 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to a *student services and amenities fee imposed on the student by a higher education provider if the student is, on the day the fee is payable:

(a) an Australian citizen; or

(b) both:

(i) a *permanent humanitarian visa holder, an *eligible former permanent humanitarian visa holder or a *Pacific engagement visa holder; and

(ii) resident in Australia.

(1A) A student also meets the citizenship or residency requirements under this section in relation to a *student services and amenities fee imposed on the student by a higher education provider if the student:

(a) is a New Zealand citizen on the day the fee is payable; and

(b) on the day the fee is payable, either:

(i) holds a special category visa under the *Migration Act 1958*; or

(ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (1B) (the ***test day***); and

(ii) was a *dependent child when he or she first began to be usually resident in Australia; and

(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(1B) For the purposes of subsection (1A), the day is the earlier of:

(a) if the student:

(i) is enrolled with the provider in a *course of study; and

(ii) has previously made a successful *request for Commonwealth assistance under this Chapter in relation to the course—the day the student first made such a request; or

(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the fee.

(2) Despite subsections (1) and (1A), a student does not meet the citizenship or residency requirements in relation to a *student services and amenities fee imposed on the student by a higher education provider if the provider reasonably expects that:

(a) for a student enrolled in one course for the purposes of paragraph 126-1(1)(b)—the student will not undertake in Australia any *units of study with the provider, or any or the *accelerator program course (as applicable); or

(b) for a student enrolled in more than one course for the purposes of paragraph 126-1(1)(b)—the student will not undertake in Australia:

(i) any units of study with the provider; and

(ii) if one of the courses is an accelerator program course—any of the accelerator program course.

## 126-10 Student identifier requirements

(1) A student meets the *student identifier requirements under this section in relation to a *student services and amenities fee imposed on the student by a higher education provider if:

(a) the student has a student identifier immediately before the day on which the fee is payable; and

(b) before making, or at the time of making, the *request for Commonwealth assistance referred to in paragraph 126-1(1)(d), the student notifies the student's student identifier to:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary.

(2) A notification under paragraph (1)(b) may be included in the *request for Commonwealth assistance by the student referred to in paragraph 126-1(1)(d).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 127—How are amounts of SA-HELP assistance worked out?

## 127-1 The amount of SA-HELP assistance for a student services and amenities fee

The amount of *SA-HELP assistance to which a student is entitled for a *student services and amenities fee is the difference (if any) between:

(a) the fee; and

(b) the sum of any payments of the fee (other than a payment of SA-HELP assistance under this Part) made on or before the day on which the fee is payable.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 128—How are amounts of SA-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

## 128-1 Payments to higher education providers of loans to students

If a student is entitled to an amount of *SA-HELP assistance for a *student services and amenities fee imposed by a higher education provider, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of SA-HELP assistance; and

(b) pay to the provider the amount lent in discharge of the student's liability to pay the fee.

## 128-5 Repayment by higher education provider if student does not have tax file number

A higher education provider must repay the Commonwealth an amount paid to the provider under section 128-1 in discharge of a person's liability to pay a *student services and amenities fee if subsection 193-15(1) applies to the person.

Note 1: Subsection 193-15(1) applies to a person who does not have a tax file number.

Note 2: The person's SA-HELP debt will be remitted if the higher education provider must repay the amount under this section: see subsection 137-16(4).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3-6—HELP balances

## 128-7 What this Part is about

A person's HELP balance at a particular time is worked out by reference to:

(a) the HELP loan limit in relation to the person at the time; and

(b) the amounts of HECS-HELP assistance, FEE-HELP assistance, VET FEE-HELP assistance and VET student loans that that have previously been payable to the person; and

(c) amounts previously re-credited to the person's HELP balance (including repayments of HELP debts).

## 128-15 HELP balances

(1) A person's ***HELP balance*** at a particular time is:

(a) if the *HELP loan limit in relation to the person at the time exceeds the sum of all of the amounts of:

(i) *HECS-HELP assistance that has previously been payable for the person; and

(ii) *FEE-HELP assistance that has previously been payable for the person; and

(iii) *VET FEE-HELP assistance that has previously been payable for the person; and

(iv) *VET student loans that have previously been payable for the person;

being that sum as reduced by any amounts previously re-credited to the person's HELP balance under Division 97 of this Act, Subdivision 104-B of this Act, section 128-25 of this Act, Subdivision 7-B of Schedule 1A to this Act or Part 6 of the *VET Student Loans Act 2016*—that excess; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) otherwise—zero.

Note 1: If an amount is to be re-credited to a HELP balance, the balance that is to be re-credited is worked out immediately before that re-crediting. The balance is worked out after the re-crediting by taking account of the amount re-credited. If a person's HELP loan limit has been reduced, the balance might not increase, or might not increase by the same amount as the amount re-credited.

Note 2: For transitional provisions relating to this section, see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*. Those transitional provisions mean that subparagraph (1)(a)(i) does not apply in relation to a unit of study if the census date for the unit is before 1 January 2020.

(1A) For the purposes of subparagraphs (1)(a)(i), (ii) and (iii), an amount of *HECS-HELP assistance, *FEE-HELP assistance or *VET FEE-HELP assistance is taken to have been payable for a person immediately after the *census date for the unit to which the assistance relates (whether or not the amount has been paid at that time).

(1B) For the purposes of subparagraph (1)(a)(iv), an amount of a *VET student loan is taken to have been payable for a person immediately after the *census day for the course or a part of the course to which the loan amount relates (whether or not the amount has been paid at that time).

(2) For the purposes of subparagraphs (1)(a)(i), (ii), (iii) and (iv), it is immaterial whether amounts of *HECS-HELP assistance, *FEE-HELP assistance, *VET FEE-HELP assistance and *VET student loans have been repaid.

(3) Subsection (2) is enacted for the avoidance of doubt.

## 128-20 HELP loan limit

(1) The ***HELP loan limit*** is:

(a) $106,319; or

(b) in relation to a person who is enrolled in a *course of study in medicine, a *course of study in dentistry, a *course of study

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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in veterinary science or a *course of study in aviation, while the person is enrolled in that course—$152,700.

Note: The HELP loan limit is indexed under Part 5-6.

(2) A ***course of study in aviation*** is a *course of study, or an approved course (within the meaning of the *VET Student Loans Act 2016*), specified in the FEE-HELP Guidelines for the purposes of this subsection.

## 128-25 Re-crediting HELP balance—discharge of HELP debt etc.

(1) If, during:

(a) the financial year starting on 1 July 2019; or

(b) a later financial year;

a payment was made in discharge of the whole or a part of a debt that a person owes to the Commonwealth under Chapter 4, the *Commissioner must:

(c) notify the payment to the Secretary; and

(d) do so as soon as practicable after the end of that financial year.

Note 1: The payment may be a voluntary repayment.

Note 2: The payment may be in the form of the application of an amount against the debt.

(2) If the Secretary is so notified, the Secretary must re-credit the person's *HELP balance with an amount equal to the amount of the payment.

(3) If, under section 142-15 or 144-10, the *Secretary determines, during a financial year, that an amount is to be reduced from a person's *accumulated HELP debt, the Secretary must re-credit the person's *HELP balance with an amount equal to the amount reduced as soon as practicable after the end of that financial year.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3-7—STARTUP-HELP assistance

## Division 128A—Introduction

### 128A-1 What this Part is about

A student may be entitled to STARTUP-HELP assistance for an accelerator program course if certain requirements are met. In particular:

(a) the course must lead to a qualification that is accredited, by a suitable higher education provider, as being integral to the development of startup businesses; and

(b) the provider must have selected the student for STARTUP-HELP assistance.

The amount of assistance to which the student may be entitled is based on the accelerator program course fee less any up-front payments. There is a limit on the total amount of assistance that the student can receive. The assistance is paid to the provider to discharge the student's liability to pay the fee.

Note 1: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

Note 2: This Part does not apply to Table C providers: see section 5-1.

### 128A-5 The STARTUP-HELP Guidelines

*STARTUP-HELP assistance is also dealt with in the STARTUP-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The STARTUP-HELP Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 128B—Who is entitled to STARTUP-HELP assistance?

## 128B-1 Entitlement to STARTUP-HELP assistance

*Entitlement to STARTUP-HELP assistance*

(1) A student is entitled to *STARTUP-HELP assistance for an *accelerator program course in which the student is enrolled with a higher education provider if:

(a) the student meets the citizenship or residency requirements under section 128B-30; and

(b) any of the following apply:

(i) the student is in the final year of an *undergraduate course of study;

(ii) the student is enrolled in a *postgraduate course of study;

(iii) the student was awarded, no more than 36 months before the person commenced the accelerator program course, a qualification at level 7, 8, 9 or 10 of the *Australian Qualifications Framework; and

(c) the student has not received more than one amount of STARTUP-HELP assistance (for this purpose, disregard any amount of assistance that has been *reversed under Division 128E); and

(d) the *census date for the accelerator program course is on or after 1 July 2023; and

(e) the student:

(i) enrolled in the accelerator program course on or before the census date for the course; and

(ii) at the end of the census date, remained so enrolled; and

(f) the student *meets the tax file number requirements (see section 187-1); and

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(g) the student has, on or before the census date for the accelerator program course, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance in relation to the course; and

(h) the student has been assessed by the provider as academically suited to undertake the accelerator program course; and

(i) the student has applied to the provider for receipt of STARTUP-HELP assistance in relation to the accelerator program course; and

(j) the student meets the *student identifier requirements under subsection (4); and

(k) the provider has selected the student for receipt of STARTUP-HELP assistance in relation to the accelerator program course (see section 128B-35).

(2) Subsection (1) has effect subject to the following provisions:

(a) section 128B-5 (multiple courses at same time);

(b) section 128B-10 (not a genuine student);

(c) section 128B-15 (unreasonable study load);

(d) section 128B-20 (overseas campus).

*Academically suited*

(3) The assessment for the purposes of paragraph (1)(h) must be done in accordance with any requirements specified in the Higher Education Provider Guidelines made for the purposes of section 19-42 (assessment of students as academically suited).

*When a student meets the student identifier requirements*

(4) A student meets the *student identifier requirements under this subsection if:

(a) the student has a student identifier immediately before the *census date; and

(b) before the census date, the student notifies the student's student identifier to:

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(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary.

(5) A notification under paragraph (4)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to the *accelerator program course.

*Definition of request for Commonwealth assistance*

(6) A ***request for Commonwealth assistance***, in relation to a person enrolling in an *accelerator program course with a higher education provider, means a document:

(a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the course; and

(b) that is in the form approved by the Minister.

## 128B-5 No entitlement: multiple courses at same time

(1) If, apart from this subsection, a student would be entitled to *STARTUP-HELP assistance under subsection 128B-1(1) for 2 or more *accelerator program courses in which the student is enrolled at the same time, the student is entitled to STARTUP-HELP assistance for only the one course selected under subsection (2) of this section.

(2) The one course for which the student is entitled is selected by applying either or both of the following principles, as needed:

(a) if the student enrolled at the same time in 2 or more courses—select the course the student elects, in writing, for the purposes of this paragraph;

(b) if the student enrolled at different times in 2 or more courses—select the course the student enrolled in first.

(3) The STARTUP-HELP Guidelines may prescribe requirements and other matters in relation to elections by students for the purposes of paragraph (2)(a).

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## 128B-10 No entitlement: not a genuine student

(1) A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course if the *Secretary determines that the student is not a genuine student in relation to the course.

Note: A decision under this subsection that a student is not entitled to STARTUP-HELP assistance is reviewable under Part 5-7.

(2) In determining whether a student is a genuine student for the purposes of subsection (1), the *Secretary must have regard to the matters (if any) specified in the Higher Education Provider Guidelines.

(3) If a determination under subsection (1) is made in writing, the determination is not a legislative instrument.

## 128B-15 No entitlement: unreasonable study load

(1) A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course (a ***new course***) provided, or to be provided, by a higher education provider if the sum of the following amounts is more than 2:

(a) the *EFTSL value of the new course;

(b) the sum of the EFTSL values of each other unit of study:

(i) that has a *census date during the 12 month period ending on the census date for the new course; and

(ii) for which the person is entitled to *HECS-HELP assistance or *FEE-HELP assistance, or would be so entitled but for the previous operation of this section, or section 36-12, in relation to the other unit of study;

(c) the sum of the EFTSL values of each other accelerator program course:

(i) that has a census date during the 12 month period ending on the census date for the new course; and

(ii) for which the person is entitled to STARTUP-HELP assistance, or would be so entitled but for the previous

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operation of this section in relation to the other accelerator program course.

(2) Subsection (1) does not apply if the higher education provider determines that undertaking the new course will not impose an unreasonable study load on the person, having regard to:

(a) whether the person has the demonstrated capacity and capability to successfully complete courses of study or *accelerator program courses that have a combined total *EFTSL value of more than 2; and

(b) the matters (if any) specified by the Higher Education Provider Guidelines for the purposes of this paragraph.

Note: A decision under this subsection that undertaking a new accelerator program course will impose an unreasonable study load on a student is reviewable under Part 5-7.

(3) A decision of a higher education provider under subsection (2) must be in accordance with the Higher Education Provider Guidelines.

(4) If a determination under subsection (2) is made in writing, the determination is not a legislative instrument.

(5) If a higher education provider is unable to act for one or more of the purposes of this section, the *Secretary may act as if one or more of the references in this section to the provider were a reference to the Secretary.

## 128B-20 No entitlement: overseas campus

A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course if the course is, or is to be, undertaken by the student primarily at an overseas campus.

## 128B-25 Accelerator program course

(1) An ***accelerator program course*** is a structured and integrated program of education and mentoring that:

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(a) is designed to develop a person's skills, capabilities and connections for the purposes of startup businesses; and
(b) meets the requirements in subsection (2).

(2) The requirements are that:
(a) the course leads to the award of a qualification accredited by the higher education provider under subsection (3); and
(b) the course has an *EFTSL value of at least 0.5 EFTSL and no more than one EFTSL; and
(c) any other requirements set out in the STARTUP-HELP Guidelines are met.

(3) For the purposes of paragraph (2)(a), a higher education provider may self-accredit a qualification as being integral to the development of startup businesses, if the provider is:
(a) registered under the *TEQSA Act in the provider category "Australian University" or "University College"; and
(b) authorised under that Act to self-accredit some or all of its courses of study.

(4) In self-accrediting the qualification, the higher education provider must, as far as practicable, apply the same procedures it applies when self-accrediting a *course of study.

(5) Without limiting the matters that may be included in the STARTUP-HELP Guidelines made for the purposes of paragraph (2)(c), those guidelines must require that the higher education provider providing the *accelerator program course has arrangements in place to ensure that, in circumstances where a student creates intellectual property through undertaking the course, the student owns the intellectual property unless there is an agreement that provides otherwise in place between the student and the provider.

## 128B-30 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to an *accelerator program course if:

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(a) the student is an Australian citizen; or

(b) the student:

(i) is a *permanent humanitarian visa holder, an *eligible former permanent humanitarian visa holder or a *Pacific engagement visa holder; and

(ii) will be resident in Australia for the duration of the accelerator program course.

(2) In determining, for the purposes of subparagraph (1)(b)(ii), whether the student will be resident in Australia for the duration of the *accelerator program course, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the accelerator program course; or

(b) is required for the purpose of completing a requirement of the accelerator program course.

(3) A student also meets the citizenship or residency requirements under this section in relation to an *accelerator program course if the student:

(a) is a New Zealand citizen who will be resident in Australia for the duration of the accelerator program course; and

(b) either:

(i) holds a special category visa under the *Migration Act 1958*; or

(ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (4) (the ***test day***); and

(ii) was a *dependent child when the student first began to be usually resident in Australia; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

(4) In determining, for the purpose of paragraph (3)(a), whether the student will be resident in Australia for the duration of the *accelerator program course, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the accelerator program course; or

(b) is required for the purpose of completing a requirement of the accelerator program course.

(5) For the purposes of subsection (3), the day is the earlier of:

(a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that forms part of a *course of study, or for another *accelerator program course—the day the student first made such a request; or

(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the accelerator program course.

(6) Despite subsections (1), (2) and (3), a student does not meet the citizenship or residency requirements in relation to an *accelerator program course if the higher education provider reasonably expects that the student will not undertake in Australia any of the accelerator program course.

## 128B-35 Selection of students for receipt of STARTUP-HELP assistance

(1) The STARTUP-HELP Guidelines may set out principles and procedures that higher education providers must follow in deciding

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whether to select persons for receipt of *STARTUP-HELP assistance.

(2) Any decision by a higher education provider whether to select a person for receipt of *STARTUP-HELP assistance must be made in accordance with the STARTUP-HELP Guidelines.

(3) Without limiting the matters that may be included in the STARTUP-HELP Guidelines made for the purposes of subsection (2), those guidelines may deal with:
  (a) the number of its students whom higher education providers may select for receipt of *STARTUP-HELP assistance; or
  (b) how that number is to be determined.

## 128B-40 Allocation of STARTUP-HELP assistance

(1) The STARTUP-HELP Guidelines must include principles and procedures for ensuring, so far as reasonably practicable, that at least 25% of the persons selected for receipt of *STARTUP-HELP assistance are students enrolled in an *accelerator program course at a regional university.

(2) For the purposes of subsection (1), a ***regional university*** is one of the following:
  (a) Charles Sturt University;
  (b) Central Queensland University;
  (c) Federation University Australia;
  (d) Southern Cross University;
  (e) University of New England;
  (f) University of Southern Queensland;
  (g) University of the Sunshine Coast;
  (h) any other university, or particular campus of a university, specified in the STARTUP-HELP Guidelines.

(3) The Minister must not specify a university, or particular campus of a university, in the STARTUP-HELP Guidelines made for the purposes of paragraph (2)(h), unless the university or campus is

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located in a Remoteness Area categorised under the *ABS Remoteness Structure as Inner Regional Australia, Outer Regional Australia, Remote Australia or Very Remote Australia.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 128C—How are amounts of STARTUP-HELP assistance worked out?

## 128C-1 The amount of STARTUP-HELP assistance for an accelerator program course

The amount of *STARTUP-HELP assistance to which a student is entitled for an *accelerator program course is the difference between:

(a) the student's *accelerator program course fee for the course; and

(b) the sum of any *up-front payments made in relation to the course.

## 128C-5 Up-front payments

(1) An ***up-front payment***, in relation to an *accelerator program course for which a student is liable to pay an *accelerator program course fee, is a payment of all or part of the student's accelerator program course fee for the course, other than a payment of *STARTUP-HELP assistance under this Part.

(2) The payment must be made on or before the *census date for the course.

## 128C-10 Maximum accelerator program course fee

(1) A person's *accelerator program course fee, for an *accelerator program course, must not exceed:

(a) for a course that has an *EFTSL value of one EFTSL—the *maximum student contribution amount specified, in item 4 of the table in section 93-10, for a place for a *non-grandfathered student in a unit of study in Medicine, Dentistry or Veterinary Science; or

(b) for a course that has an EFTSL value of less than one EFTSL—the amount worked out as follows:

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$$\text{The amount mentioned in paragraph (a)} \times \text{The EFTSL value of the accelerator program course}$$

(2) If an amount worked out by using the formula in subsection (1) is an amount made up of dollars and cents, round the amount down to the nearest dollar.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 128D—How are amounts of STARTUP-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

## 128D-1 Payments to higher education providers

If a student is entitled to an amount of *STARTUP-HELP assistance for an *accelerator program course in which the student is enrolled with a higher education provider, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of STARTUP-HELP assistance; and

(b) pay to the provider the amount lent in discharge of the student's liability to pay the student's *accelerator program course fee for the course.

## 128D-5 Repayment by higher education provider if STARTUP-HELP assistance is reversed

If an amount of *STARTUP-HELP assistance that a person received for an *accelerator program course is *reversed under Division 128E, the higher education provider must:

(a) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the course under section 128D-1; and

(b) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to the person's *accelerator program course fee for the course.

## 128D-10 Implications of reversal for person's liability to higher education provider for accelerator program course fee

If an amount of *STARTUP-HELP assistance received by a person for an *accelerator program course is *reversed under Division 128E, the person is discharged from all liability to pay or

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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account for so much of the person's *accelerator program course fee for the course as is equal to that amount.

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# Division 128E—Reversal of STARTUP-HELP assistance

## Subdivision 128E-A—Reversal in special circumstances

### 128E-1 Reversal of STARTUP-HELP assistance: special circumstances

(1) A higher education provider must, on the *Secretary's behalf, determine that this section applies to a person, in relation to an amount of *STARTUP-HELP assistance that the person received for an *accelerator program course with the provider, if:

(a) the person has been enrolled in the accelerator program course with the provider; and

(b) the person has not completed the requirements for the accelerator program course during the period during which the person undertook, or was to undertake, the course; and

(c) the provider is satisfied that special circumstances apply to the person (see section 128E-5); and

(d) the person applies in writing to the provider for either or both of the following:

(i) the repayment of any amounts that the person paid in relation to the person's *accelerator program course fee;

(ii) the remission of the person's *STARTUP-HELP debt in relation to the accelerator program course; and

(e) either:

(i) the application is made before the end of the application period under section 128E-10; or

(ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: A decision that this section does not apply to a person is reviewable under Part 5-7.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) If the provider determines that this section applies to the person in relation to the amount of assistance, the amount is ***reversed***.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

(3) If the provider is unable to act for one or more of the purposes of this Subdivision, the *Secretary may act as if one or more of the references in this Subdivision to the provider were a reference to the Secretary.

## 128E-5 Special circumstances

(1) For the purposes of paragraph 128E-1(1)(c), special circumstances apply to the person if and only if the higher education provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the *accelerator program course; and

(c) make it impracticable for the person to complete the requirements for the course in the period during which the person undertook, or was to undertake, the course.

(2) If the Administration Guidelines specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph 36-21(1)(a), (b) or (c), any decision of a higher education provider under this section must be in accordance with any such guidelines.

Note: The matters referred to in paragraphs 36-21(1)(a), (b) and (c) (which relate to special circumstances that apply to repaying a student contribution amount or an amount of HECS-HELP assistance) are identical to the matters referred to in paragraphs (1)(a), (b) and (c) of this section.

## 128E-10 Application period

(1) If:

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(a) the person applying under paragraph 128E-1(1)(d) in relation to an amount of *STARTUP-HELP assistance for an *accelerator program course has withdrawn their enrolment in the course; and

(b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsection (1) does not apply, the application period for the application is the period of 12 months after the end of the period during which the person undertook, or was to undertake, the course.

## 128E-15 Dealing with applications

(1) If:

(a) the application is made under paragraph 128E-1(1)(d) before the end of the relevant application period; or

(b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 128E-B—Reversal in other circumstances

### 128E-20 Reversal of STARTUP-HELP assistance: no tax file number

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is ***reversed*** if:

(a) the person has been enrolled in the accelerator program course with the provider; and

(b) subsection 193-20(1) (no entitlement to STARTUP-HELP assistance for students without tax file numbers) applies to the person in relation to the course.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

### 128E-25 Reversal of STARTUP-HELP assistance: higher education provider completes request for assistance

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is ***reversed*** if the provider completes any part of the *request for Commonwealth assistance in relation to the course that the person is required to complete.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

### 128E-30 Reversal of STARTUP-HELP assistance: no entitlement

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is ***reversed*** if the *Secretary is satisfied that the person was not entitled to receive STARTUP-HELP assistance for the course with the provider.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

## 128E-35 Reversal of STARTUP-HELP assistance: no assessment of whether academically suited

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is ***reversed*** if the person has not been assessed by the provider as academically suited to undertake the course.

## 128E-40 Reversal of STARTUP-HELP assistance: material non-compliance

(1) An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course provided during a period by a higher education provider is ***reversed*** if a report of an audit conducted in accordance with subsection (2) finds that there is any material non-compliance with respect to the course provided in the period.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

(2) The STARTUP-HELP Guidelines must require higher education providers that provide *accelerator program courses to conduct internal audits, or to arrange for audits, of compliance with the STARTUP-HELP Guidelines with respect to the courses. The Guidelines must prescribe any or all of the following:

(a) circumstances in which audits must be conducted or arranged;

(b) requirements in relation to when and how audits must be conducted or arranged and reported on.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Chapter 4—Repayment of loans

## Division 129—Introduction

### 129-1 What this Chapter is about

Loans that the Commonwealth makes to students under Chapter 3 are repayable under this Chapter. Loans that the Commonwealth makes to students under Schedule 1A or (before 1 July 2019) under the *VET Student Loans Act 2016* are also repayable under this Chapter.

Each loan is incorporated into the person's accumulated HELP debt (see Part 4-1).

Under Part 4-2, the accumulated debts can be repaid in 2 ways:

- a person may make voluntary repayments; or
- compulsory repayments (based on a person's income) are made using the system for payment of income tax.

Accumulated HELP debt, or the indexation of that debt, may be reduced for certain HELP debtors working in rural, remote or very remote areas (see Divisions 142 and 144).

Note: Loans that the Commonwealth makes to students under the *VET Student Loans Act 2016* on or after 1 July 2019 are repayable under that Act.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 4-1—Indebtedness

## Division 134—Introduction

### 134-1 What this Part is about

A person incurs a HELP debt if he or she receives, as HECS-HELP assistance, FEE-HELP assistance, OS-HELP assistance, SA-HELP assistance or STARTUP-HELP assistance, a loan from the Commonwealth under Chapter 3.

A person also incurs a HELP debt if he or she receives, as VET FEE-HELP assistance, a loan from the Commonwealth under Schedule 1A.

A person will also have incurred a HELP debt if (before 1 July 2019) the Secretary used an amount of a VET student loan approved under the *VET Student Loans Act 2016* to pay tuition fees for the person.

HELP debts are incorporated into the person's accumulated HELP debt. This accumulated debt forms the basis of working out the amounts that the person is obliged to repay (see Part 4-2).

Note: If the Secretary uses an amount of a VET student loan approved under the *VET Student Loans Act 2016* to pay tuition fees for a person on or after 1 July 2019, the person incurs a debt under that Act.

### 134-5 HELP Debtor Guidelines

(1) Matters relating to *location-preferred HELP debtors (teachers) are dealt with in the HELP Debtor Guidelines (Teachers).

(2) Matters relating to *location-preferred HELP debtors (health practitioners) are dealt with in the HELP Debtor Guidelines (Health Practitioners).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) The provisions of this Part indicate when a particular matter is or may be dealt with in those Guidelines.

Note: The HELP Debtor Guidelines (Teachers) and HELP Debtor Guidelines (Health Practitioners) are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 137—How do HELP debts arise?

## 137-1 HELP debts

The following are ***HELP debts***:

(a) *HECS-HELP debts;
(b) *FEE-HELP debts;
(c) *OS-HELP debts;
(ca) *SA-HELP debts;
(cb) *STARTUP-HELP debts;
(d) *VET FEE-HELP debts;
(e) *pre-1 July 2019 VSL debts.

## 137-5 HECS-HELP debts

*Incurring HECS-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under section 96-1, the Commonwealth:

(a) makes a loan to the person; and
(b) uses the amount lent to make a payment in discharge of the person's liability to pay his or her *student contribution amount for a unit of study.

The debt is a ***HECS-HELP debt***.

(2) The amount of the *HECS-HELP debt is the amount of the loan.

*When HECS-HELP debts are incurred*

(3) A *HECS-HELP debt is taken to have been incurred by a person immediately after the *census date for the unit, whether or not the Commonwealth has made a payment in respect of the person's *student contribution amount for the unit.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Remission of HECS-HELP debts*

(4) A person's *HECS-HELP debt in relation to a unit of study is taken to be remitted if section 36-20, 36-24A, 36-24B, 36-24BB or 36-24BC applies to the person (even if subsection 36-20(3), 36-24BB(3) or 36-24BC(3) applies to the provider in relation to the person).

(5) A person's *HECS-HELP debt in relation to a unit of study is taken to be remitted if the person's *HELP balance is re-credited under Division 97 in relation to the unit.

Note: The debt is taken to be remitted even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

## 137-10 FEE-HELP debts

*Incurring FEE-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under section 110-1, the Commonwealth:

(a) makes a loan to the person; and

(b) uses the amount lent to make a payment in discharge of the person's liability to pay his or her *tuition fee for a unit of study.

The debt is a ***FEE-HELP debt***.

(2) The amount of the *FEE-HELP debt is:

(a) if the loan relates to *FEE-HELP assistance for a unit of study provided by a Table B provider—the amount of the loan; or

(b) if paragraph (a) does not apply and the loan relates to FEE-HELP assistance for a unit of study that forms part of an *undergraduate course of study:

(i) for a unit of study with a *census date between 1 April 2020 and 31 December 2022—the amount of the loan; or

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(ia) for a unit of study with a census date on or after 1 January 2023—an amount equal to 120% of the loan; or

(ii) otherwise—an amount equal to 125% of the loan; or

(c) if neither paragraph (a) nor (b) applies—the amount of the loan.

*When FEE-HELP debts are incurred*

(3) A *FEE-HELP debt is taken to have been incurred by a person immediately after the *census date for the unit, whether or not the Commonwealth has made a payment in respect of the person's *tuition fee for the unit.

*Remission of FEE-HELP debts*

(4) A person's *FEE-HELP debt in relation to a unit of study is taken to be remitted if the person's *HELP balance is re-credited under section 104-25, 104-27, 104-42, 104-43 or 104-44 in relation to the unit.

Note: The debt is taken to be remitted even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

## 137-15 OS-HELP debts

*Incurring OS-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under section 124-1, the Commonwealth makes a loan to the person. The debt is an ***OS-HELP debt***.

Note: For a student who is entitled to a supplementary amount for Asian language study, see subsections 124-1(2A) and (2B).

(2) The amount of the *OS-HELP debt is an amount equal to the amount of the loan.

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*When OS-HELP debts are incurred*

(3) The *OS-HELP debt is taken to have been incurred on the day on which a higher education provider, on the Commonwealth's behalf, paid the amount lent to the person.

## 137-16 SA-HELP debts

*Incurring SA-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under section 128-1, the Commonwealth:
   (a) makes a loan to the person; and
   (b) uses the amount lent to make a payment of the person's liability to pay a *student services and amenities fee.

   The debt is an ***SA-HELP debt***.

(2) The amount of the *SA-HELP debt is an amount equal to the loan.

*When SA-HELP debts are incurred*

(3) An *SA-HELP debt is taken to have been incurred by a person immediately after the day on which the *student services and amenities fee to which the loan relates is payable, whether or not the Commonwealth has made a payment in respect of the fee.

*Remission of SA-HELP debts*

(4) A person's *SA-HELP debt in relation to a *student services and amenities fee imposed by a higher education provider is taken to be remitted if, under section 128-5, the provider must repay the Commonwealth the amount the Commonwealth paid the provider in relation to the fee.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 137-17 STARTUP-HELP debts

*Incurring STARTUP-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under section 128D-1, the Commonwealth:
   (a) makes a loan to the person; and
   (b) uses the amount lent to make a payment in discharge of the person's liability to pay an *accelerator program course fee for an *accelerator program course.

   The debt is a ***STARTUP-HELP debt***.

(2) The amount of the *STARTUP-HELP debt is the amount of the loan.

*When STARTUP-HELP debts are incurred*

(3) A *STARTUP-HELP debt is taken to have been incurred by a person immediately after the *census date for the course, whether or not the Commonwealth has made a payment in respect of the person's *accelerator program course fee for the course.

*Remission of STARTUP-HELP debts*

(4) A person's *STARTUP-HELP debt in relation to an *accelerator program course is taken to be remitted if an amount of *STARTUP-HELP assistance that a person received for the course is *reversed under Division 128E.

## 137-18 VET FEE-HELP debts

*Incurring VET FEE-HELP debts*

(1) A person incurs a debt to the Commonwealth if, under clause 55 of Schedule 1A, the Commonwealth:
   (a) makes a loan to the person; and

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(b) uses the amount lent to make a payment in discharge of the person's liability to pay his or her *VET tuition fee for a *VET unit of study.

The debt is a ***VET FEE-HELP debt***.

(2) The amount of the *VET FEE-HELP debt is:

(a) 120% of the loan; or

(b) if the *VET Guidelines specify a lesser percentage of the loan for the person—that lesser percentage of the loan.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

*When VET FEE-HELP debts are incurred*

(3) A *VET FEE-HELP debt is taken to have been incurred by a person immediately after the *census date for the unit, whether or not the Commonwealth has made a payment in respect of the person's *VET tuition fee for the unit.

*Remission of VET FEE-HELP debts*

(4) A person's *VET FEE-HELP debt in relation to a *VET unit of study is taken to be remitted if the person's *HELP balance is re-credited under clause 46, 46A, 46AA, 47 or 51 of Schedule 1A in relation to the unit.

Note: The debt is taken to be remitted even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

(5) A person's *VET FEE-HELP debt in relation to a *VET unit of study is taken to be remitted to the extent that the person's *HELP balance is re-credited under clause 46B of Schedule 1A in relation to the unit.

## 137-19 Pre-1 July 2019 VSL debts

(1) A debt incurred under this section as in force at any time before 1 July 2019 is a ***pre-1 July 2019 VSL debt***.

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(4) A person's *pre-1 July 2019 VSL debt, in relation to a loan amount (within the meaning of this section as in force at the time the debt was incurred), is taken to be remitted if the person's *HELP balance is re-credited under Part 6 of the *VET Student Loans Act 2016* in relation to the loan amount.

Note: The person's HELP balance may also be re-credited under section 128-25 of this Act (re-crediting on discharge of HELP debt etc.), but in those circumstances there is no related remission of debt under this subsection.

## 137-20 HELP debt discharged by death

Upon the death of a person who owes a *HELP debt to the Commonwealth, the debt is taken to have been paid.

Note: HELP debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

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# Division 140—How are accumulated HELP debts worked out?

## Subdivision 140-A—Outline of this Division

### 140-1 Outline of this Division

(1) There are 2 stages to working out a person's *accumulated HELP debt for a financial year.

*Stage 1—Former accumulated HELP debt*

(2) The *former accumulated HELP debt is worked out by adjusting the preceding financial year's *accumulated HELP debt to take account of:

(a) changes in the Consumer Price Index and the Wage Price Index; and

(b) the *HELP debts that he or she incurs during the last 6 months of the preceding financial year; and

(c) *voluntary repayments of the debt; and

(d) *compulsory repayment amounts in respect of the debt.

(See Subdivision 140-B.)

*Stage 2—Accumulated HELP debt*

(3) The person's *accumulated HELP debt is worked out from:

(a) his or her *former accumulated HELP debt; and

(b) the *HELP debts that he or she incurs during the first 6 months of the financial year; and

(c) *voluntary repayments of those debts; and

(d) reductions of those debts under section 142-15 or 144-10.

(See Subdivision 140-C.)

Note: Incurring that financial year's accumulated HELP debt discharges the previous accumulated HELP debt and HELP debts under this Part: see section 140-35.

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## Subdivision 140-B—Former accumulated HELP debts

### 140-5 Working out a former accumulated HELP debt

(1) A person's ***former accumulated HELP debt***, in relation to the person's *accumulated HELP debt for a financial year, is worked out by multiplying:

(a) the amount worked out using the following method statement; by

(b) the *HELP debt indexation factor for the person for 1 June in that financial year.

*Method statement*

Step 1. Take the person's *accumulated HELP debt for the immediately preceding financial year. (This amount is taken to be zero if the person has no accumulated HELP debt for that financial year.)

Step 2. Take the HELP debts (if any) that the person incurred during the last 6 months of the immediately preceding financial year. Group them according to whether the debts are in relation to:

(a) units undertaken with a higher education provider that formed part of one particular *course of study with that provider; or

(b) units undertaken with a higher education provider that formed part of one particular course of study with another higher education provider; or

(c) units that formed part of one particular *bridging course for overseas-trained professionals; or

(d) units access to which was provided by *Open Universities Australia; or

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(e) *OS-HELP assistance, the entitlement to which relates to the person's enrolment in a *course of study with one particular higher education provider (see paragraph 118-1(1)(c)); or

(ea) *SA-HELP assistance for *student services and amenities fees imposed on the person by one particular higher education provider; or

(eb) *STARTUP-HELP assistance for an *accelerator program course provided by one particular higher education provider; or

(f) units undertaken with a *VET provider that formed part of one particular *VET course of study with that provider; or

(g) units undertaken with a VET provider that formed part of one particular VET course of study with another VET provider; or

(h) a *VET student loan in relation to one particular course of study.

Note: There will be more than one group of debts under paragraph (a) if the person incurred debts in relation to more than one course of study with a provider. Similarly, there could be more than one group of debts under paragraph (b), (c), (e), (ea), (eb), (f), (g) or (h).

Step 2A. Work out the total for each group of debts. If the total for a particular group is an amount consisting of a number of whole dollars and a number of cents, the total for that group is taken to be the number of whole dollars. If the total for a group is an amount of less than one dollar, the total for the group is taken to be zero.

Step 2B. If there is more than one group of debts for the person, add together the totals for all of the groups.

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Step 3. Subtract the sum of the amounts by which the person's debts referred to above are reduced because of any *voluntary repayments that have been made during the period:

(a) starting on 1 June in the immediately preceding financial year; and

(b) ending immediately before the next 1 June.

Step 4. Subtract the sum of all of the person's *compulsory repayment amounts that:

(a) were assessed during that period (excluding any assessed as a result of a *return given before that period); or

(b) were assessed after the end of that period as a result of a return given before the end of that period.

Step 5. Subtract the sum of the amounts by which any *compulsory repayment amount of the person is increased (whether as a result of an increase in the person's *taxable income of an *income year or otherwise) by an amendment of an assessment made during that period.

Step 6. Add the sum of the amounts by which any *compulsory repayment amount of the person is reduced (whether as a result of a reduction in the person's *taxable income of an *income year or otherwise) by an amendment of an assessment made during that period.

Example: Lorraine is studying part-time for a Degree of Bachelor of Communications. On 1 June 2013, Lorraine had an accumulated HELP debt of $15,000. She incurred a HELP debt of $1,500 on 31 March 2013. She made a voluntary repayment of $525 on 1 May 2014. Lorraine lodged her 2012-13 income tax return and a

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compulsory repayment amount of $3,000 was assessed and notified on her income tax notice of assessment on 3 September 2013.

To work out Lorraine's former accumulated HELP debt before indexation on 1 June 2014:

Step 1: Take the previous accumulated HELP debt of $15,000 on 1 June 2013.

Step 2: Add the HELP debt of $1,500 incurred on 31 March 2013.

Step 3: Subtract the $525 voluntary repayment made on 1 May 2014.

Step 4: Subtract the $3,000 compulsory repayment assessed on 3 September 2013.

Steps 5 and 6: Do not apply because since 1 June 2013 Lorraine had no amendments to any assessment.

Lorraine's former accumulated HELP debt before indexation on 1 June 2014 is:

$$\left(\$15{,}000 + \$1{,}500\right) - \left(\$525 + \$3{,}000\right) = \$12{,}975$$

If, for example, the indexation factor for 1 June 2014 were 1.030, then the former accumulated HELP debt would be:

$$\$12{,}975 \times 1.030 = \$13{,}364.25$$

(2) For the purposes of this section, an assessment, or an amendment of an assessment, is taken to have been made on the day specified in the notice of assessment, or notice of amended assessment, as the date of issue of that notice.

## 140-10 HELP debt indexation factor

(1) The ***HELP debt indexation factor*** for a person for 1 June in a financial year is the number (rounded to 3 decimal places):

(a) if the *Secretary has determined, under section 142-10 or 144-5, that the indexation of the person's *accumulated HELP debt for the financial year is to be reduced—worked out using the formula in subsection (1A); and

(b) in any other case—that is the lower of the *CPI indexation factor for 1 June in the financial year (see subsection (1B))

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and the *WPI indexation factor for 1 June in the financial year (see subsection (1C)).

(1A) For the purposes of paragraph (1)(a), the formula to work out the *HELP debt indexation factor for the person is:

$$1 + \left( \left[ \frac{A - 1}{365} \right] \times \left[ 365 - B \right] \right)$$

where:

***A*** means the *HELP debt indexation factor for 1 June in the financial year within the meaning of paragraph (1)(b).

***B*** means the number of days in the applicable calendar year determined for the person by the *Secretary under subsection 142-10(2) or 144-5(2).

(1B) The ***CPI indexation factor*** for 1 June in a financial year is worked out using the following method statement:

*Method statement*

Step 1. Add:

(a) the *CPI index number for the *quarter ending on 31 December in that financial year; and

(b) the CPI index numbers for the 3 quarters that immediately preceded that quarter.

Step 2. Add:

(a) the *CPI index number for the *quarter ending on 31 December in the immediately preceding financial year; and

(b) the CPI index numbers for the 3 quarters that immediately preceded that quarter.

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| | |
|---|---|
| Step 3. | The ***CPI indexation factor*** for 1 June in the financial year is the amount under step 1 divided by the amount under step 2, rounded to 3 decimal places. |

(1C) The ***WPI indexation factor*** for 1 June in a financial year is worked out using the following method statement:

*Method statement*

Step 1. Add:

(a) the *WPI index number for the *quarter ending on 31 December in that financial year; and

(b) the WPI index numbers for the 3 quarters that immediately preceded that quarter.

Step 2. Add:

(a) the *WPI index number for the *quarter ending on 31 December in the immediately preceding financial year; and

(b) the WPI index numbers for the 3 quarters that immediately preceded that quarter.

Step 3. The ***WPI indexation factor*** for 1 June in the financial year is the amount under step 1 divided by the amount under step 2, rounded to 3 decimal places.

(2) For the purposes of rounding a *HELP debt indexation factor, the third decimal place is rounded up if, apart from the rounding:

(a) the factor would have 4 or more decimal places; and

(b) the fourth decimal place would be a number greater than 4.

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### 140-20 Publishing HELP debt indexation factors

The *Commissioner must cause to be published before 1 June in each financial year the *HELP debt indexation factor within the meaning of paragraph 140-10(1)(b) for that 1 June.

## Subdivision 140-C—Accumulated HELP debts

### 140-25 Working out an accumulated HELP debt

(1) A person's ***accumulated HELP debt***, for a financial year, is worked out as follows:

$$\text{Former accumulated HELP debt} + \text{HELP debts incurred} - \text{HELP debt repayments} - \text{Location-preferred HELP debtor reduction}$$

where:

***former accumulated HELP debt*** is the person's *former accumulated HELP debt in relation to that *accumulated HELP debt.

***HELP debt repayments*** is the sum of all of the *voluntary repayments (if any) paid, on or after 1 July in the financial year and before 1 June in that year, in reduction of the *HELP debts incurred in that year.

***HELP debts incurred*** means the amount worked out using the method statement in subsection (1A).

***location-preferred HELP debtor reduction*** means the amount by which the person's *accumulated HELP debt is to be reduced as a result of a determination made by the *Secretary in relation to the person under section 142-15 or 144-10:

(a) on or after 1 June in the preceding financial year; and
(b) before 1 June in the financial year.

-Example: Paula is studying part-time for a Degree of Bachelor of Science. On 1 June 2009, her former accumulated HELP debt was worked out using Subdivision 140-B to be $20,000. She incurred a HELP debt of

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$1,500 on 31 August 2008. No repayments have been made in the 12 months from 1 June 2008.

Paula's accumulated HELP debt on 1 June 2009 is worked out by taking her former accumulated HELP debt of $20,000 and adding the $1,500 HELP debt incurred on 31 August 2008. That is:

$$\$20,000 + \$1,500 = \$21,500$$

(1A) For the purposes of the definition of ***HELP debts incurred*** in subsection (1), use the following method statement:

Step 1. Take the HELP debts (if any) that the person incurred during the first 6 months of the financial year. Group them according to whether the debts are in relation to:

(a) units undertaken with a higher education provider that formed part of one particular *course of study with that provider; or

(b) units undertaken with a higher education provider that formed part of one particular course of study with another higher education provider; or

(c) units that formed part of one particular *bridging course for overseas-trained professionals; or

(d) units access to which was provided by *Open Universities Australia; or

(e) *OS-HELP assistance, the entitlement to which relates to the person's enrolment in a *course of study with one particular higher education provider (see paragraph 118-1(1)(c)); or

(ea) *SA-HELP assistance for *student services and amenities fees imposed on the person by one particular higher education provider; or

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(eb) *STARTUP-HELP assistance for an *accelerator program course provided by one particular higher education provider; or

(f) units undertaken with a *VET provider that formed part of one particular *VET course of study with that provider; or

(g) units undertaken with a VET provider that formed part of one particular VET course of study with another VET provider; or

(h) a *VET student loan in relation to one particular course of study.

Note: There will be more than one group of debts under paragraph (a) if the person incurred debts in relation to more than one course of study with a provider. Similarly, there could be more than one group of debts under paragraph (b), (c), (e), (ea), (eb), (f), (g) or (h).

Step 2. Work out the total for each group of debts. If the total for a particular group is an amount consisting of a number of whole dollars and a number of cents, the total for that group is taken to be the number of whole dollars. If the total for a group is an amount of less than one dollar, the total for the group is taken to be zero.

Step 3. If there is more than one group of debts for the person, add together the totals for all of the groups.

(2) The person incurs the *accumulated HELP debt on 1 June in the financial year.

(3) The first financial year for which a person can have an *accumulated HELP debt is the financial year starting on 1 July 2005.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 140-30 Rounding of amounts

(1) If, apart from this section, a person's *accumulated HELP debt would be an amount consisting of a number of whole dollars and a number of cents, disregard the number of cents.

(2) If, apart from this section, a person's *accumulated HELP debt would be an amount of less than one dollar, the person's accumulated HELP debt is taken to be zero.

## 140-35 Accumulated HELP debt discharges earlier debts

(1) The *accumulated HELP debt that a person incurs on 1 June in a financial year discharges, or discharges the unpaid part of:

(a) any *HELP debt that the person incurred during the calendar year immediately preceding that day; and

(b) any accumulated HELP debt that the person incurred on the immediately preceding 1 June.

(2) Nothing in subsection (1) affects the application of Division 137, Subdivision 140-B or section 140-25.

## 140-40 Accumulated HELP debt discharged by death

(1) Upon the death of a person who has an *accumulated HELP debt, the accumulated HELP debt is taken to be discharged.

(2) To avoid doubt, this section does not affect any *compulsory repayment amounts required to be paid in respect of the *accumulated HELP debt, whether or not those amounts were assessed before the person's death.

Note: Accumulated HELP debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 142—Special measures for location-preferred HELP debtors—teachers

## 142-1 Meaning of *location-preferred HELP debtor (teacher)*

(1) A person is a ***location-preferred HELP debtor (teacher)*** on a day if:

(a) the person carries out work as a teacher on that day at a school located in an area that is classified as very remote Australia under the *ABS Remoteness Structure; and

(b) the person has completed a *course of study in education; and

(c) the person incurred a *HECS-HELP debt or a *FEE-HELP debt in relation to that course of study.

(2) For the purposes of paragraph (1)(a), a ***school*** is any of the following:

(a) an approved child care service (within the meaning of the *A New Tax System (Family Assistance) (Administration) Act 1999)* that is a centre-based day care service;

(b) a preschool;

(c) a school providing primary or secondary education.

(3) For the purposes of this Division, the HELP Debtor Guidelines (Teachers) may set out:

(a) circumstances in which a person is taken, or is taken not, to carry out work as a teacher on a day; or

(b) circumstances in which a person is taken, or is taken not, to carry out such work at a school located in an area that is classified as very remote Australia under the *ABS Remoteness Structure; or

(c) circumstances in which a person is taken, or is taken not, to be a *location-preferred HELP debtor (teacher) for particular periods.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 142-5 Meaning of *course of study in education*

(1) Subject to subsection (2), a ***course of study in education*** means a *course of study, completion of which would satisfy the minimum academic requirements for registration as a teacher by an authority of a State or Territory.

(2) The HELP Debtor Guidelines (Teachers) may specify *courses of study that are, or are not, *courses of study in education.

## 142-10 Reducing indexation of accumulated HELP debts

(1) The *Secretary must, on the application of a person under subsection (4), determine that the indexation of the person's *accumulated HELP debt for a financial year is to be reduced if:

(a) on 1 June of the financial year in relation to which the application is made, the person has an *accumulated HELP debt; and

(b) the Secretary is satisfied that the person:

(i) was a *location-preferred HELP debtor (teacher) at any time during the calendar year (the ***applicable calendar year***) ending on 31 December in the financial year; and

(ii) has met such other requirements (if any) as are specified in the HELP Debtor Guidelines (Teachers) for the purposes of this subparagraph.

(2) If the *Secretary determines that the indexation of the person's *accumulated HELP debt for a financial year is to be reduced, the Secretary must determine the number of days in the applicable calendar year in respect of which the person was a *location-preferred HELP debtor (teacher).

(3) The *Secretary must, within the period specified by subsection (3A), give notice to the person of the Secretary's decision on that application. The notice must:

(a) be in writing; and

(b) if the Secretary determines that the indexation of the person's accumulated HELP debt for a financial year is to be

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reduced—state the number of days determined by the Secretary under subsection (2).

(3A) For the purposes of subsection (3), the period is:

(a) the period of 60 days after the day the *Secretary receives the application under subsection (4); or

(b) any longer period (not exceeding 6 months) determined in writing by the Secretary in relation to the application.

Note: The Secretary is taken to have made a decision to reject the application if the Secretary does not notify the person of the decision within the period specified by this subsection: see section 206-5.

(3B) If the notice states a number of days by which indexation of the person's *accumulated HELP debt is to be reduced, the *Secretary must give a copy of the notice to the *Commissioner.

(4) A person may apply to the *Secretary for a determination under subsection (1) that the indexation of the person's *accumulated HELP debt for a financial year be reduced. The application must:

(a) be in writing; and

(b) be in the form (if any) approved by the Secretary and accompanied by the information (if any) required by the Secretary; and

(c) include the person's *tax file number; and

(d) meet any requirements specified by the HELP Debtor Guidelines (Teachers) for the purposes of this paragraph.

## 142-15 Reducing accumulated HELP debts

(1) The *Secretary must, on the application of a person under subsection (5), determine that the person's *accumulated HELP debt is to be reduced in relation to a *course of study in education by a specified amount if:

(a) the Secretary is satisfied that the person:

(i) has been a *location-preferred HELP debtor (teacher) for a period of 4 years, or for periods within a continuous 6 year period that total 4 years; and

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(ii) has met such other requirements (if any) as are specified in the HELP Debtor Guidelines (Teachers) for the purposes of this subparagraph; and

(b) the Secretary has not previously determined under this section that the person's accumulated HELP debt is to be reduced in relation to a course of study in education.

(2) If the *Secretary determines that a person's *accumulated HELP debt is to be reduced, the amount by which that debt is reduced is the amount equal to the lesser of the following:

(a) the sum of the amounts of *HECS-HELP debt and *FEE-HELP debt incurred by the person in respect of units of study:

(i) with a total *EFTSL value of not more than 5.0 *EFTSL; and

(ii) undertaken as part of the *course of study in education mentioned in subsection (1);

(b) the amount of the person's accumulated HELP debt at the start of the period of 4 years, or at the start of the first period of the periods totalling 4 years, referred to in subparagraph (1)(a)(i).

(3) To avoid doubt, subsection (2) may have the effect of reducing a person's *accumulated HELP debt for a financial year to less than zero.

(4) The *Secretary must, within the period specified by subsection (4A), notify the person of the Secretary's decision on that application. The notice must:

(a) be in writing; and

(b) if the Secretary has determined that the person's *accumulated HELP debt is to be reduced—state the amount by which that debt is to be reduced.

(4A) For the purposes of subsection (4), the period is:

(a) the period of 60 days after the day the *Secretary receives the application under subsection (5); or

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(b) any longer period (not exceeding 6 months) determined in writing by the Secretary in relation to the application.

Note: The Secretary is taken to have made a decision to reject the application if the Secretary does not notify the person of the decision within the period specified by this subsection: see section 206-5.

(4B) If the notice states an amount by which the person's *accumulated HELP debt is to be reduced, the *Secretary must give a copy of the notice to the *Commissioner.

(5) A person may apply to the *Secretary for a determination under subsection (1) that the person's *accumulated HELP debt be reduced. The application must:

(a) be in writing; and

(b) be in the form (if any) approved by the Secretary and accompanied by the information (if any) required by the Secretary; and

(c) include the person's *tax file number; and

(d) meet any requirements specified by the HELP Debtor Guidelines (Teachers) for the purposes of this paragraph.

## 142-20 Refunding amounts

If:

(a) the *Secretary has determined, for the purposes of section 142-15, that a person's *accumulated HELP debt is to be reduced by an amount; and

(b) the amount exceeds the sum of:

(i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Chapter; and

(ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

the Commonwealth must refund to the person an amount equal to that excess.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 144—Special measures for location-preferred HELP debtors—health practitioners

## 144-1 Meaning of *location-preferred HELP debtor (health practitioner)*

(1) A person is a ***location-preferred HELP debtor (health practitioner)*** in relation to a *course of study if:

(a) the person has completed the course of study; and

(b) the course of study is covered by subsection (2); and

(c) the person incurred a *HECS-HELP debt or a *FEE-HELP debt in relation to the course of study; and

(d) the person holds the registration or accreditation as a kind of health practitioner for the course of study specified by the HELP Debtor Guidelines (Health Practitioners) (the ***Guidelines***) for the purposes of this paragraph; and

(e) the person carries out work as that kind of health practitioner in the circumstances (if any) specified by the Guidelines for the purposes of this paragraph; and

(f) the work is carried out in an area specified by the Guidelines, by reference to the *ABS Remoteness Structure, as a rural area, a remote area or a very remote area for the purposes of this paragraph; and

(g) the number of hours during which the person carries out work is not less than the minimum number of hours (if any) specified for a health practitioner of that kind by the Guidelines for the purposes of this paragraph; and

(h) the person satisfies any other applicable requirements specified by the Guidelines for the purposes of this paragraph.

*Eligible courses of study*

(2) For the purposes of this Division, a *course of study is covered by this subsection if:

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(a) it is a *course of study in medicine specified by the Guidelines for the purposes of this paragraph; or

(b) it is a course of study:

(i) the completion of which would allow a person to be registered as a nurse practitioner within the meaning of the *Health Insurance Act 1973*; and

(ii) that is specified by the Guidelines for the purposes of this subparagraph; or

(c) it is a course of study otherwise specified by the Guidelines for the purposes of this paragraph.

*HELP Debtor Guidelines (Health Practitioners)*

(3) Without limiting subsection 238-10(1), the Guidelines may set out:

(a) circumstances in which a person is taken, or is taken not, to carry out work as a *location-preferred HELP debtor (health practitioner) as a particular kind of health practitioner; or

(b) circumstances in which a person is taken, or is taken not, to carry out such work in a rural area, a remote area or a very remote area; or

(c) circumstances in which a person is taken, or is taken not, to be a location-preferred HELP debtor (health practitioner) in relation to a *course of study for particular periods.

## 144-5 Reducing indexation of accumulated HELP debts

(1) The *Secretary must, on the application of a person under subsection (6), determine that the indexation of the person's *accumulated HELP debt for a *course of study is to be reduced in relation to a financial year if:

(a) on 1 June of the financial year in relation to which the application is made, the person has an accumulated HELP debt for the course of study; and

(b) the Secretary is satisfied that the person:

(i) was a *location-preferred HELP debtor (health practitioner) in relation to the course of study at any

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time during the calendar year (the ***applicable calendar year***) ending on 31 December in the financial year; and

(ii) has met such other requirements (if any) as are specified in the HELP Debtor Guidelines (Health Practitioners) for the purposes of this subparagraph.

(2) If the *Secretary determines that the indexation of the person's *accumulated HELP debt for a *course of study is to be reduced in relation to a financial year, the Secretary must determine the number of days in the applicable calendar year in respect of which the person was a *location-preferred HELP debtor (health practitioner) for the course of study.

(3) The *Secretary must, within the period specified by subsection (4), give notice to the person of the Secretary's decision on that application. The notice must:

(a) be in writing; and

(b) if the Secretary determines that the indexation of the person's *accumulated HELP debt for the *course of study is to be reduced in relation to a financial year—state the number of days determined by the Secretary under subsection (2).

(4) For the purposes of subsection (3), the period is:

(a) the period of 60 days after the day the *Secretary receives the application under subsection (6); or

(b) any longer period (not exceeding 6 months) determined in writing by the Secretary in relation to the application.

Note: The Secretary is taken to have made a decision to reject the application if the Secretary does not notify the person of the decision within the period specified by this subsection: see section 206-5.

(5) If the notice states a number of days by which indexation of the person's *accumulated HELP debt for the *course of study is to be reduced, the *Secretary must give a copy of the notice to the *Commissioner.

(6) A person may apply to the *Secretary for a determination under subsection (1) that the indexation of the person's *accumulated

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HELP debt for a *course of study be reduced in relation to a financial year. The application must:

(a) be in writing; and

(b) be in the form (if any) approved by the Secretary and accompanied by the information (if any) required by the Secretary; and

(c) include the person's *tax file number; and

(d) meet any requirements specified by the HELP Debtor Guidelines (Health Practitioners) for the purposes of this paragraph.

(7) The *Secretary may refuse to consider an application until the Secretary is satisfied that the application complies with subsection (6).

## 144-10 Reducing accumulated HELP debts

(1) The *Secretary must, on the application of a person under subsection (7), determine that the person's *accumulated HELP debt for a *course of study is to be reduced by a specified amount if the Secretary is satisfied that the person:

(a) has been a *location-preferred HELP debtor (health practitioner) in relation to the course of study for one or more periods that, in total, are not less than the minimum period specified for the course of study by the HELP Debtor Guidelines (Health Practitioners); and

(b) has met such other requirements (if any) as are specified in those Guidelines for the purposes of this paragraph.

(2) If the *Secretary determines that a person's *accumulated HELP debt for a *course of study is to be reduced, the amount by which that debt is reduced must not exceed the lesser of the following:

(a) the sum of the amounts of *HECS-HELP debt and *FEE-HELP debt incurred by the person in respect of units of study:

(i) with a total *EFTSL value not exceeding the maximum amount for the course of study specified in the HELP

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Debtor Guidelines (Health Practitioners) for the purposes of this subparagraph; and

(ii) undertaken as part of the course of study;

(b) the amount of the person's accumulated HELP debt for the course of study on the day the person first becomes a *location-preferred HELP debtor (health practitioner) in relation to the course of study.

(3) To avoid doubt, this section may have the effect of reducing a person's *accumulated HELP debt for a financial year to less than zero.

(4) The *Secretary must, within the period specified by subsection (5), notify the person of the Secretary's decision on that application. The notice must:

(a) be in writing; and

(b) if the Secretary has determined that the person's *accumulated HELP debt for the *course of study is to be reduced—state the amount by which that debt is to be reduced.

(5) For the purposes of subsection (4), the period is:

(a) the period of 60 days after the day the *Secretary receives the application under subsection (7); or

(b) any longer period (not exceeding 6 months) determined in writing by the Secretary in relation to the application.

Note: The Secretary is taken to have made a decision to reject the application if the Secretary does not notify the person of the decision within the period specified by this subsection: see section 206-5.

(6) If the notice states an amount by which the person's *accumulated HELP debt for the *course of study is to be reduced, the *Secretary must give a copy of the notice to the *Commissioner.

(7) A person may apply to the *Secretary for a determination under subsection (1) that the person's *accumulated HELP debt for a *course of study be reduced. The application must:

(a) be in writing; and

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(b) be in the form (if any) approved by the Secretary and accompanied by the information (if any) required by the Secretary; and

(c) include the person's *tax file number; and

(d) meet any requirements specified by the HELP Debtor Guidelines (Health Practitioners) for the purposes of this paragraph.

(8) The *Secretary may refuse to consider an application until the Secretary is satisfied that the application complies with subsection (7).

## 144-15 Refunding amounts

If:

(a) the *Secretary has determined, for the purposes of section 144-10, that a person's *accumulated HELP debt for a *course of study is to be reduced by an amount; and

(b) the amount exceeds the sum of:

(i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Chapter; and

(ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

the Commonwealth must refund to the person an amount equal to that excess.

## 144-20 Reviews of this Division

(1) The Minister must cause to be conducted independent reviews of the operation of this Division before:

(a) 1 July 2025; and

(b) 1 July 2028.

(1A) Each review must consider, and make recommendations to the Commonwealth Government about, the expansion of the policy

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implemented by this Division to other sectors of high skills need in rural, remote and very remote Australia, including the health, mental health and education sectors.

(1B) Each review should consult with rural and remote communities and their health, mental health and education service providers and specifically, the following must be consulted as part of each review:

(a) the National Rural Health Commissioner;

(b) the Regional Education Commissioner.

*Report*

(2) The Minister must cause to be prepared a report of each review under subsection (1) within 3 months of the commencement of the relevant review.

(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

*Response to report*

(4) The Minister must:

(a) prepare a written statement in response to the report; and

(b) cause a copy of the statement to be tabled in each House of the Parliament within 30 sitting days of that House after the copy of the report is tabled in that House.

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# Part 4-2—Discharge of indebtedness

## Division 148—Introduction

### 148-1 What this Part is about

A person who owes a debt to the Commonwealth under this Chapter may make voluntary repayments.

The person is required to make repayments, of amounts based on his or her income, if that income is above a particular amount. The Commissioner of Taxation makes assessments of repayment amounts, which are collected in the same way as amounts of income tax.

### 148-3 The Overseas Debtors Repayment Guidelines

Repayments by *foreign residents are also dealt with in the Overseas Debtors Repayment Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Overseas Debtors Repayment Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 151—How is indebtedness voluntarily discharged?

## 151-1 Voluntary repayments in respect of debts

(1) A person may at any time make a payment in respect of a debt that the person owes to the Commonwealth under this Chapter.

(2) The payment must be made to the *Commissioner.

## 151-10 Application of voluntary repayments

(1) Any money a person pays under this Division to meet the person's debts to the Commonwealth under this Chapter is to be applied in payment of those debts as the person directs at the time of the payment.

(2) If the person has not given any directions, or the directions given do not adequately deal with the matter, any money available is to be applied as follows:

(a) first, in discharge or reduction of any *accumulated HELP debt of the person;

(b) secondly, in discharge or reduction of:

(i) any *HELP debt of the person; or

(ii) if there is more than one such debt, those debts in the order in which they were incurred.

## 151-15 Refunding of payments

If:

(a) a person pays an amount to the Commonwealth under this Division; and

(b) the amount exceeds the sum of:

(i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Chapter; and

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(ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

the Commonwealth must refund to the person an amount equal to that excess.

Note: Interest is payable if the Commonwealth is late in paying refunds: see Part IIIA of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*.

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# Division 154—How is indebtedness compulsorily discharged?

## Subdivision 154-A—Liability to repay amounts

### 154-1 Liability to repay amounts

(1) If:

(a) a person's *repayment income for an *income year exceeds the *minimum repayment income for the income year; and

(b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an *accumulated HELP debt;

the person is liable to pay to the Commonwealth, in accordance with this Division, the amount worked out under section 154-20 in reduction of the person's *repayable debt.

(2) A person is not liable under this section to pay an amount for an *income year if, under section 8 of the *Medicare Levy Act 1986*:

(a) no *Medicare levy is payable by the person on the person's *taxable income for the income year; or

(b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

### 154-5 Repayment income

(1) A person's ***repayment income*** for an *income year is an amount equal to the sum of:

(a) the person's *taxable income for the income year, disregarding the person's assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for the income year; and

(b) the person's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for the income year; and

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(c) if the person:
(i) is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*); and
(ii) has a reportable fringe benefits total (within the meaning of that Act) for the income year;
the reportable fringe benefits total for the income year; and
(d) the person's *exempt foreign income for the income year; and
(e) the person's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for the income year.

(4) The person's ***exempt foreign income*** is the total amount (if any) by which the person's income that is exempt from tax under section 23AF or 23AG of the *Income Tax Assessment Act 1936* exceeds the total amount of losses and outgoings that the person incurs in deriving that exempt income.

(5) For the purposes of subsection (4), disregard any capital losses and outgoings.

## 154-10 Minimum repayment income

The ***minimum repayment income*** for an *income year is:
(a) for the 2019-20 income year—$45,880; or
(b) for a later income year—that amount as indexed under section 154-25.

## 154-15 Repayable debt for an income year

(1) A person's ***repayable debt*** for an *income year is:
(a) the person's *accumulated HELP debt referred to in paragraph 154-1(1)(b) in relation to that income year; or
(b) if one or more amounts:
(i) have been paid in reduction of that debt; or

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(ii) have been assessed under section 154-35 to be payable in respect of that debt;

the amount (if any) remaining after deducting from that debt the amount, or sum of the amounts, so paid or assessed to be payable.

(2) A reference in paragraph (1)(b) to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

## Subdivision 154-AA—Liability of overseas debtors to repay amounts

### 154-16 Liability of overseas debtors to repay amounts

If:

(a) a person is a *foreign resident during an *income year; and

(b) the person's *assessed worldwide income for the income year exceeds the *minimum repayment income for the income year; and

(c) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an *accumulated HELP debt;

the person is liable to pay to the Commonwealth, in accordance with this Division, a levy of the amount worked out under section 154-32.

Note: An amount a person is liable to pay under this section is imposed as a levy under the *Student Loans (Overseas Debtors Repayment Levy) Act 2015*.

### 154-17 Assessed worldwide income

(1) A person's ***assessed worldwide income*** for an *income year is an amount equal to the sum of:

(a) the person's *repayment income for the income year; and

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(b) the person's foreign-sourced income for the income year, converted into Australian currency.

(2) The Overseas Debtors Repayment Guidelines may provide for how to work out a person's foreign-sourced income for an *income year, including how to convert it into Australian currency.

(3) Without limiting subsection (2), the Overseas Debtors Repayment Guidelines may provide for a person's foreign-sourced income for an income year to be worked out in relation to a period that does not correspond to that *income year.

## 154-18 Notices to be given to the Commissioner

*Notice relating to leaving Australia*

(1) A person who:

(a) has an *accumulated HELP debt or otherwise has a *HELP debt that has not yet been discharged; and

(b) leaves Australia (other than in circumstances specified in the Overseas Debtors Repayment Guidelines) with the intention of remaining outside Australia for at least 183 days;

must, no later than 7 days after leaving Australia, give a notice to the *Commissioner in the *approved form.

*Notice relating to absence from Australia*

(2) A person who:

(a) has an *accumulated HELP debt or otherwise has a *HELP debt that has not yet been discharged; and

(b) has been outside Australia for at least 183 days (other than in circumstances specified in the Overseas Debtors Repayment Guidelines) in any 12 month period; and

(c) was not required under subsection (1) to give a notice to the *Commissioner in connection with that absence from Australia;

must, no later than 7 days after the end of those 183 days, give a notice to the Commissioner in the *approved form.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Notice relating to income (including foreign-sourced income)*

(3) A person who:

(a) is a *foreign resident; and

(b) on 1 June immediately preceding an *income year, had an *accumulated HELP debt;

must (other than in circumstances specified in the Overseas Debtors Repayment Guidelines) give to the *Commissioner, in the *approved form, a notice relating to the person's income (including foreign-sourced income) for the income year. The notice must be given within the period specified in the form.

Note: The Commissioner may defer the time for giving the return: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

*Content of notices under this section*

(4) The Overseas Debtors Repayment Guidelines may provide for the content of notices under this section.

## Subdivision 154-B—Amounts payable to the Commonwealth

### 154-20 Amounts payable to the Commonwealth

The amount that a person is liable to pay under section 154-1, in respect of an *income year, is an amount equal to so much of the person's *repayable debt for the income year as does not exceed the percentage of the person's *repayment income that is applicable under the following table:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 154-20

| **Applicable percentages** | | |
|---|---|---|
| **Item** | **If the person's repayment income is:** | **The percentage applicable is:** |
| 1 | More than the *minimum repayment income, but less than:<br>(a) for the 2019-20 *income year—$52,974; or<br>(b) for a later income year—that amount indexed under section 154-25. | 1% |
| 2 | More than or equal to the amount under item 1, but less than:<br>(a) for the 2019-20 *income year—$56,152; or<br>(b) for a later income year—that amount indexed under section 154-25. | 2% |
| 3 | More than or equal to the amount under item 2, but less than:<br>(a) for the 2019-20 *income year—$59,522; or<br>(b) for a later income year—that amount indexed under section 154-25. | 2.5% |
| 4 | More than or equal to the amount under item 3, but less than:<br>(a) for the 2019-20 *income year—$63,093; or<br>(b) for a later income year—that amount indexed under section 154-25. | 3% |
| 5 | More than or equal to the amount under item 4, but less than:<br>(a) for the 2019-20 *income year—$66,878; or<br>(b) for a later income year—that amount indexed under section 154-25. | 3.5% |
| 6 | More than or equal to the amount under item 5, but less than:<br>(a) for the 2019-20 *income year—$70,891; or<br>(b) for a later income year—that amount indexed under section 154-25. | 4% |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Applicable percentages** | | |
|---|---|---|
| **Item** | **If the person's repayment income is:** | **The percentage applicable is:** |
| 7 | More than or equal to the amount under item 6, but less than:<br>(a) for the 2019-20 *income year—$75,145; or<br>(b) for a later income year—that amount indexed under section 154-25. | 4.5% |
| 8 | More than or equal to the amount under item 7, but less than:<br>(a) for the 2019-20 *income year—$79,653; or<br>(b) for a later income year—that amount indexed under section 154-25. | 5% |
| 9 | More than or equal to the amount under item 8, but less than:<br>(a) for the 2019-20 *income year—$84,433; or<br>(b) for a later income year—that amount indexed under section 154-25. | 5.5% |
| 10 | More than or equal to the amount under item 9, but less than:<br>(a) for the 2019-20 *income year—$89,499; or<br>(b) for a later income year—that amount indexed under section 154-25. | 6% |
| 11 | More than or equal to the amount under item 10, but less than:<br>(a) for the 2019-20 *income year—$94,869; or<br>(b) for a later income year—that amount indexed under section 154-25. | 6.5% |
| 12 | More than or equal to the amount under item 11, but less than:<br>(a) for the 2019-20 *income year—$100,561; or<br>(b) for a later income year—that amount indexed under section 154-25. | 7% |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Applicable percentages | | |
|---|---|---|
| **Item** | **If the person's repayment income is:** | **The percentage applicable is:** |
| 13 | More than or equal to the amount under item 12, but less than:<br>(a) for the 2019-20 *income year—$106,594; or<br>(b) for a later income year—that amount indexed under section 154-25. | 7.5% |
| 14 | More than or equal to the amount under item 13, but less than:<br>(a) for the 2019-20 *income year—$112,990; or<br>(b) for a later income year—that amount indexed under section 154-25. | 8% |
| 15 | More than or equal to the amount under item 14, but less than:<br>(a) for the 2019-20 *income year—$119,770; or<br>(b) for a later income year—that amount indexed under section 154-25. | 8.5% |
| 16 | More than or equal to the amount under item 15, but less than:<br>(a) for the 2019-20 *income year—$126,956; or<br>(b) for a later income year—that amount indexed under section 154-25. | 9% |
| 17 | More than or equal to the amount under item 16, but less than:<br>(a) for the 2019-20 *income year—$134,573; or<br>(b) for a later income year—that amount indexed under section 154-25. | 9.5% |
| 18 | More than or equal to the amount under item 17. | 10% |

## 154-25 Indexation

(1) The following amounts for the 2020-21 *income year, or a later income year:

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(a) the *minimum repayment income;
(b) the amounts referred to in paragraph (a) of the second column of items 1 to 17 of the table in section 154-20;

are indexed by multiplying the corresponding amounts for the 2019-20 income year by the amount worked out using the formula:

$$\frac{\text{The sum of the *CPI index numbers for the *quarter ending on 31 December immediately before the income year and the 3 quarters immediately preceding that quarter}}{\text{The sum of the *CPI index numbers for the *quarter ending on 31 December immediately before the 2019-20 income year and the 3 quarters immediately preceding that quarter}}$$

(4) If an amount worked out under this section is an amount made up of dollars and cents, round the amount down to the nearest dollar.

## 154-30 Publishing indexed amounts

The Minister must cause to be published in the *Gazette*, before the start of the 2019-20 *income year or a later income year:

(a) the *minimum repayment income; and
(b) the amounts referred to in paragraph (b) of the second column of items 1 to 17 of the table in section 154-20;

for that income year.

## 154-32 Amounts payable to the Commonwealth by overseas debtors

The amount of levy that a person is liable to pay under section 154-16, in respect of an *income year, is an amount equal to the difference between:

(a) the amount that the person would have been liable to pay under section 154-1 if:
(i) the person had a *repayment income for the income year of an amount equal to the person's *assessed worldwide income for the income year; and
(ii) subsection 154-1(2) did not apply to the person; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the amount (if any) the person is liable to pay under section 154-1, in respect of the income year.

## Subdivision 154-C—Assessments

### 154-35 Commissioner may make assessments

The *Commissioner may, from any information in the Commissioner's possession, whether from a *return or otherwise, make an assessment of:

(a) the person's *accumulated HELP debt on 1 June immediately before the making of the assessment; and

(b) the amount required to be paid in respect of that debt under section 154-1 or 154-16.

### 154-40 Notification of notices of assessment of tax

If:

(a) the *Commissioner is required to serve on a person a notice of assessment in respect of the person's income of an *income year under section 174 of the *Income Tax Assessment Act 1936*; and

(b) the Commissioner has made, in respect of the person, an assessment under section 154-35 of this Act of the amounts referred to in that section; and

(c) notice of the assessment under that section has not been served on the person;

notice of the assessment under that section may be served by specifying the amounts concerned in the notice referred to in paragraph (a).

### 154-45 Commissioner may defer making assessments

(1) A person may apply in the *approved form to the *Commissioner for deferral of the making of an assessment in respect of the person under section 154-35.

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(2) The application must specify:
  (a) the *income year for which the deferral is being sought; and
  (b) the reasons for seeking the deferral.

(3) The *income year specified in the application must be:
  (a) the income year in which the person makes the application; or
  (b) the immediately preceding income year; or
  (c) the immediately succeeding income year.

(4) The *Commissioner may, on application by a person under this section, defer making an assessment in respect of the person under section 154-35 if the Commissioner is of the opinion that:
  (a) if the assessment were made, payment of the assessed amount would cause serious hardship to the person; or
  (b) there are other special reasons that make it fair and reasonable to defer making the assessment.

(5) The *Commissioner may defer making the assessment for any period that he or she thinks appropriate.

(6) The *Commissioner must, as soon as practicable after an application is made under this section:
  (a) consider the matter to which the application relates; and
  (b) notify the applicant of the Commissioner's decision on the application.

Note: Deferrals of making assessments, or refusals of applications, are reviewable under Part 5-7.

## 154-50 Commissioner may amend assessments

(1) A person may apply in the *approved form to the *Commissioner for an amendment of an assessment made in respect of the person under section 154-35 so that:
  (a) the amount payable under the assessment is reduced; or
  (b) no amount is payable under the assessment.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) The application:
  (a) must be made within 2 years after the day on which the *Commissioner gives notice of the assessment to the person; or
  (b) must specify the reasons justifying a later application.

(3) The *Commissioner may, on application by a person under this section, amend an assessment made in respect of the person under section 154-35 so that:
  (a) the amount payable under the assessment is reduced; or
  (b) no amount is payable under the assessment;
if the Commissioner is of the opinion that:
  (c) payment of the assessed amount has caused or would cause serious hardship to the person; or
  (d) there are other special reasons that make it fair and reasonable to make the amendment.

(4) The *Commissioner must, as soon as practicable after an application is made under this section:
  (a) consider the matter to which the application relates; and
  (b) notify the applicant of the Commissioner's decision on the application.

Note: Amendments of assessments, or refusals of applications, are reviewable under Part 5-7.

## 154-55 Higher education providers etc. to provide information to Commissioner

(1) A higher education provider must give to the *Commissioner, if asked by the Commissioner to do so, any information:
  (a) that is in its possession relating to students who have applied for one or more of the following:
    (i) *HECS-HELP assistance or *FEE-HELP assistance for a unit of study;
    (ii) *OS-HELP assistance in relation to a period of 6 months;

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(iii) *SA-HELP assistance for a *student services and amenities fee for a period;

(iv) *STARTUP-HELP assistance for an *accelerator program course; and

(b) that the Commissioner reasonably requires for the purposes of this Chapter.

(2) *Open Universities Australia must give to the *Commissioner, if asked by the Commissioner to do so, any information:

(a) that is in its possession relating to students who have applied for *FEE-HELP assistance for a unit of study; and

(b) that the Commissioner reasonably requires for the purposes of this Chapter.

## Subdivision 154-D—Application of tax legislation

### 154-60 Returns, assessments, collection and recovery

Subject to this Part:

(a) Part IV of the *Income Tax Assessment Act 1936*; and

(aa) Division 5 of the *Income Tax Assessment Act 1997*; and

(b) Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*;

apply, so far as they are capable of application, in relation to a *compulsory repayment amount of a person as if it were *income tax assessed to be payable by a taxpayer by an assessment made under Part IV of the *Income Tax Assessment Act 1936*.

### 154-65 Charges and civil penalties for failing to meet obligations

(1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:

(a) any *compulsory repayment amount of a person were *income tax payable by the person in respect of the *income year in respect of which the assessment of that debt was made; and

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(b) this Chapter, and Part 5-5, were *income tax laws.

(2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

## 154-70 Pay as you go (PAYG) withholding

Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and 12-G) in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of amounts of a *compulsory repayment amount of a person as if the compulsory repayment amount were *income tax.

## 154-80 Pay as you go (PAYG) instalments

Division 45 in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of a *compulsory repayment amount of a person as if the compulsory repayment amount were *income tax.

## 154-90 Failures to comply with section 154-18

Part III of the *Taxation Administration Act 1953* applies in relation to a failure to comply with section 154-18 of this Act as if that section were a taxation law (within the meaning of section 2 of that Act).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Chapter 5—Administration

## Division 159—Introduction

### 159-1 What this Chapter is about

This Chapter deals with the following administrative matters:

- payments made by the Commonwealth under this Act (see Part 5-1);
- tuition protection (see Part 5-1A);
- the Higher Education Tuition Protection Fund, the Higher Education Tuition Protection Director and the Higher Education Tuition Protection Fund Advisory Board (see Part 5-1B);
- administrative requirements that are imposed on higher education providers (see Part 5-2);
- electronic communication between higher education providers and students (see Part 5-3);
- management of information (see Part 5-4);
- tax file numbers of students (see Part 5-5);
- indexation of certain amounts (see Part 5-6);
- reconsideration and administrative review of certain decisions (see Part 5-7);
- the application of the Regulatory Powers Act, including in relation to monitoring and investigation powers, civil

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penalties, infringement notices, enforceable undertakings and injunctions (see Part 5-8).

## 159-5 The Administration Guidelines

Administrative matters are also dealt with in the Administration Guidelines. The provisions of this Chapter may indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The Administration Guidelines are made by the Minister under section 238-10.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-1—Payments by the Commonwealth

## Division 164—Payments by the Commonwealth

### 164-1 What this Part is about

This Part contains general provisions relating to how the Commonwealth makes payments under this Act.

### 164-5 Time and manner of payments

(1) Amounts payable by the Commonwealth to a higher education provider or other body under this Act are to be paid in such a way, including payment in instalments, as the Minister determines.

(2) Payments of amounts payable by the Commonwealth to a higher education provider or other body under this Act are to be made at such times as the *Secretary determines.

### 164-10 Advances

(1) The *Secretary may determine that an advance is to be made to a higher education provider or other body on account of an amount that is expected to become payable under a provision of this Act to the provider or other body.

(1AA) The *Secretary may vary or revoke a determination made under subsection (1).

(1A) If the advance exceeds the amount that becomes payable, an amount equal to the excess may be:

(a) deducted from any amount that is payable, or to be paid, to the provider or body under this Act; or

(b) recovered by the Commonwealth from the provider or body as a debt due to the Commonwealth.

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(1B) If the provider or other body uses the advance for a purpose other than that for which it was given, an amount equal to the advance may be:

(a) deducted from any amount that is payable, or to be paid, to the provider or body under this Act; or

(b) recovered by the Commonwealth from the provider or body as a debt due to the Commonwealth.

(2) The conditions that would be applicable to a payment of the amount on account of which the advance is made are applicable to the advance.

(3) This section does not affect the Minister's power to determine under section 33-40 that an advance is payable to a higher education provider.

## 164-15 Overpayments of Commonwealth grants

An overpayment of an amount made to a higher education provider or other body under Part 2-2, 2-2A, 2-3 or 2-4 may, in whole or part, be:

(a) deducted from any amount that is payable, or to be paid, to that provider or body under Part 2-2, 2-2A, 2-3 or 2-4; or

(b) recovered by the Commonwealth from that provider or body as a debt due to the Commonwealth.

## 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.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 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.

## 164-20 Rounding of amounts

If an amount payable by the Commonwealth under this Act is an amount made up of dollars and cents, round the amount down to the nearest dollar.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-1A—Tuition protection

## Division 1—Preliminary

### 166-1 What this Part is about

Certain higher education providers who default in delivering a unit of study to a student receiving or entitled to FEE-HELP assistance or HECS-HELP assistance for the unit must give information about the default to the Higher Education Tuition Protection Director and to the student. If the student has made an up-front payment for the unit the provider may also have obligations under Part 5A of the *Tertiary Education Quality and Standards Agency Act 2011* in relation to the default.

The provider must assist the student to find a replacement unit or replacement course, or the provider must re-credit the student's HELP balance (and offer the student a choice about this). If the provider fails to discharge this obligation, the Director must offer the student a suitable replacement course. If the Director is not satisfied that there is a suitable replacement course, or if the student elects re-crediting, the student's HELP balance is re-credited.

### 166-5 Application of this Part

(1) This Part applies to higher education providers other than:
  (a) *Table A providers; or
  (b) providers of a kind prescribed by the Higher Education Provider Guidelines.

(2) Despite subsection (1), the Minister may, by written notice, determine that this Part:
  (a) applies to a specified higher education provider; or
  (b) does not apply to a specified higher education provider;

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if the Minister considers it appropriate that this Part applies, or does not apply, to the provider.

(2A) In deciding whether it is appropriate that this Part applies, or does not apply, to a specified higher education provider, the Minister must have regard to the following:

(a) the risk of the provider *defaulting in relation to one or more students;

(b) whether the provider is financially viable and likely to remain financially viable;

(c) any non-compliance, or risk of future non-compliance, with this Act or legislative instruments made under this Act;

(d) any advice given to the Minister by the *Secretary, *TEQSA or the *Higher Education Tuition Protection Director in relation to any of the matters referred to in paragraphs (a) to (c);

(e) any other matter the Minister considers appropriate.

(3) A determination under subsection (2):

(a) may be made either unconditionally or subject to conditions; and

(b) may be expressed to be in force indefinitely or for a specified period.

(4) A determination made under subsection (2) is not a legislative instrument.

(5) Despite subsection (1), sections 166-27, 166-30 and 166-32 apply to all higher education providers.

Note: Section 166-27 deals with provider obligations to provide information about replacement courses, section 166-30 deals with obligations of providers who provide replacement courses and section 166-32 deals with the requirement of providers who provide replacement courses to keep up-to-date enrolment information.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 166-10 When a higher education provider defaults in relation to a student

(1) A higher education provider ***defaults*** in relation to a student if:

(a) the provider fails to start to provide a unit of study to the student on the day on which the unit was scheduled to start; and

(b) the student has not withdrawn before that day; and

(c) the student was entitled, or would have been entitled, to *FEE-HELP assistance or *HECS-HELP assistance for the unit of study.

Note: If the student has made any up-front payments in relation to the unit of study or any other affected units of the original course the provider may also have defaulted in relation to the student under the TEQSA Act: see section 62C of that Act.

(2) A higher education provider ***defaults*** in relation to a student if:

(a) the provider ceases to provide a unit of study to the student on a day after the unit starts but before it is completed; and

(b) the student has not withdrawn before that day; and

(c) the student was entitled, or would have been entitled, to *FEE-HELP assistance or *HECS-HELP assistance for the unit of study.

(3) A higher education provider ***defaults*** in relation to a student if circumstances prescribed by the Higher Education Provider Guidelines apply in relation to the provider and the student.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 2—Obligations when a provider defaults in relation to a student

## 166-15 Higher education providers must give notice of default to Higher Education Tuition Protection Director

*Application of section*

(1) This section applies if a higher education provider *defaults in relation to a student.

*Notifying the Higher Education Tuition Protection Director of default*

(2) The higher education provider must, within 24 hours of the *default occurring, give written notice to the *Higher Education Tuition Protection Director of the circumstances of the default.

*Notifying the Higher Education Tuition Protection Director of details of default*

(3) The higher education provider must, within 3 business days of the *default occurring, give a written notice to the *Higher Education Tuition Protection Director specifying:

(a) the following information in relation to each student in relation to whom the provider has defaulted:

(i) the student's full name and contact details;

(ii) the units of study and the *course of study that the student was enrolled in at the time of the default;

(iii) the amount of the tuition fees for each unit of study that the student was enrolled in at the time of the default;

(iv) details about the payment of those tuition fees; and

(aa) advice as to:

(i) whether the provider intends to discharge its obligations to the student under section 166-25; and

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(ii) (if appropriate) how the provider intends to discharge those obligations; and

(b) any other matter prescribed by the Higher Education Provider Guidelines.

(4) If requested in writing by the *Higher Education Tuition Protection Director, the higher education provider must give to the Director a copy of a student's record of results for the *units of study that the student has completed.

*Notice requirements*

(5) A notice given under subsection (2) or (3) must comply with any requirements prescribed by the Higher Education Provider Guidelines.

*Civil penalty*

(6) A higher education provider contravenes this subsection if the provider fails to comply with this section.

Civil penalty: 60 penalty units.

*Offence*

(7) A higher education provider commits an offence of strict liability if the provider contravenes this section.

Penalty: 60 penalty units.

## 166-20 Higher education providers must give notice of default to affected students

*Application of section*

(1) This section applies if a higher education provider *defaults in relation to a student.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Notifying students of default*

(2) The higher education provider must, within 24 hours of the *default occurring, give written notice of the default to the students in relation to whom the provider has defaulted.

*Notice requirements*

(3) A notice given under subsection (2) must comply with any requirements prescribed by the Higher Education Provider Guidelines.

*Civil penalty*

(4) A higher education provider contravenes this subsection if the provider fails to comply with this section.

Civil penalty: 60 penalty units.

*Offence*

(5) A higher education provider commits an offence of strict liability if the provider contravenes this section.

Penalty: 60 penalty units.

## 166-25 Obligation on providers in case of default

*Application of section*

(1) This section applies if a higher education provider *defaults in relation to a student.

*Provider obligations*

(2) The provider must discharge its obligations to the student in accordance with this section, within the period (the ***provider obligation period***) of 14 days after the day the provider *defaulted in relation to the student.

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(3) The provider discharges its obligations to the student if:

(a) the provider arranges for the student to be offered a place in a suitable *replacement unit or suitable *replacement course and the student accepts the offer in writing; or

(b) the provider:

(i) re-credits the student's *HELP balance in accordance with subsection 97-42(1) or 104-42(1) (as the case requires); and

(ii) pays an amount to the Commonwealth in accordance with subsection 36-24A(2) or 110-5(1) (as the case requires).

*Suitable replacement units or suitable replacement courses*

(4) The provider must identify whether:

(a) there are one or more suitable *replacement units or suitable *replacement courses for the student; or

(b) there is no suitable replacement unit or suitable replacement course for the student.

*Matters relating to whether a course is a suitable replacement course*

(5) In identifying whether there is a suitable *replacement course, the provider must have regard to the following matters:

(a) whether the replacement course leads to the same or a comparable qualification as the *original course;

(b) what credits the student may receive for the units of study of the original course successfully completed by the student;

(c) whether the mode of delivery of the replacement course is the same as the mode of delivery of the original course;

(d) the location where the replacement course will be primarily delivered;

(e) whether the student:

(i) will incur additional fees that are unreasonable; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(ii) will be able to attend the course without unreasonable impacts on the student's prior commitments;

(f) any other matters prescribed by the Higher Education Provider Guidelines.

*Matters relating to whether a unit is a suitable replacement unit*

(6) In identifying whether there is a suitable *replacement unit, the provider must have regard to the following matters:

(a) whether the student will receive credit under the student's *original course for the replacement unit;

(b) whether the mode of delivery of the replacement unit is the same as the mode of delivery of the *affected unit;

(c) the location where the replacement unit will be primarily delivered;

(d) whether the student:

(i) will incur additional fees that are unreasonable; and

(ii) will be able to attend the replacement unit without unreasonable impacts on the student's prior commitments;

(e) any other matters prescribed by the Higher Education Provider Guidelines.

*Suitable replacement unit or suitable replacement course available*

(7) If paragraph (4)(a) applies, the provider must give a written notice to the student that includes the following:

(a) a statement that the student may decide to do one of the following:

(i) enrol in a suitable *replacement unit or suitable *replacement course;

(ii) enrol in another unit of study or course;

(iii) elect to have an amount equal to the amounts of *FEE-HELP assistance or *HECS-HELP assistance that the student received for the *affected unit re-credited to the student's *HELP balance;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) a description of each suitable replacement unit or suitable replacement course, including the qualification that the suitable replacement course leads to;

(c) the contact details of the provider of each suitable replacement unit or suitable replacement course;

(d) an explanation that, if *tuition fees or the student's *student contribution amount have been paid for the affected unit of the *original course, tuition fees or the student contribution amount would not be payable for a suitable replacement unit or a replacement unit of a suitable replacement course;

(e) an explanation that if the student chooses to enrol in another unit of study or course, there is no obligation on the provider of the other unit or course to offer a replacement unit without charge to the student;

(f) an explanation of the matters the provider must have regard to under subsections (5) and (6);

(g) any other matters prescribed by the Higher Education Provider Guidelines.

*Elections for up-front payments must be consistent*

(8) Despite paragraph (7)(a), if an *up-front payment was made for any *affected units of the *original course, any elections made under that paragraph in relation to those units must be consistent with any elections made under paragraph 62F(7)(a) of the *TEQSA Act in relation to those units.

Example: A student who is entitled to FEE-HELP assistance or HECS-HELP assistance for an affected unit of an original course also makes an up-front payment for the same affected unit. The student elects, under subparagraph (7)(a)(i), to enrol in a suitable replacement course. The student must elect to enrol in a suitable replacement course under subparagraph 62F(7)(a)(i) of the TEQSA Act in relation to the affected unit.

(9) The Higher Education Provider Guidelines may prescribe circumstances in which elections are considered to be consistent or inconsistent for the purposes of subsection (8).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 166-26 Failure to discharge obligations

*Civil penalty*

(1) A higher education provider is liable to a civil penalty if:
  (a) the provider *defaults in relation to a student; and
  (b) the provider fails to discharge its obligations to the student in accordance with section 166-25.

Civil penalty: 60 penalty units.

*Offence*

(2) A higher education provider commits an offence of strict liability if:
  (a) the provider *defaults in relation to a student; and
  (b) the provider fails to discharge its obligations to the student in accordance with section 166-25.

Penalty: 60 penalty units.

(3) The maximum penalty for each day that an offence under subsection (2) continues is 10% of the maximum penalty that can be imposed in respect of that offence.

Note: Subsection (2) is a continuing offence under section 4K of the *Crimes Act 1914*.

## 166-26A Providers to notify of outcome of discharge of obligations

(1) A higher education provider that *defaults in relation to a student must give a notice to the *Higher Education Tuition Protection Director within 7 days after the end of the *provider obligation period.

(2) The notice must include the following:
  (a) whether the provider discharged its obligations to the student in accordance with section 166-25;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) if the provider arranged a suitable *replacement unit or a suitable *replacement course:
(i) details of the student; and
(ii) details of the replacement unit or the replacement course; and
(iii) evidence of the student's acceptance of an offer of a place in the replacement unit or replacement course;
(c) if the provider re-credited the student's *HELP balance and paid an amount to the Commonwealth as referred to in paragraph 166-25(3)(b):
(i) details of the student; and
(ii) details of the amount re-credited and the amount paid.

(3) The notice must comply with any requirements prescribed by the Higher Education Provider Guidelines.

*Civil penalty*

(4) A higher education provider contravenes this subsection if the provider fails to comply with this section.

Civil penalty: 60 penalty units.

*Offence*

(5) A higher education provider commits an offence of strict liability if the provider contravenes this section.

Penalty: 60 penalty units.

## 166-26B Student placement service

*Application of section*

(1) This section applies if the *Higher Education Tuition Protection Director determines that:
(a) a higher education provider has *defaulted in relation to a student; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) either:

(i) the provider has failed to discharge its obligations under section 166-25 to the student by the end of the *provider obligation period; or

(ii) the provider is unlikely to be able to discharge its obligations under section 166-25 to the student by the end of the provider obligation period.

*Higher Education Tuition Protection Director must decide*

(2) The *Higher Education Tuition Protection Director must decide:

(a) that the Director is satisfied that there are one or more suitable *replacement courses for the student; or

(b) that the Director is not satisfied that there is a suitable replacement course for the student.

*Matters relating to whether a course is a suitable replacement course*

(3) In deciding whether the *Higher Education Tuition Protection Director is satisfied that there is a suitable *replacement course, the Director must have regard to the following matters:

(a) whether the replacement course leads to the same or a comparable qualification as the *original course;

(b) what credits the student may receive for the units of study of the original course successfully completed by the student;

(c) whether the mode of delivery of the replacement course is the same as the mode of delivery of the original course;

(d) the location where the replacement course will be primarily delivered;

(e) whether the student:

(i) will incur additional fees that are unreasonable; and

(ii) will be able to attend the course without unreasonable impacts on the student's prior commitments;

(f) any other matters prescribed by the Higher Education Provider Guidelines.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Suitable replacement course available*

(4) If paragraph (2)(a) applies, the *Higher Education Tuition Protection Director must give a written notice to the student that includes the following:

(a) a statement that the student may decide to do one of the following:

(i) enrol in a suitable *replacement course;

(ii) enrol in another course;

(iii) elect to have an amount equal to the amounts of *FEE-HELP assistance or *HECS-HELP assistance that the student received for the *affected unit re-credited to the student's *HELP balance;

(b) a description of each suitable replacement course, including the qualification that the suitable replacement course leads to;

(c) the contact details of the provider of each suitable replacement course;

(d) an explanation that, if *tuition fees or the student's *student contribution amount have been paid for the affected unit of the original course, tuition fees or the student contribution amount would not be payable for a *replacement unit of a suitable replacement course;

(e) an explanation that if the student chooses to enrol in another course, there is no obligation on the provider of the other course to offer a replacement unit without charge to the student;

(f) an explanation of the matters the Director must have regard to under subsection (3);

(g) any other matters prescribed by the Higher Education Provider Guidelines.

*Accepting an offer of a suitable replacement course*

(5) If the *Higher Education Tuition Protection Director arranges for the student to be offered a place in a *replacement course, the student may accept the offer.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(6) An acceptance must:
  (a) be in writing; and
  (b) be given to the provider of the suitable replacement course within the period specified in subsection (7).

(7) For the purposes of subsection (6), the period is:
  (a) the period of 30 days after the day the *Higher Education Tuition Protection Director gives notice under subsection (4); or
  (b) if the Director determines that exceptional circumstances apply:
    (i) any shorter period determined in writing by the Director; or
    (ii) any longer period (not exceeding 12 months) determined in writing by the Director, and agreed to by the student.

*No suitable replacement course available*

(8) If paragraph (2)(b) applies, the *Higher Education Tuition Protection Director must give a written notice to the student that includes the following:
  (a) an explanation of the matters the Director must have regard to under subsection (3);
  (b) an explanation of the student's right to request reconsideration, under section 209-10, of the Director's decision within 28 days after the day on which the student is given the notice;
  (c) a statement that, to facilitate early re-crediting, the student may, at any time during the 28 days, give the Director notice in writing that the student will not seek reconsideration of the decision;
  (d) a statement that, if the student does not apply for reconsideration, an amount equal to the amounts of *FEE-HELP assistance or *HECS-HELP assistance that the student received for the *affected unit will be re-credited to the student's *HELP balance.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Elections for up-front payments must be consistent*

(9) Despite paragraph (4)(a), if an *up-front payment was made for any *affected units of the *original course, any elections made under that paragraph in relation to those units must be consistent with any elections made under paragraph 62J(4)(a) of the *TEQSA Act in relation to those units.

Example: A student who is entitled to FEE-HELP assistance or HECS-HELP assistance for an affected unit of an original course also makes an up-front payment for the same affected unit. The student elects, under subparagraph (4)(a)(iii), to have an amount re-credited to the student's HELP balance. The student must elect to receive a refund of the up-front payment under subparagraph 62J(4)(a)(iii) of the TEQSA Act in relation to the affected unit.

(10) The Higher Education Provider Guidelines may prescribe circumstances in which elections are considered to be consistent or inconsistent for the purposes of subsection (9).

## 166-27 Obligations of providers to provide information about replacement courses

(1) The *Higher Education Tuition Protection Director may, by notice in writing, require a higher education provider to provide such information that the Director reasonably requires to enable the Director to make a decision under subsection 166-26B(2) regarding suitable *replacement courses for a student in relation to whom a provider has *defaulted.

(2) The information must be provided:
  (a) in a form (if any) approved by the *Higher Education Tuition Protection Director for the information; and
  (b) in accordance with such other requirements as the Director makes.

*Civil penalty*

(3) A higher education provider contravenes this subsection if:
  (a) the provider is given a notice under subsection (1); and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the provider fails to comply with the notice.

Civil penalty: 60 penalty units.

*Offence*

(4) A higher education provider commits an offence of strict liability if:
(a) the provider is given a notice under subsection (1); and
(b) the provider fails to comply with the notice.

Penalty: 60 penalty units.

## 166-30 Obligations of replacement providers

(1) This section applies if a student accepts an offer of a place in a *replacement unit or *replacement course.

(2) The higher education provider who provides the *replacement unit or *replacement course must give written notice of the acceptance to the *Higher Education Tuition Protection Director within 14 days of the acceptance.

(3) The higher education provider who provides the *replacement unit or *replacement course must ensure that the student:
(a) for a replacement course—is granted credits for units of study of the *original course successfully completed by the student; and
(b) if the student has been charged a *student contribution amount or a *tuition fee for an *affected unit—is not charged a student contribution amount or a tuition fee for the replacement unit or the replacement unit of the replacement course; and
(c) is enrolled in the replacement unit or replacement course as soon as practicable.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Civil penalty*

(4) A higher education provider contravenes this subsection if the provider fails to comply with this section.

Civil penalty: 60 penalty units.

*Offence*

(5) A higher education provider commits an offence of strict liability if the provider contravenes this section.

Penalty: 60 penalty units.

## 166-32 Obligations of replacement providers regarding enrolment information

(1) A higher education provider who provides a *replacement unit or a *replacement course to a student must keep up to date records of the following in relation to the student:

(a) the student's full name and contact details;

(b) the name of the replacement unit or replacement course (and *units of study) that the student is currently enrolled in;

(c) any *student contribution amounts or *tuition fees charged to the student for the replacement unit or for any units of study of the replacement course;

(d) details of the replacement unit or units of study of the replacement course successfully completed by the student;

(e) details of the credits granted to the student for the replacement unit or for units of study of the *original course successfully completed by the student.

(2) A higher education provider contravenes this subsection if the provider fails to comply with this section.

Civil penalty: 60 penalty units.

(3) A higher education provider commits an offence of strict liability if the provider contravenes this section.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Penalty: 60 penalty units.

### 166-35 Notification obligations where there is no replacement course or student elects re-crediting

(1) This section applies if:
  (a) a higher education provider *defaults in relation to a student; and
  (b) either of the following apply:
    (i) the Director decides, under paragraph 166-26B(2)(b), that the Director is not satisfied that there is a suitable *replacement course for the person;
    (ii) the person elects, under subparagraph 166-26B(4)(a)(iii), to have an amount equal to the amounts of *FEE-HELP assistance or *HECS-HELP assistance that the person received for the unit re-credited to the student's *HELP balance.

(2) The *Higher Education Tuition Protection Director must give a written notice to the *Secretary of that fact.

(3) The *Higher Education Tuition Protection Director must give a written notice to the provider stating that an amount equal to the amounts of *FEE-HELP assistance or *HECS-HELP assistance that the student received for the *affected unit will be *re-credited to the student's *HELP balance.

### 166-40 Other tuition protection information must be provided

(1) This section applies to a higher education provider if:
  (a) the *Higher Education Tuition Protection Director believes on reasonable grounds that the provider has information relevant to the Director's functions under this Act; and
  (b) the Director, by written notice given to the provider, requests the provider to give the Director the information:
    (i) within the period (not shorter than 14 days after the notice is given) specified in the notice; and

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(ii) in the manner specified in the notice.

(2) The provider must comply with the notice within the period specified in the notice.

*Civil penalty*

(3) A higher education provider is liable to a civil penalty if the provider contravenes subsection (2).

Civil penalty: 60 penalty units.

*Offence*

(4) A higher education provider commits an offence of strict liability if the provider contravenes subsection (2).

Penalty: 60 penalty units.

## 166-45 Continuing application of Part to certain persons

(1) This Part continues to apply in relation to a person that was a higher education provider as if the person were still a higher education provider.

(2) Subsection (1) applies for the purposes of dealing with or resolving any matter that arose during, or that relates to, the period when the person was a higher education provider.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-1B—Higher Education Tuition Protection Fund, Higher Education Tuition Protection Director and Higher Education Tuition Protection Fund Advisory Board

## Division 1—Higher Education Tuition Protection Fund

### 167-1 Name of Fund

(1) The HELP Tuition Protection Fund is continued in existence with the new name *Higher Education Tuition Protection Fund.

(2) The *Higher Education Tuition Protection Fund is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

### 167-5 Credits to the Higher Education Tuition Protection Fund

There must be credited to the *Higher Education Tuition Protection Fund amounts equal to the following:

(a) each amount of *HELP tuition protection levy received from a higher education provider;

(aa) each amount of *up-front payments tuition protection levy received from a *registered higher education provider;

(b) each amount paid by a higher education provider to the Commonwealth under subsection 36-24A(2), or subsection 110-5(1) because of re-crediting under section 104-42, if the balance of the Fund had previously been reduced under paragraph 167-10(1)(g) in relation to that amount;

(ba) each amount paid by a *registered higher education provider to the *Higher Education Tuition Protection Director under subsection 62L(2) of the *TEQSA Act;

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(c) any other money appropriated by the Parliament for the purposes of the Higher Education Tuition Protection Fund;

(d) any penalties for late payment of HELP tuition protection levy;

(da) any penalties for late payment of up-front payments tuition protection levy;

(e) each amount received by the Commonwealth for the purposes of the Higher Education Tuition Protection Fund.

Note 1: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

Note 2: HELP tuition protection levy is imposed by the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*. The Higher Education Provider Guidelines deal with collection of the levy: see section 19-66A.

Note 3: Up-front payments tuition protection levy is imposed by the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020*. The Up-front Payments Guidelines deal with collection of the levy: see subsection 26A(5) of the TEQSA Act.

## 167-10 Purposes of the Higher Education Tuition Protection Fund

(1) The purposes of the *Higher Education Tuition Protection Fund are as follows:

(a) making payments in connection with tuition protection under this Act and the *Higher Education Provider Guidelines;

(b) making payments in connection with tuition protection under the *TEQSA Act and the *Up-front Payments Guidelines;

(c) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in the performance of the *Higher Education Tuition Protection Director's functions, including in managing the Fund;

(d) paying any remuneration and allowances payable to the Higher Education Tuition Protection Director;

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(e) paying any remuneration and allowances payable to the members of the *Higher Education Tuition Protection Fund Advisory Board;

(f) paying any amount that is required or permitted to be repaid;

(g) reducing the balance of the Fund (and therefore the available appropriation for the Fund) without making a real or notional payment.

Note 1: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

Note 2: Part 5A of the TEQSA Act deals with tuition protection for students that make an up-front payment for a unit of study.

(2) The Higher Education Provider Guidelines may, for the purposes of paragraph (1)(a), make provision in relation to such payments, including in relation to the following:

(a) the circumstances in which payments may be made;

(b) amounts of different kinds of payments;

(c) methods for calculating different kinds of payments.

Note 1: For example, the Higher Education Provider Guidelines may provide that a replacement provider may receive a transfer payment if a student accepts an offer of a replacement course with the provider.

Note 2: For the purposes of paragraph (1)(b), subsection 26A(6) of the TEQSA Act provides that the Up-front Payments Guidelines may make provision in relation to the making of payments for the purposes of that paragraph.

(3) The purposes in subsection (1) do not include paying or discharging any costs, expenses or other obligations associated with services provided to the *Higher Education Tuition Protection Director by any employee or officer of a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 2—Higher Education Tuition Protection Director

## 167-15 Higher Education Tuition Protection Director

(1) There is to be a *Higher Education Tuition Protection Director.

(2) The office of *Higher Education Tuition Protection Director is to be held by the person who holds the office of TPS Director under section 54A of the *Education Services for Overseas Students Act 2000*.

Note: The TPS Director also holds the office of VSL Tuition Protection Director under the *VET Student Loans Act 2016*.

(3) The reference in subsection (2) to the person who holds the office of TPS Director includes a reference to a person acting in that office for the time being because of an appointment under section 54K of the *Education Services for Overseas Students Act 2000*.

## 167-20 Functions of the Higher Education Tuition Protection Director

(1) The *Higher Education Tuition Protection Director has the following functions:

(a) facilitating and monitoring the placement of students in relation to whom a higher education provider has *defaulted;

(aa) facilitating and monitoring the placement of students under Part 5A of the *TEQSA Act, in relation to whom a *registered higher education provider has defaulted (within the meaning of that Act);

(b) paying amounts out of, or reducing the balance of, the *Higher Education Tuition Protection Fund under section 167-10;

(c) reporting to the Minister on:

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(i) the operation of Part 5-1A of this Act and Part 5A of the TEQSA Act (both of which deal with tuition protection); and

(ii) the financial status of the Higher Education Tuition Protection Fund;

(d) managing the Higher Education Tuition Protection Fund in a way that ensures that it is able to meet all its liabilities from time to time;

(e) making the legislative instrument each year under section 13 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*;

(ea) making the legislative instrument each year under section 13 of the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020*;

(f) recommending that the Secretary take action against a higher education provider that has defaulted in relation to a student;

(fa) recommending that *TEQSA take action against a registered higher education provider that has defaulted in relation to a student (within the meaning of the TEQSA Act);

(g) any other function conferred by this Act or any other law of the Commonwealth;

(h) any other function that is incidental or conducive to the performance of the above functions.

(2) The *Higher Education Tuition Protection Director has power to do all things necessary or convenient to be done for, or in connection with, the performance of the Director's functions.

(3) The *Higher Education Tuition Protection Director must, in performing a function, or exercising a power, under this section, have regard to how the performance of that function, or exercise of that power, will affect the *tuition protection requirements under this Act and the tuition protection requirements within the meaning of the *TEQSA Act.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 167-25

## 167-25 Administrative provisions relating to the Higher Education Tuition Protection Director

(1) Each provision of the *Education Services for Overseas Students Act 2000* specified in column 1 of an item in the following table applies in relation to the *Higher Education Tuition Protection Director in accordance with columns 2 and 3 of the item.

**Administrative provisions relating to the Higher Education Tuition Protection Director**

| Item | Column 1 | Column 2 | Column 3 |
|---|---|---|---|
| | **This provision of the *Education Services for Overseas Students Act 2000* …** | **applies in relation to the Higher Education Tuition Protection Director as if the reference in that provision to …** | **were a reference to …** |
| 1 | A provision covered by subsection (2) of this section | TPS Director | Higher Education Tuition Protection Director |
| 2 | A provision covered by subsection (2) of this section | the regulations | the Higher Education Provider Guidelines |
| 3 | A provision covered by subsection (2) of this section | the Minister | the Minister administering this Act |
| 4 | A provision covered by subsection (2) of this section | the Department | the Department administered by the Minister administering this Act |

(2) This subsection covers the following provisions of the *Education Services for Overseas Students Act 2000*:
(a) section 54C;
(b) section 54D;
(c) section 54E;

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(d) section 54F;
(e) section 54J;
(f) section 54L;
(g) section 54N.

(3) For the purposes of section 54E of the *Education Services for Overseas Students Act 2000*, the Minister administering that Act is taken to have given approval to:
(a) the TPS Director to engage in paid employment as the *Higher Education Tuition Protection Director; and
(b) the Higher Education Tuition Protection Director to engage in paid employment as the TPS Director.

(4) The Minister may terminate the appointment of the TPS Director if:
(a) the TPS Director engages, except with the Minister's approval, in paid employment outside the duties of his or her office as *Higher Education Tuition Protection Director; or
(b) the Higher Education Tuition Protection Director fails, without reasonable excuse, to comply with section 54F of the *Education Services for Overseas Students Act 2000* as applied to the Higher Education Tuition Protection Director by item 1 of the table in subsection (1) of this section.

(5) The *Higher Education Tuition Protection Director is not personally subject to any liability to any person (other than the Commonwealth) in respect of anything done, or omitted to be done, in good faith in the exercise or performance of the Director's powers or functions.

(6) In this section:

***TPS Director*** has the same meaning as in the *Education Services for Overseas Students Act 2000*.

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# Division 3—Higher Education Tuition Protection Fund Advisory Board

## 167-30 Establishment and membership

(1) The *Higher Education Tuition Protection Fund Advisory Board is established by this section.

(2) The members of the *Higher Education Tuition Protection Fund Advisory Board are the members of the TPS Advisory Board appointed under section 55D of the *Education Services for Overseas Students Act 2000*.

(3) The reference in subsection (2) to the members of the TPS Advisory Board includes a reference to a person for the time being acting as a member of that Board because of an appointment under subsection 55N(1) of the *Education Services for Overseas Students Act 2000*.

(4) The Chair of the *Higher Education Tuition Protection Fund Advisory Board is the Chair of the TPS Advisory Board appointed under subsection 55C(3) of the *Education Services for Overseas Students Act 2000*.

(5) The reference in subsection (4) to the Chair of the TPS Advisory Board includes a reference to a person for the time being acting as the Chair of that Board because of an appointment under subsection 55N(2) of the *Education Services for Overseas Students Act 2000*.

(6) The Deputy Chair of the *Higher Education Tuition Protection Fund Advisory Board is the Deputy Chair of the TPS Advisory Board appointed under subsection 55C(3) of the *Education Services for Overseas Students Act 2000*.

(7) Despite subsection 55C(2) of the *Education Services for Overseas Students Act 2000*, a person is eligible to be appointed to the TPS Advisory Board if the Minister is satisfied that the person has

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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qualifications or experience that the Minister considers relevant to the performance of the *Higher Education Tuition Protection Fund Advisory Board's functions.

## 167-35 Function of the Higher Education Tuition Protection Fund Advisory Board

(1) The *Higher Education Tuition Protection Fund Advisory Board's functions are to provide advice and make recommendations to the *Higher Education Tuition Protection Director in relation to:

(a) the making of a legislative instrument each year under section 13 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*; and

(b) the making of a legislative instrument each year under section 13 of the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020*.

(2) The advice and recommendations may be made either on the *Higher Education Tuition Protection Fund Advisory Board's own initiative or at the request of the *Higher Education Tuition Protection Director.

## 167-40 Administrative provisions relating to the Higher Education Tuition Protection Fund Advisory Board

(1) Each provision of the *Education Services for Overseas Students Act 2000* specified in column 1 of an item in the following table applies in relation to the *Higher Education Tuition Protection Fund Advisory Board in accordance with columns 2 and 3 of the item.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 167-40

**Administrative provisions relating to the Higher Education Tuition Protection Fund Advisory Board**

| Item | Column 1<br>**This provision of the *Education Services for Overseas Students Act 2000* …** | Column 2<br>**applies in relation to the Higher Education Tuition Protection Fund Advisory Board as if the reference in that provision to …** | Column 3<br>**were a reference to …** |
|---|---|---|---|
| 1 | A provision covered by subsection (2) of this section | the Board | the Higher Education Tuition Protection Fund Advisory Board |
| 2 | A provision covered by subsection (2) of this section | the Chair | the Chair of the Higher Education Tuition Protection Fund Advisory Board |
| 3 | A provision covered by subsection (2) of this section | the Deputy Chair | the Deputy Chair of the Higher Education Tuition Protection Fund Advisory Board |
| 4 | A provision covered by subsection (2) of this section | a Board member | a member of the Higher Education Tuition Protection Fund Advisory Board |
| 5 | A provision covered by subsection (2) of this section | the Board members | the members of the Higher Education Tuition Protection Fund Advisory Board |
| 6 | A provision covered by subsection (2) of this section | the Minister | the Minister administering this Act |
| 7 | Section 55E | the regulations | the Higher Education Provider Guidelines |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Administrative provisions relating to the Higher Education Tuition Protection Fund Advisory Board** | | | |
|---|---|---|---|
| **Item** | **Column 1** | **Column 2** | **Column 3** |
| | **This provision of the *Education Services for Overseas Students Act 2000* …** | **applies in relation to the Higher Education Tuition Protection Fund Advisory Board as if the reference in that provision to …** | **were a reference to …** |
| 8 | Paragraph 55L(2)(d) | section 55H | section 55H as applied to a member of the Higher Education Tuition Protection Fund Advisory Board by this section |
| 9 | Paragraph 55L(2)(d) | section 55J | section 55J as applied to a member of the Higher Education Tuition Protection Fund Advisory Board by this section |
| 10 | Paragraph 56C(2)(a) | section 55J | section 55J as applied to a member of the Higher Education Tuition Protection Fund Advisory Board by this section |

(2) This subsection covers the following provisions of the *Education Services for Overseas Students Act 2000*:

(a) section 55E;
(b) section 55H;
(c) section 55J;
(d) section 56A;
(e) section 56B;
(f) section 56C;

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(g) section 56D;
(h) section 56E;
(i) section 56F;
(j) section 56G.

(3) A member of the *Higher Education Tuition Protection Fund Advisory Board is not personally subject to any liability to any person (other than the Commonwealth) in respect of anything done, or omitted to be done, in good faith in the exercise or performance of the Board's powers or functions.

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# Part 5-2—Administrative requirements on higher education providers

## Division 169—Administrative requirements on higher education providers

### 169-1 What this Part is about

This Part imposes a number of administrative requirements on higher education providers.

Note: It is a quality and accountability requirement that a higher education provider comply with this Act: see section 19-65.

### 169-5 Notices

*Who gets a notice?*

(1) A higher education provider must give such notices as are required by the Administration Guidelines to a person:
  (a) who is enrolled with the provider for a unit of study; and
  (b) who:
    (i) is seeking Commonwealth assistance under this Act for the unit or for a *student services and amenities fee imposed on the person by the provider; or
    (ii) is a *Commonwealth supported student for the unit.

(1A) A higher education provider must also give such notices as are required by the Administration Guidelines to a person:
  (a) who is enrolled with the provider for an *accelerator program course; and
  (b) who is seeking Commonwealth assistance under this Act for the accelerator program course or for a *student services and amenities fee imposed on the person by the provider.

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*Contents of notice*

(2) A notice must contain the information set out in the Administration Guidelines as information that must be provided in such a notice.

*Date by which notice to be given*

(3) A notice must be given within the period set out in the Administration Guidelines.

*Purpose and effect of notice*

(4) A notice under this section is given for the purpose only of providing information to a person. Any liability or entitlement of a person under this Act (including the person's *Student Learning Entitlement) is not affected by:
  (a) the failure of a higher education provider to give a notice under this section; or
  (b) the failure of a higher education provider to give such a notice by the date required under the Administration Guidelines; or
  (c) the notice containing an incorrect statement.

## 169-10 Correction of notices

*Higher education provider to correct notice*

(1) If, after giving a person a notice under section 169-5, a higher education provider is satisfied that a material particular in the notice was not, or has ceased to be, correct, the provider must give a further written notice to the person setting out the correct particular.

*Person may request correction of notice*

(2) A person who receives a notice from a higher education provider under section 169-5 may give to the provider a written request for the notice to be corrected in respect of a material particular if the

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person considers that the notice was not, or has ceased to be, correct in that particular.

(3) The request must be given to an *appropriate officer of the provider either:
  (a) within 14 days after the day the notice was given; or
  (b) within such further period as the provider allows for the giving of the request.

(4) The request must:
  (a) specify the particular in the notice that the person considers is incorrect; and
  (b) specify the reasons the person has for considering that the particular is incorrect.

(5) The making of the request does not affect any liability or entitlement of the person under this Act (including the person's *Student Learning Entitlement).

*Higher education provider to process request*

(6) If a higher education provider receives a request under this section the provider must, as soon as practicable:
  (a) determine the matter to which the request relates; and
  (b) notify the person in writing of the provider's determination; and
  (c) if the provider determines that a material particular in the notice was not, or has ceased to be, correct—give a further notice under subsection (1).

## 169-15 Charging student contribution amounts and tuition fees

(1) A higher education provider:
  (a) must require any student who:
    (i) is a *Commonwealth supported student in relation to a unit of study; and
    (ii) is enrolling in the unit with the provider; and

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(iii) is not an *exempt student for the unit;

to pay to the provider the student's *student contribution amount for the unit; and

(b) must not require the student to pay any of his or her *tuition fee or any other *fee for the unit.

(1A) Despite subsection (1), a higher education provider must not require a student who is enrolling in a unit that is a *replacement unit to pay to the provider the student's *student contribution amount for the unit.

(2) A higher education provider:

(a) must require any *domestic student who:

(i) is not a *Commonwealth supported student in relation to a unit of study; and

(ii) is enrolling in the unit with the provider; and

(iii) is not an *exempt student for the unit;

to pay to the provider the student's *tuition fee for the unit; and

(b) must not require any domestic student to pay any other *fee, or any of his or her *student contribution amount, for the unit.

(2A) Despite subsection (2), a higher education provider must not require a domestic student who is enrolling in a unit that is a *replacement unit to pay to the provider the student's *tuition fee for the unit.

(3) However (unless subsection (4) applies), a higher education provider must repay to a person any payment of his or her *student contribution amount or *tuition fee for a unit of study that the person made on or before the *census date for the unit if the person is no longer enrolled in the unit at the end of the census date.

Note: Other provisions about student contribution amounts and tuition fees are set out in Subdivision 19-F and Parts 2-2 and 3-2.

(4) Subsection (3) does not apply if:

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(a) the student is no longer enrolled in the unit at the end of the census date because the provider *defaulted in relation to the student; and

(b) the student has accepted an offer of a place in a *replacement unit or *replacement course.

## 169-16 Charging accelerator program course fees

(1) A higher education provider:

(a) must require any *domestic student who is enrolling in an *accelerator program course with the provider to pay to the provider the student's *accelerator program course fee for the course; and

(b) must not require any domestic student to pay any other *fee for the course.

(2) However, a higher education provider must repay to a person any payment of the person's *accelerator program course fee for an *accelerator program course that the person made on or before the *census date for the course if the person is no longer enrolled in the course at the end of the census date.

Note: Other provisions about accelerator program course fees are set out in Subdivision 19-F and Part 3-7.

## 169-17 Requirements relating to withdrawal from units of study

(1) The Higher Education Provider Guidelines may prescribe requirements to be complied with by higher education providers in relation to student withdrawal from units of study.

(2) Without limiting subsection (1), the Higher Education Provider Guidelines may:

(a) require that fees (however described) must not be charged by higher education providers for withdrawal, either generally or in specified circumstances; or

(b) specify requirements to be met in relation to re-enrolment after withdrawal; or

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(c) specify requirements in relation to processes and procedures for dealing with student withdrawal from units of study.

(3) A higher education provider contravenes this subsection if:
(a) the provider is subject to a requirement under this section; and
(b) the provider fails to comply with the requirement.

Civil penalty: 120 penalty units.

## 169-18 Requirements relating to withdrawal from accelerator program courses

(1) The Higher Education Provider Guidelines may prescribe requirements to be complied with by higher education providers in relation to student withdrawal from *accelerator program courses.

(2) Without limiting subsection (1), the Higher Education Provider Guidelines may:
(a) require that fees (however described) must not be charged by higher education providers for withdrawal, either generally or in specified circumstances; or
(b) specify requirements to be met in relation to re-enrolment after withdrawal; or
(c) specify requirements in relation to processes and procedures for dealing with student withdrawal from *accelerator program courses.

(3) A higher education provider contravenes this subsection if:
(a) the provider is subject to a requirement under this section; and
(b) the provider fails to comply with the requirement.

Civil penalty: 120 penalty units.

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## 169-20 Exempt students

(1) The Minister may determine in writing that all students, or students of a specified kind, are exempt from payment of their *student contribution amounts and *tuition fees for:

(a) any units of study undertaken as part of a specified *course of study; or

(b) any units of study undertaken as part of a course of study of a specified kind.

A student, or a student of such a kind, (as the case requires) is an ***exempt student*** for those units.

(2) The Administration Guidelines may provide that:

(a) in all circumstances; or

(b) in the circumstances specified in those guidelines;

all students are exempt from payment of their *student contribution amounts and *tuition fees for any units of study that wholly consist of *work experience in industry. A student is, or is in those specified circumstances, (as the case requires) an ***exempt student*** for such units.

(3) A student is an ***exempt student*** for a unit of study undertaken with a higher education provider as part of a *course of study with that provider if:

(a) the provider has awarded the student an exemption scholarship for the course; and

(b) the provider awarded the scholarship in accordance with any requirements specified in the Administration Guidelines.

(3A) A student is an ***exempt student*** for a unit of study undertaken with one higher education provider as part of a *course of study with another (the ***home provider***) if:

(a) the home provider has awarded the student an exemption scholarship for the course; and

(b) the home provider awarded the scholarship in accordance with any requirements specified in the Administration Guidelines; and

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(c) the student must undertake the unit, because it is required to complete the course.

(3B) A student is an ***exempt student*** for a unit of study undertaken with one higher education provider (the ***host provider***) as part of a *course of study undertaken with another if:

(a) the host provider has awarded the student an exemption for the unit; and

(b) the host provider awarded the scholarship in accordance with any requirements specified in the Administration Guidelines.

(4) Without limiting the matters that may be specified in the Administration Guidelines for the purposes of paragraph (3)(b), those matters may include one or both of the following:

(a) the maximum number of exemption scholarships that a particular higher education provider may award in respect of a year;

(b) which students are eligible to receive exemption scholarships.

## 169-25 Determining census dates and EFTSL values

(1) A higher education provider must, for each unit of study it provides or proposes to provide during a period ascertained in accordance with the Administration Guidelines, determine, for that period:

(a) a particular date to be the *census date for the unit; and

(b) the *EFTSL value for the unit.

Note: If a higher education provider provides the same unit over different periods, the unit is taken to be a different unit of study in respect of each period. Therefore the provider will have to determine a separate census date, and a separate EFTSL value, in respect of each period.

(1A) A higher education provider must, for any *accelerator program course it provides or proposes to provide during a period ascertained in accordance with the Administration Guidelines, determine, for that period:

(a) a particular date to be the *census date for the course; and

(b) the *EFTSL value for the course.

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(2) A date determined under paragraph (1)(a) or (1A)(a) must be determined in accordance with the Administration Guidelines.

(3) The provider must publish:
   (a) the *census date for the unit or course by the date ascertained in accordance with, and in the manner specified in, the Administration Guidelines; and
   (b) the *EFTSL value for the unit or course by the date ascertained in accordance with, and in the manner specified in, the Administration Guidelines.

Civil penalty: 60 penalty units.

*Variations*

(4) The provider must not vary the *census date for the unit or course, or the *EFTSL value for the unit or course, after publication under subsection (3), unless the provider:
   (a) does so:
      (i) before the date ascertained in accordance with the Administration Guidelines; and
      (ii) in circumstances specified in the Administration Guidelines; or
   (b) does so with the written approval of the Minister.

Civil penalty: 60 penalty units.

(5) If paragraph (4)(a) applies, the provider must publish the variation by the date ascertained in accordance with, and in the manner specified in, the Administration Guidelines.

(6) If paragraph (4)(b) applies, the provider must publish the variation by the date, and in the manner, specified by the Minister in the approval.

## 169-27 Meaning of *EFTSL*

(1) An ***EFTSL*** is an equivalent full-time student load. It is a measure of the study load:

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(a) in respect of a *course of study—for a year, of a student undertaking that course of study on a full-time basis; or

(b) in respect of an *accelerator program course—for the period of the accelerator program course, of a student undertaking that course on a full-time basis.

(2) For the purposes of a *course of study, a particular amount of EFTSL is an amount of study, undertaken with a higher education provider as part of the course, represented by units of study with *EFTSL values the sum of which equals that amount.

## 169-28 Meaning of *EFTSL value*

*EFTSL value of a unit of study*

(1) The ***EFTSL value*** of a unit of study is the value that the higher education provider with which the unit may be undertaken determines in writing to be the EFTSL value of the unit, expressed as a fraction of one *EFTSL.

(2) If the unit can form part of more than one *course of study, the provider may determine an EFTSL value of the unit for each such course.

(3) If a unit of study is subject to separate determinations in relation to different *courses of study, a reference in this Act to the EFTSL value of the unit is, when the unit forms part of such a course, a reference to the EFTSL value of the unit determined under subsection (2) for the course.

*EFTSL value of an accelerator program course*

(3A) The ***EFTSL value*** of an *accelerator program course is the value that the higher education provider with which the course may be undertaken determines in writing to be the EFTSL value of the course, expressed as one *EFTSL or a fraction of one EFTSL.

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*Determinations to be in accordance with Administration Guidelines*

(4) Determinations under this section must be in accordance with any requirements set out in the Administration Guidelines.

## 169-30 Communications with the Commonwealth concerning students etc.

(1) In communications under, or for the purposes of, this Act between the Commonwealth and a higher education provider concerning a person who:

(a) is enrolled, or seeking to enrol, in a unit of study with the provider; and

(b) has indicated that the person is seeking Commonwealth assistance under this Act for the unit, or is a *Commonwealth supported student for the unit;

the provider must use any identifier for that person that the *Secretary has indicated must be used in such communications.

(2) In communications under, or for the purposes of, this Act between the Commonwealth and a higher education provider concerning a person who:

(a) has had a *student services and amenities fee imposed on him or her by the provider; and

(b) has indicated that the person is seeking *SA-HELP assistance for the fee;

the provider must use any identifier for that person that the *Secretary has indicated must be used in such communications.

(3) In communications under, or for the purposes of, this Act between the Commonwealth and a higher education provider concerning a person who:

(a) is enrolled, or seeking to enrol, in an *accelerator program course with the provider; and

(b) has indicated that the person is seeking Commonwealth assistance under this Act for the accelerator program course;

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the provider must use any identifier for that person that the *Secretary has indicated must be used in such communications.

## 169-35 6 week cut off for corrections affecting entitlement to Commonwealth assistance

(1) If:

(a) more than 6 weeks after the *census date for a unit of study or an *accelerator program course undertaken with a higher education provider, a person gives the provider information in writing (the ***correct information***) that establishes that information contained in or accompanying the person's *request for Commonwealth assistance was incorrect; and

(b) the correct information establishes that the person was entitled to a particular kind of Commonwealth assistance other than *SA-HELP assistance;

this Act applies as if the person had never been entitled to that particular Commonwealth assistance.

(2) If:

(a) more than 6 weeks after the day on which a *student services and amenities fee imposed on a person by a higher education provider was payable, the person gives the provider information in writing (the ***correct information***) that establishes that information contained in or accompanying a *request for Commonwealth assistance made by the person in relation to the fee was incorrect; and

(b) the correct information establishes that the person was entitled to *SA-HELP assistance for the fee;

this Act applies as if the person had never been entitled to the SA-HELP assistance.

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# Part 5-3—Electronic communications

## Division 174—Electronic communications

### 174-1 What this Part is about

Certain documents that this Act requires or permits to be given between students and higher education providers may be transmitted electronically.

### 174-5 Guidelines may deal with electronic communications

(1) The Administration Guidelines may make provision for or in relation to requiring or permitting information or documents to be given by students to higher education providers, or by higher education providers to students, in accordance with particular information technology requirements:
  (a) on a particular kind of data storage device; or
  (b) by means of a particular kind of electronic communication.

(1A) A higher education provider contravenes this subsection if:
  (a) the provider is subject to a requirement under subsection (1); and
  (b) the provider fails to comply with the requirement.

Civil penalty: 60 penalty units.

(2) The Administration Guidelines may make provision for or in relation to requiring, in relation to an electronic communication from a student to a higher education provider:
  (a) that the communication contain an electronic signature (however described); or
  (b) that the communication contain a unique identification in an electronic form; or

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(c) that a particular method be used to identify the originator of the communication and to indicate the originator's approval of the information communicated.

(3) The reference in subsection (1) to giving information includes a reference to anything that is ***giving information*** for the purposes of section 9 of the *Electronic Transactions Act 1999*.

(4) In this section:

***data storage device*** has the same meaning as in the *Electronic Transactions Act 1999*.

***electronic communication*** has the same meaning as in the *Electronic Transactions Act 1999*.

***information*** has the same meaning as in the *Electronic Transactions Act 1999*.

***information technology requirements*** has the same meaning as in the *Electronic Transactions Act 1999*.

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# Part 5-4—Management of information

## Division 179—Protection of personal information

### 179-1 What this Division is about

An officer who discloses, copies or records personal information otherwise than in the course of official employment, or causes unauthorised access to or modification of personal information, commits an offence unless an exception applies.

### 179-5 Meaning of *personal information*

***Personal information*** is:

(a) information or an opinion about an identified individual, or an individual who is reasonably identifiable:
  (i) whether the information or opinion is true or not; and
  (ii) whether the information or opinion is recorded in a material form or not; and

(b) obtained or created by an *officer for the purposes of any of the following:
  (i) Chapter 2;
  (ii) Chapters 3 and 4;
  (iii) Part 5-1A;
  (iv) section 26A or Part 5A of the *TEQSA Act; and

(c) not *Australia's Economic Accelerator program information.

Note: See Division 181 for *Australia's Economic Accelerator program information.

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## 179-10 Use of personal information

*Offence*

(1) An *officer commits an offence if:

(a) the officer either:

(i) discloses information; or

(ii) makes a copy or other record of information; and

(b) the information is *personal information; and

(c) the information was acquired by the officer in the course of the officer's *official employment; and

(d) the disclosure did not occur, or the copy or record was not made, in the course of that official employment.

Penalty: Imprisonment for 2 years.

*Exception—consent*

(2) Subsection (1) does not apply if the person to whom the *personal information relates has consented to the disclosure, or the making of the copy or record.

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

*Exception—authorised or required by a Commonwealth law*

(3) Subsection (1) does not apply if the disclosure, or the making of the copy or record, is authorised or required by a law of the Commonwealth.

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

*Exception—authorised or required by certain State or Territory laws*

(4) Subsection (1) does not apply if the disclosure, or the making of the copy or record, is authorised or required by a law of a State or Territory:

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(a) that relates to the administration, regulation or funding of education; or

(b) that is specified in the Administration Guidelines for the purposes of this paragraph.

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

## 179-15 Meanings of *officer* etc. and *official employment*

*Meaning of **officer***

(1) A person is an ***officer*** if:

(a) the person is or was a *Commonwealth officer (see subsection (2)); or

(b) the person is or was an *officer of a higher education provider (see subsection (3)); or

(ba) the person is or was an *officer of a registered higher education provider (see subsection (3AA)); or

(c) the person is or was an *officer of Open Universities Australia (see subsection (3A)); or

(d) the person is or was an *officer of a Tertiary Admission Centre (see subsection (3B)).

(2) A ***Commonwealth officer*** is a person who holds office under, or is employed by, the Commonwealth, and includes the following:

(a) a person appointed or engaged under the *Public Service Act 1999*;

(b) a person permanently or temporarily employed:

(i) in the Public Service of a Territory (other than the Northern Territory); or

(ii) in, or in connection with, the Defence Force; or

(iii) in the Service of any authority or body constituted by or under a law of the Commonwealth or of a Territory (other than the Northern Territory);

(c) the Commissioner of the Australian Federal Police, a Deputy Commissioner of the Australian Federal Police, an AFP

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employee or a special member of the Australian Federal Police (all within the meaning of the *Australian Federal Police Act 1979*);

(d) a person who, although not holding office under, or employed by:

(i) the Commonwealth; or

(ii) a Territory (other than the Northern Territory); or

(iii) any authority or body constituted by or under a law of the Commonwealth or of a Territory (other than the Northern Territory);

performs services for or on behalf of the Commonwealth, a Territory (other than the Northern Territory), or such an authority or body;

(e) a person who is an employee of the Australian Postal Corporation;

(f) a person who performs services for or on behalf of the Australian Postal Corporation;

(g) an employee of a person who performs services for or on behalf of the Australian Postal Corporation.

(3) A person is an ***officer of a higher education provider*** if the person is:

(a) an officer or employee of the provider; or

(b) a person who, although not an officer or employee of the provider, performs services for or on behalf of the provider.

(3AA) A person is an ***officer of a registered higher education provider*** if the person is:

(a) an officer or employee of the provider; or

(b) a person who, although not an officer or employee of the provider, performs services for or on behalf of the provider.

(3A) A person is an ***officer of Open Universities Australia*** if the person is:

(a) an officer or employee of *Open Universities Australia; or

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(b) a person who, although not an officer or employee of Open Universities Australia, performs services for or on behalf of Open Universities Australia.

(3B) A person is an ***officer of a Tertiary Admission Centre*** if the person is:

(a) an officer or employee of the *Tertiary Admission Centre; or

(b) a person who, although not an officer or employee of the Tertiary Admission Centre, performs services for or on behalf of the Tertiary Admission Centre.

*Meaning of **official employment***

(4) ***Official employment*** of an *officer is:

(a) for a *Commonwealth officer—the performance of duties or functions, or the exercise of powers under, or for the purposes of:

(i) this Act; or

(ii) the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*; or

(iii) the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020*; or

(iv) the *TEQSA Act; or

(v) the *VET Student Loans Act 2016*; or

(b) for an *officer of a higher education provider—service as such an officer; or

(ba) for an *officer of a registered higher education provider—service as such an officer; or

(c) for an *officer of Open Universities Australia—service as such an officer; or

(d) for an *officer of a Tertiary Admission Centre—service as such an officer.

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## 179-20 When information is disclosed in the course of official employment

Without limiting the matters that are disclosures that occur in the course of an *officer's *official employment for the purposes of paragraph 179-10(d), the following disclosures are taken to be disclosures that occur in the course of an officer's official employment:

(a) disclosure by a *Commonwealth officer of *personal information to another Commonwealth officer to assist that other officer in the other officer's official employment;

(aa) disclosure by a Commonwealth officer of personal information to a person in connection with the provision of actuarial services for the purposes of assisting the officer to perform duties or functions or exercise powers mentioned in paragraph 179-15(4)(a);

(b) disclosure by an officer of personal information to the Administrative Review Tribunal in connection with a *reviewable decision;

(c) disclosure by a Commonwealth officer of personal information to an *officer of a higher education provider to assist the provider's officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act;

(caa) disclosure by a Commonwealth officer of personal information to an *officer of a registered higher education provider to assist the provider's officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act or the *TEQSA Act;

(ca) disclosure by a Commonwealth officer of personal information to an *officer of Open Universities Australia to assist *Open Universities Australia in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act;

(cb) disclosure by a Commonwealth officer of personal information to an *officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in

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performing duties or functions, or in exercising powers, under, or for the purposes of, this Act;

(d) disclosure by an officer of a higher education provider of personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment;

(da) disclosure by an officer of a registered higher education provider of personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment;

(e) disclosure by an officer of Open Universities Australia of personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment;

(ea) disclosure by an officer of a Tertiary Admission Centre of personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment;

(f) disclosure by an officer of Open Universities Australia of personal information to an officer of a higher education provider to assist the provider's officer in performing duties or functions or in exercising powers, under, or for the purposes of, this Act;

(g) disclosure by an officer of a higher education provider of personal information to an officer of Open Universities Australia to assist the officer of Open Universities Australia in performing duties or functions or in exercising powers, under, or for the purposes of, this Act;

(h) disclosure by an officer of a higher education provider of personal information to an officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act;

(i) disclosure by an officer of a Tertiary Admission Centre of personal information to an officer of a higher education provider to assist the provider's officer in performing duties

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or functions, or in exercising powers, under, or for the purposes of, this Act.

## 179-25 Commissioner may disclose information

(1) Despite anything in an Act of which the *Commissioner has the general administration, the Commissioner, or a person authorised by the Commissioner, may communicate *personal information to an *officer for use by that officer:

(a) in the case of a *Commonwealth officer—in the course of the officer's *official employment; or

(b) in the case of an *officer of a higher education provider—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act; or

(c) in the case of an *officer of Open Universities Australia—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act; or

(d) in the case of an *officer of a Tertiary Admission Centre—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Act.

(2) Despite subsection 13.3(3) of the *Criminal Code*, in a prosecution for an offence against an Act of which the *Commissioner has the general administration, the defendant does not bear an evidential burden in relation to whether this section applies to a communication of *personal information.

## 179-30 Oath or affirmation to protect information

(1) An *officer must, if and when required by the *Secretary or the *Commissioner to do so, make an oath or affirmation to protect information in accordance with this Division.

(2) The *Secretary may determine, in writing:

(a) the form of the oath or affirmation that the Secretary will require; and

(b) the manner in which the oath or affirmation must be made.

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(3) The *Commissioner may determine, in writing:
  (a) the form of the oath or affirmation that the Commissioner will require; and
  (b) the manner in which the oath or affirmation must be made.

## 179-35 Unauthorised access to, or modification of, personal information

(1) A person commits an offence if:
  (a) the person causes any unauthorised access to, or modification of, *personal information that is:
    (i) held in a computer; and
    (ii) to which access is restricted by an access control system associated with a function of the computer; and
  (b) the person intends to cause the access or modification; and
  (c) the person knows that the access or modification is unauthorised; and
  (d) one or more of the following apply:
    (i) the personal information is held in a computer of a higher education provider;
    (ii) the personal information is held on behalf of a provider;
    (iii) the personal information is held in a computer of *Open Universities Australia;
    (iv) the personal information is held on behalf of Open Universities Australia;
    (v) the personal information is held on a computer of a *Tertiary Admission Centre;
    (vi) the personal information is held on behalf of a Tertiary Admission Centre.

Penalty: 2 years imprisonment.

(2) Absolute liability applies to paragraph (1)(d).

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## 179-40 Officer may use information

An *officer may use *personal information in the course of the officer's *official employment.

## 179-45 This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *personal information.

Note: The disclosure or use of personal information may also be authorised in other circumstances. For example, see Division 180 and the *Privacy Act 1988*.

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# Division 180—Disclosure or use of Higher Education Support Act information

## 180-1 What this Division is about

This Division authorises the disclosure and use of Higher Education Support Act information for certain purposes.

## 180-5 Meaning of *Higher Education Support Act information*

(1) ***Higher Education Support Act information*** means:

(a) *personal information; and

(b) *VET personal information; and

(c) information obtained or created by a *Commonwealth officer as a result of a survey of the kind referred to in section 180-30; and

(d) any other information obtained or created by a Commonwealth officer for the purposes of this Act or for the purposes referred to in subsection 180-28(5).

(2) However, *Australia's Economic Accelerator program information is not ***Higher Education Support Act information***.

Note: See Division 181 for *Australia's Economic Accelerator program information.

## 180-10 Disclosure and use by Commonwealth officers

(1) A *Commonwealth officer may disclose *Higher Education Support Act information to another Commonwealth officer to assist that other officer in the other officer's *official employment (within the meaning of section 179-15).

(2) A *Commonwealth officer may use *Higher Education Support Act information in the course of the officer's *official employment (within the meaning of section 179-15).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 180-15 Disclosure of information to TEQSA

The *Secretary may disclose *Higher Education Support Act information to:

(a) *TEQSA; or

(b) a member of the staff of TEQSA (within the meaning of the *TEQSA Act);

for the performance of duties or functions, or the exercise of powers, under, or for the purposes of, that Act.

## 180-20 Disclosure of information to the National VET Regulator

The *Secretary may disclose *Higher Education Support Act information to:

(a) the *National VET Regulator; or

(b) a *NVETR staff member;

for the performance of duties or functions, or the exercise of powers, under, or for the purposes of, that Act.

## 180-23 Disclosure of information to certain agencies

(1) The *Secretary may disclose *Higher Education Support Act information to a person who is employed or engaged by an agency covered by subsection (2) for the purposes of exercising powers, or performing functions or duties, of the agency.

(2) An agency is covered by this subsection if the agency is administered by a Minister who administers any of the following:

(a) the *Human Services (Centrelink) Act 1997*;

(b) the *Social Security Act 1991*;

(c) the *Student Assistance Act 1973*;

(d) a law of the Commonwealth prescribed by the Administration Guidelines for the purposes of this paragraph.

(3) If *Higher Education Support Act information is disclosed to an agency under subsection (1), the agency may use the information

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for the purposes of exercising powers, or performing functions or duties, of the agency.

## 180-25 Disclosure of information to other bodies

*Disclosure*

(1) The *Secretary may disclose *Higher Education Support Act information to a person referred to in subsection (3) for any of the following purposes (a ***permitted purpose***):

(a) improving the provision of higher education or vocational education and training;

(b) research relating to the provision of higher education or vocational education and training, including research relating to:

(i) quality assurance; or

(ii) planning the provision of higher education or vocational education and training.

(2) However, if the information was provided by a higher education provider or a *VET provider, then the *Secretary may only disclose the information under subsection (1) to a person referred to in paragraph (3)(b), (c) or (d) if the provider consents to that disclosure.

*Persons to which information may be disclosed*

(3) For the purposes of subsection (1), the persons are the following:

(a) a person (an ***officer***) who is employed or engaged by a State or Territory agency;

(b) an *officer of a higher education provider;

(c) an *officer of a VET provider;

(d) a person (an ***officer***) who is employed or engaged by a body or association determined by the Minister under subsection (4).

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(4) The Minister may, by legislative instrument, make a determination in relation to a body or association for the purposes of paragraph (3)(d).

*Use of the information*

(5) A person commits an offence if:
  (a) the person uses information for a purpose; and
  (b) the purpose is not a permitted purpose; and
  (c) the information is *personal information or *VET personal information; and
  (d) the information was disclosed under subsection (1) to the person or another person when the person or other person was an officer of a body referred to in subsection (3); and
  (e) the information was not obtained or created by an *officer for the purposes of Part 2-2A or 2-3.

Penalty: Imprisonment for 2 years.

*Further disclosure of the information*

(6) A person commits an offence if:
  (a) the person discloses information; and
  (b) the information is *personal information or *VET personal information; and
  (c) the information was disclosed under subsection (1) to the person or another person when the person or other person was an officer of a body referred to in subsection (3); and
  (d) either or both of the following apply:
    (i) the disclosure is not for a permitted purpose;
    (ii) the disclosure is to a person who is not an officer of that body; and
  (e) the information was not obtained or created by an *officer for the purposes of Part 2-2A or 2-3.

Penalty: Imprisonment for 2 years.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 180-28 Disclosure and use of information for the HELP program

*Disclosure of information*

(1) A *HELP program Commonwealth officer may disclose *Higher Education Support Act information (other than a person's *tax file number) to another HELP program Commonwealth officer for the purposes referred to in subsection (5).

(2) The *Secretary may disclose a person's *tax file number to the *Commissioner for the purposes referred to in subsection (5).

*Use of information*

(3) A *HELP program Commonwealth officer may use *Higher Education Support Act information (other than a person's *tax file number) for the purposes referred to in subsection (5).

(4) If a person's *tax file number is disclosed under subsection (2), the *Commissioner may use that tax file number for the purposes referred to in subsection (5).

*Purposes of disclosure or use*

(5) The purposes are to assist in the development of the *HELP program, or the administration or future administration of the HELP program, including by:
  (a) policy formation; and
  (b) financial planning and projection; and
  (c) program design; and
  (d) conducting research.

*Definitions*

(6) The ***HELP program*** means the program consisting of:
  (a) grants to higher education providers under Part 2-2; and
  (b) assistance provided to students under Chapter 3 or Schedule 1A or the *VET Student Loans Act 2016*; and

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(c) repayment of debts under Chapter 4, or under the *VET Student Loans Act 2016*, incurred in relation to that assistance.

(7) ***HELP program Commonwealth officer*** means:

(a) the *Secretary; or

(b) the *Commissioner; or

(c) a *Commonwealth officer specified to be a HELP program Commonwealth officer under subsection (8).

(8) The Minister may, by legislative instrument, specify that a *Commonwealth officer, or a Commonwealth officer in a specified class, is a *HELP program Commonwealth officer for the purposes of paragraph (7)(c).

(9) For the purposes of this section, *Higher Education Support Act information includes VET information (within the meaning of the *VET Student Loans Act 2016*).

## 180-30 Use of information to conduct surveys

A *Commonwealth officer may use *Higher Education Support Act information in order to conduct a survey of staff, students or former students of higher education providers or *VET providers for any of the following purposes:

(a) improving the provision of higher education or vocational education and training;

(b) research relating to the provision of higher education or vocational education and training, including research relating to:

(i) quality assurance; or

(ii) planning the provision of higher education or vocational education and training.

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## 180-35 This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *Higher Education Support Act information.

Note: The disclosure or use of Higher Education Support Act information may also be authorised in other circumstances. For example, see Division 179, Division 14 of Schedule 1A and the *Privacy Act 1988*.

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# Division 181—Protection, disclosure and use of Australia's Economic Accelerator program information

## 181-1 What this Division is about

An officer who discloses, copies or records information obtained or created by the officer for the purposes of the Australia's Economic Accelerator program, other than in the course of official employment, commits an offence if the information is personal information, or the officer's actions are likely to cause competitive detriment to a person or found an action for breach of confidence. This is the case unless an exception in this Division applies.

## 181-5 Object of this Division

The object of this Division is to give recipients and potential recipients of grants under the *Australia's Economic Accelerator program, and their industry partners, confidence that personal information and other sensitive information they provide in relation to the program will be dealt with appropriately.

## 181-10 Meaning of Australia's Economic Accelerator program information

***Australia's Economic Accelerator program information*** is any information that was obtained or created by an *officer for the purposes of the *Australia's Economic Accelerator program.

## 181-15 Use of Australia's Economic Accelerator program information

*Offence*

(1) An *officer commits an offence if:
(a) the officer:

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(i) discloses information; or
(ii) makes a copy or other record of information; and

(b) the information is *Australia's Economic Accelerator program information that was obtained or created by the officer in the course of the officer's *official employment; and

(c) the disclosure did not occur, or the copy or record was not made, in the course of that official employment; and

(d) any of the following circumstances exist:
(i) the information is personal information within the meaning of the *Privacy Act 1988*;
(ii) the disclosure, or the making of the copy or record, causes or is likely to cause competitive detriment to a person;
(iii) the disclosure, or the making of the copy or record, founds or is likely to found an action by a person (other than the Commonwealth) for breach of a duty of confidence.

Penalty: Imprisonment for 2 years.

*Exception—consent*

(2) Subsection (1) does not apply if the person to whom the information relates has consented to the disclosure, or the making of the copy or record.

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

*Exception—authorised by this Division*

(3) Subsection (1) does not apply if the disclosure, or the making of the copy or record, is authorised by this Division.

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

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*Exception—required by a Commonwealth law*

(4) Subsection (1) does not apply if the disclosure, or the making of the copy or record, is required by a law of the Commonwealth.

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

## 181-20 Disclosure of Australia's Economic Accelerator program information to Minister and staff

A *Commonwealth officer may disclose *Australia's Economic Accelerator program information to:

(a) the Minister; or

(b) a person employed by the Minister under the *Members of Parliament (Staff) Act 1984*.

## 181-25 Disclosure of Australia's Economic Accelerator program information by Minister

(1) The Minister may make *Australia's Economic Accelerator program information publicly available, if the information:

(a) relates to programs of research in respect of which grants have been approved for the purposes of item 14 of the table in subsection 41-10(1); and

(b) is any of the following:

(i) the name of a researcher;

(ii) a description of the field of research;

(iii) the amount of a grant;

(iv) other information of a general nature.

(2) Despite subsection (1), the Minister must not disclose the information if a person demonstrates to the Minister that:

(a) release of the information would cause competitive detriment to the person; and

(b) the information is not in the public domain; and

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(c) the information is not required to be disclosed under another law of the Commonwealth, a State or a Territory; and

(d) the information is not readily discoverable.

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# Division 182—Other rules about information

## 182-1 Minister may seek information from TEQSA and relevant VET regulator

(1) The Minister may seek information relating to a higher education provider from *TEQSA or the *relevant VET regulator (or both) for the purposes of administering, or enforcing compliance with, one or more of the following:

(a) this Act and the regulations;

(b) the Guidelines made under section 238-10 that apply to the provider;

(c) a condition imposed on the provider's approval as a higher education provider.

(2) The Minister may seek information relating to a *VET provider from *TEQSA or the *relevant VET regulator (or both) for the purposes of administering, or enforcing compliance with, one or more of the following:

(a) this Act and the regulations;

(b) *VET Guidelines that apply to the provider;

(c) a condition imposed on the provider's approval as a VET provider.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-5—Tax file numbers

## Division 184—Introduction

### 184-1 What this Part is about

Requirements relating to students' tax file numbers apply to assistance under Chapter 3 that gives rise to HELP debts.

The Commissioner may notify higher education providers, the Secretary, or where appropriate Open Universities Australia, of matters relating to tax file numbers.

Higher education providers, and where appropriate Open Universities Australia, have obligations relating to notifying students about tax file number requirements.

Higher education providers have obligations relating to cancelling the enrolment of students who do not have tax file numbers.

Note: Part VA of the *Income Tax Assessment Act 1936* provides for issuing, cancelling or altering tax file numbers.

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# Division 187—What are the tax file number requirements for assistance under Chapter 3?

## 187-1 Meeting the tax file number requirements

*Assistance other than SA-HELP assistance*

(1) A student who is enrolled, or proposes to enrol, with a higher education provider in a unit of study access to which was not provided by *Open Universities Australia, or in an *accelerator program course, ***meets the tax file number requirements*** for assistance under Chapter 3, except *SA-HELP assistance, if:

(a) the student notifies his or her *tax file number to:

(i) an *appropriate officer of the provider; and

(ii) the *Secretary;

and the provider is satisfied (in accordance with subsection (4)) that this number is a valid tax file number; or

(b) the student gives to the officer a certificate from the *Commissioner stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to the student.

(1AA) Compliance by a person with subsection (1) in relation to a *course of study, or an *accelerator program course, is to be ignored in determining whether there has been compliance by the person with subsection (1) in relation to any other course of study or accelerator program course.

(1A) A student who accesses, or proposes to access, a unit of study through *Open Universities Australia, ***meets the tax file number requirements*** for assistance under Chapter 3, except *SA-HELP assistance, if:

(a) the student notifies his or her *tax file number to:

(i) an *appropriate officer of Open Universities Australia; and

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(ii) the *Secretary;

and Open Universities Australia is satisfied (in accordance with subsection (4)) that this number is a valid tax file number; or

(b) the student gives to the officer a certificate from the *Commissioner stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to the student.

(2) If the student is seeking *HECS-HELP assistance or *FEE-HELP assistance for a unit of study, he or she does not meet the tax file number requirements for the assistance unless he or she complies with subsection (1) or (1A) (as the case requires) on or before the *census date for the unit.

(2A) If the student is seeking *STARTUP-HELP assistance for an *accelerator program course, the student does not meet the tax file number requirements for the assistance unless the student complies with subsection (1) on or before the *census date for the accelerator program course.

(3) A notification under paragraph (1)(a), from a student enrolled or proposing to enrol in a unit of study, may be included in a *request for Commonwealth assistance, except a request for Commonwealth assistance relating to a *student services and amenities fee, that the student has given to the provider in relation to:

(a) the unit of study for which the assistance is sought; or

(b) the *course of study of which the unit forms a part; or

(c) any other unit of study forming part of that course.

(3AA) A notification under paragraph (1)(a), from a student enrolled or proposing to enrol in an *accelerator program course, may be included in a *request for Commonwealth assistance, except a request for Commonwealth assistance relating to a *student services and amenities fee, that the student has given to the provider in relation to the accelerator program course.

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## Section 187-1

(3A) A notification under paragraph (1A)(a) may be included in a *request for Commonwealth assistance that the student has given to *Open Universities Australia in relation to the unit of study for which the assistance is sought.

*SA-HELP assistance*

(3B) A student who is enrolled, or proposes to enrol, with a higher education provider in a *course of study or *bridging course for overseas-trained professionals, or in an *accelerator program course, ***meets the tax file number requirements*** for *SA-HELP assistance if:

(a) the student notifies his or her *tax file number to:

(i) an *appropriate officer of the provider; and

(ii) the *Secretary;

and the provider is satisfied (in accordance with subsection (4)) that this number is a valid tax file number; or

(b) the student gives to the officer a certificate from the *Commissioner stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to the student.

(3C) Compliance by a person with subsection (3B) in relation to the person's actual or proposed enrolment in a *course of study or *bridging course for overseas-trained professionals, or an *accelerator program course, is to be ignored in determining whether there has been compliance by the person with subsection (3B) in relation to the person's actual or proposed enrolment in another such course or bridging course or accelerator program course.

(3D) If the student is seeking *SA-HELP assistance for a *student services and amenities fee, he or she does not meet the tax file number requirements for the assistance unless he or she complies with subsection (3B) on or before the day the fee is payable.

(3E) A notification under paragraph (3B)(a) may be included in any *request for Commonwealth assistance relating to a *student

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services and amenities fee imposed on the student in connection with his or her enrolment in the *course of study or *bridging course for overseas-trained professionals, or in the *accelerator program course.

*Commissioner's role*

(4) The *Commissioner may issue guidelines about the circumstances in which:

(a) a higher education provider is to be, or is not to be, satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(a) or (3B)(a); and

(b) *Open Universities Australia is to be, or is not to be, satisfied that a number is a valid tax file number for the purposes of paragraph (1A)(a).

(5) A certificate under paragraph (1)(b) or (3B)(b) must be in the *approved form.

(6) A certificate under paragraph (1A)(b) must be in the *approved form.

*Commissioner's guidelines are legislative instruments*

(7) A guideline issued under subsection (4) is a legislative instrument.

## 187-2 Who is an appropriate officer?

(1) An ***appropriate officer*** of a higher education provider, means a person, or a person included in a class of persons, whom:

(a) the chief executive officer of the provider; or

(b) a delegate of the chief executive officer of the provider;

has appointed to be an appropriate officer of the provider for the purposes of this Act.

(2) An ***appropriate officer*** of *Open Universities Australia, means a person, or a person included in a class of persons, whom:

(a) the chief executive officer of Open Universities Australia; or

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(b) a delegate of the chief executive officer of Open Universities Australia;

has appointed to be an appropriate officer of Open Universities Australia for the purposes of this Act.

## 187-5 Student to notify tax file number when issued

(1) If a student *meets the tax file number requirements for the assistance under paragraph 187-1(1)(b):

(a) the student must notify his or her *tax file number to:

(i) an *appropriate officer of the higher education provider; and

(ii) the *Secretary;

within 21 days from the day on which the *Commissioner issues the tax file number to the student; and

(b) the provider must be satisfied (in accordance with subsection 187-1(4)) that this number is a valid *tax file number.

(2) If a student *meets the tax file number requirements for assistance under paragraph 187-1(1A)(b):

(a) the student must notify his or her *tax file number to:

(i) an *appropriate officer of *Open Universities Australia; and

(ii) the *Secretary;

within 21 days from the day on which the *Commissioner issues the tax file number to the student; and

(b) Open Universities Australia must be satisfied (in accordance with subsection 187-1(4)) that this number is a valid *tax file number.

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# Division 190—Who can the Commissioner notify of tax file number matters?

## 190-1 When tax file numbers are issued etc.

(1) The *Commissioner may give to a higher education provider, and to the *Secretary, written notice of the *tax file number of a student who is enrolled in a *course of study, or an *accelerator program course, with the provider if the Commissioner:

(a) issues the tax file number to the student; or

(b) refuses to issue a tax file number to the student on the ground that the student already has a tax file number.

(2) The *Commissioner may give to *Open Universities Australia, and to the *Secretary, written notice of the *tax file number of a student to whom Open Universities Australia provides access to a unit of study if the Commissioner:

(a) issues the tax file number to the student; or

(b) refuses to issue a tax file number to the student on the ground that the student already has a tax file number.

## 190-5 When tax file numbers are altered

(1) The *Commissioner may give to a higher education provider, and to the *Secretary, written notice of the *tax file number of a student who is enrolled in a *course of study, or an *accelerator program course, with the provider if the Commissioner issues a new tax file number to the student in place of a tax file number that has been withdrawn.

(2) That new number is taken to be the number that the student notified to the provider and to the *Secretary.

(3) The *Commissioner may give to *Open Universities Australia, and to the *Secretary, written notice of the *tax file number of a student to whom Open Universities Australia provides access to a unit of

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study if the Commissioner issues a new tax file number to the student in place of a tax file number that has been withdrawn.

(4) That new number is taken to be the number that the student notified to *Open Universities Australia and to the *Secretary.

## 190-10 When tax file numbers are incorrectly notified—students with tax file numbers

(1) If the *Commissioner is satisfied:

(a) that the *tax file number that a student has notified to a higher education provider or the *Secretary (or both):

(i) has been cancelled or withdrawn since the notification was given; or

(ii) is otherwise wrong; and

(b) that the student has a tax file number;

the Commissioner may give to the provider and the Secretary written notice of the incorrect notification and of the student's tax file number.

(2) That number is taken to be the number that the student notified to the provider and to the *Secretary.

(3) If the *Commissioner is satisfied:

(a) that the *tax file number that a student has notified to *Open Universities Australia or the *Secretary (or both):

(i) has been cancelled or withdrawn since the notification was given; or

(ii) is otherwise wrong; and

(b) that the student has a tax file number;

the Commissioner may give to Open Universities Australia and the Secretary written notice of the incorrect notification and of the student's tax file number.

(4) That number is taken to be the number that the student notified to *Open Universities Australia and to the *Secretary.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 190-15 When tax file numbers are incorrectly notified—students without tax file numbers

(1) If:

(a) the *Commissioner is satisfied that the *tax file number that a student notified to a higher education provider or the *Secretary (or both):

(i) has been cancelled since the notification was given; or

(ii) is for any other reason not the student's tax file number; and

(b) the Commissioner is not satisfied that the student has a tax file number;

the Commissioner may give to the provider and the Secretary a written notice informing the provider and the Secretary accordingly.

(1A) If:

(a) the *Commissioner is satisfied that the *tax file number that a student notified to *Open Universities Australia or the *Secretary (or both):

(i) has been cancelled since the notification was given; or

(ii) is for any other reason not the student's tax file number; and

(b) the Commissioner is not satisfied that the student has a tax file number;

the Commissioner may give Open Universities Australia and the Secretary a written notice informing Open Universities Australia and the Secretary accordingly.

(2) The *Commissioner must give a copy of any notice under subsection (1) or (1A) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subsection (1) or (1A) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 190-20

## 190-20 When applications are refused or tax file numbers are cancelled

(1) If the *Commissioner:

(a) refuses a student's application for the issue of a *tax file number; or

(b) cancels a tax file number issued to a student;

the Commissioner may give to a higher education provider with which the student is enrolled in a *course of study, or an *accelerator program course, and to the *Secretary, a written notice informing the provider and the Secretary accordingly.

(1A) If the *Commissioner:

(a) refuses a student's application for the issue of a *tax file number; or

(b) cancels a tax file number issued to a student;

the Commissioner may, if access to a unit of study is provided to the student by *Open Universities Australia, give to Open Universities Australia, and to the *Secretary, a written notice informing Open Universities Australia and the Secretary accordingly.

(2) The *Commissioner must give a copy of any notice under subsection (1) or (1A) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subsection (1) or (1A) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 193—Other provisions relating to tax file numbers

## 193-1 Giving information about tax file number requirements

*Requests for HECS-HELP assistance or FEE-HELP assistance—requirements on higher education providers*

(1) A higher education provider must notify a person in writing how to *meet the tax file number requirements if:

(a) the person is enrolled in a unit of study with the provider; and

(b) the person has, on or before the *census date for the unit, completed, signed and given to the *appropriate officer of the provider a *request for Commonwealth assistance in relation to the unit or, where the *course of study of which the unit forms a part is undertaken with the provider, in relation to the course of study;

(c) in that request, the person requests *HECS-HELP assistance or *FEE-HELP assistance for the unit or the course; and

(d) the request does not include a number that purports to be the person's *tax file number.

(2) The provider must notify the person under subsection (1):

(a) on or before the *census date for the unit; or

(b) within 7 days after the person gives the provider the *request for Commonwealth assistance;

whichever is earlier.

*Requests for FEE-HELP assistance—requirements on Open Universities Australia*

(2A) *Open Universities Australia must notify a person in writing how to *meet the tax file number requirements if:

(a) Open Universities Australia provides access to a unit of study to the person; and

(b) the person has, on or before the *census date for the unit, completed, signed and given to an *appropriate officer of

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Open Universities Australia a *request for Commonwealth assistance in relation to the unit; and

(c) in that request, the person requests *FEE-HELP assistance for the unit; and

(d) the request does not include a number that purports to be the person's *tax file number.

(2B) *Open Universities Australia must notify the person under subsection (2A):

(a) on or before the *census date for the unit; or

(b) within 7 days after the person gives Open Universities Australia the *request for Commonwealth assistance;

whichever is earlier.

(2C) A ***request for Commonwealth assistance***, in relation to a person to whom *Open Universities Australia provides access to a unit of study, means a document:

(a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the unit; and

(b) that is in the form approved by the Minister.

*Requests for OS-HELP assistance*

(3) A higher education provider must notify a person in writing how to *meet the tax file number requirements if:

(a) the person is enrolled in a *course of study with the provider; and

(b) the person has, before receiving *OS-HELP assistance, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance; and

(c) in that request, the person requests OS-HELP assistance in relation to a period of 6 months; and

(d) the request does not include a number that purports to be the person's *tax file number.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(4) The provider must notify the person under subsection (3) within 7 days after the person gives the provider the *request for Commonwealth assistance.

*Requests for SA-HELP assistance*

(4A) A higher education provider must notify a person in writing how to *meet the tax file number requirements if:

(a) the person is enrolled with the provider in a *course of study or *bridging course for overseas-trained professionals, or an *accelerator program course; and

(b) the provider has imposed a *student services and amenities fee on the person; and

(c) the person has, on or before the day on which the fee is payable, completed, signed and given to the *appropriate officer of the provider a *request for Commonwealth assistance in relation to a student services and amenities fee imposed on the person for a period during which he or she is enrolled in the course or courses concerned; and

(d) in that request, the person requests *SA-HELP assistance for the student services and amenities fee; and

(e) the request does not include a number that purports to be the person's *tax file number.

(4B) The provider must notify the person under subsection (4A):

(a) on or before the day the *student services and amenities fee is payable; or

(b) within 7 days after the person gives the provider the *request for Commonwealth assistance;

whichever is earlier.

*Requests for STARTUP-HELP assistance*

(4C) A higher education provider must notify a person in writing how to *meet the tax file number requirements if:

(a) the person is enrolled in an *accelerator program course with the provider; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the person has, on or before the *census date for the accelerator program course, completed, signed and given to the *appropriate officer of the provider a *request for Commonwealth assistance in relation to the course; and

(c) in that request, the person requests *STARTUP-HELP assistance for the course; and

(d) the request does not include a number that purports to be the person's *tax file number.

(4D) The provider must notify the person under subsection (4C):

(a) on or before the *census date for the *accelerator program course; or

(b) within 7 days after the person gives the provider the *request for Commonwealth assistance;

whichever is earlier.

*Cases where there is no obligation to notify*

(5) This section does not apply to the person if:

(a) the person, in the *request for Commonwealth assistance, requests *HECS-HELP assistance, *FEE-HELP assistance, *OS-HELP assistance, *SA-HELP assistance or *STARTUP-HELP assistance, but the person is not entitled to the assistance; or

(b) the person, in the request for Commonwealth assistance, requests HECS-HELP assistance in relation to a unit of study, but one or more *up-front payments for the unit have been made totalling 100% of the person's *student contribution amount for the unit.

Note: In the circumstances set out in paragraph (5)(b), the HECS-HELP assistance would not involve any loan by the Commonwealth to the person.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 193-5 No entitlement to HECS-HELP assistance for students without tax file numbers

(1) A higher education provider must cancel a person's enrolment in a unit of study with the provider if:

(a) the provider receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and

(b) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subsection (3)) is a valid tax file number; and

(c) the person is entitled to *HECS-HELP assistance for the unit (ignoring paragraph 90-1(f)); and

(d) the person has not paid, as one or more *up-front payments in relation to the unit, his or her *student contribution amount for the unit.

Note 1: If a person's enrolment is cancelled under this section, the provider has certain payment obligations: see section 36-24B.

Note 2: The person's HELP balance in relation to the unit is re-credited: see subsection 97-27(1).

(2) The provider must not accept a further enrolment of the person in that unit as a *Commonwealth supported student.

(3) A higher education provider must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(b), comply with the guidelines issued by the *Commissioner under subsection 187-1(4).

(4) A higher education provider must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons who may be affected by subsection (1) or (3) of the need to obtain a valid *tax file number.

(5) A guideline issued under subsection (4) is a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 193-10 No entitlement to FEE-HELP assistance for students without tax file numbers

(1) This subsection applies to a person in relation to a unit of study if:

(a) the person is enrolled with a higher education provider in the unit; and

(b) access to the unit was not provided by *Open Universities Australia; and

(c) the provider receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and

(d) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subsection (3)) is a valid tax file number; and

(e) the person is entitled to *FEE-HELP assistance for the unit (ignoring paragraph 104-1(1)(h)).

Note: The person's HELP balance in relation to the unit is re-credited: see subsection 104-27(1).

(2) This subsection applies to a person in relation to a unit of study if:

(a) the person is enrolled in the unit; and

(b) access to the unit was provided by *Open Universities Australia; and

(c) Open Universities Australia receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and

(d) at the end of 28 days after Open Universities Australia receives that notice, Open Universities Australia has not been notified of a number that it is satisfied (in accordance with subsection (3)) is a valid tax file number; and

(e) the person is entitled to *FEE-HELP assistance for the unit (ignoring paragraph 104-1(1)(h)).

Note: The person's HELP balance in relation to the unit is re-credited: see subsection 104-27(2).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) A higher education provider or *Open Universities Australia must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(d) or (2)(d), as the case may be, comply with the guidelines issued by the *Commissioner under subsection 187-1(4).

(4) A higher education provider or *Open Universities Australia must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons of the need to obtain a valid *tax file number, where the persons may be affected by subsection (1) or (2), as the case may be, applying to them.

(5) A guideline issued under subsection (4) is a legislative instrument.

## 193-15 No entitlement to SA-HELP assistance for students without tax file numbers

(1) This subsection applies to a person if:

(a) a higher education provider has imposed a *student services and amenities fee on the person; and

(b) the provider receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and

(c) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subsection (2)) is a valid tax file number; and

(d) the person is entitled to *SA-HELP assistance for the fee (ignoring paragraph 126-1(1)(c)).

Note: If subsection (1) applies to a person:

(a) the provider must repay any amount paid to the provider by the Commonwealth to discharge the person's liability for the student services and amenities fee (see section 128-5); and

(b) the person's SA-HELP debt relating to the payment by the Commonwealth is remitted (see subsection 137-16(4)).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) A higher education provider must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(c), comply with the guidelines issued by the *Commissioner under subsection 187-1(4).

(3) A higher education provider must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons of the need to obtain a valid *tax file number, where the persons may be affected by subsection (1) applying to them.

(4) A guideline issued under subsection (3) is a legislative instrument.

## 193-20 No entitlement to STARTUP-HELP assistance for students without tax file numbers

(1) This subsection applies to a person in relation to an *accelerator program course if:

(a) the person is enrolled with a higher education provider in the course; and

(b) the provider receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and

(c) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subsection (2)) is a valid tax file number; and

(d) the person is entitled to *STARTUP-HELP assistance for the course (ignoring paragraph 128B-1(1)(f)).

Note: If this section applies then the amount of the STARTUP-HELP assistance is reversed (see section 128E-20). For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

(2) A higher education provider must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(c), comply with the guidelines issued by the *Commissioner under subsection 187-1(4).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) A higher education provider must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons of the need to obtain a valid *tax file number, where the persons may be affected by subsection (1) applying to them.

(4) A guideline issued under subsection (3) is a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-6—Indexation

## Division 198—Indexation

### 198-1 What this Part is about

Several amounts referred to in provisions of this Act are indexed. This Part sets out how those amounts are indexed.

Note 1: Different methods of indexation are used for the indexing of accumulated HELP debts under section 140-10, and for the indexing of HELP repayment thresholds under section 154-25.

Note 2: Guidelines may provide for amounts to be indexed using the method of indexation set out in this Part.

### 198-5 The amounts that are to be indexed

(1) This table sets out the amounts that are to be indexed.

**Amounts that are to be indexed**

| Item | Amounts: | See: |
|---|---|---|
| 1A | Amount mentioned in paragraph 19-37(5)(e) | Section 19-37 |
| 1 | *Commonwealth contribution amount | Subsection 33-10(1) |
| 2A | *Grandfathered Commonwealth contribution amount | Subsection 33-10(2) |
| 2 | Reduction amount | Section 33-37 |
| 3 | *Maximum student contribution amount for a place | Section 93-10 |
| 4 | The *HELP loan limit | Section 128-20 |
| 5 | *Maximum OS-HELP (overseas study) amounts | Section 121-5 |
| 6 | The *maximum OS-HELP (Asian language study) amount | Section 121-15 |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) The amount mentioned in the section referred to in an item of the table, for a calendar year with an indexation factor greater than 1, is replaced by the amount worked out in accordance with section 198-10.

## 198-10 Indexing amounts

(1) An amount is indexed on 1 January each year, by multiplying it by the *indexation factor for the year.

(2) However an amount is not indexed if its *indexation factor is 1 or less.

(3) If an amount worked out under subsection (1) is an amount made up of dollars and cents, round the amount down to the nearest dollar.

## 198-15 Meaning of *indexation factor*

(1) The ***indexation factor*** for the relevant year is:

$$\frac{\text{The *index number for the December reference quarter}}{\text{The *index number for the December base quarter}}$$

where:

***December base quarter*** means the *quarter ending on the 31 December that is 2 years and a day before the relevant 1 January.

***December reference quarter*** means the *quarter ending on the 31 December that is a year and a day before the relevant 1 January.

(2) Work out the *indexation factor to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

Example: If the factor is 1.102795, it is rounded up to 1.103.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 198-20 Meaning of *index number*

(1) The ***index number*** for a *quarter is the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the *Australian Statistician in respect of that quarter.

(2) Subject to subsection (3), if, at any time before or after the commencement of this subsection:

(a) the *Australian Statistician has published or publishes an index number in respect of a *quarter; and

(b) that index number is in substitution for an index number previously published by the Australian Statistician in respect of that quarter;

disregard the publication of the later index number for the purposes of this section.

(3) If, at any time before or after the commencement of this subsection, the *Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of applying this section after the change took place or takes place, have regard only to *index numbers published in terms of the new index reference period.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-7—Review of decisions

## Division 203—Introduction

### 203-1 What this Part is about

Some decisions made under this Act are subject to reconsideration and then review by the Administrative Review Tribunal.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 206—Which decisions are subject to review?

## 206-1 Reviewable decisions etc.

The table sets out:

(a) the ***reviewable decisions*** under this Act; and

(b) the ***decision maker***, for the purposes of this Division, in respect of each of those decisions.

**Reviewable decisions**

| Item | Decision | Provision under which decision is made | Decision maker |
|---|---|---|---|
| 1AA | A decision to impose a condition on the approval of a higher education provider | subsection 16-60(1) | the Minister |
| 1AB | A decision to vary a condition imposed on the approval of a higher education provider | subsection 16-60(2) | the Minister |
| 1ABA | A decision not to make a determination that a higher education provider:<br>(a) is not required to allocate an amount than would otherwise be required; or<br>(b) may allocate an amount lower than would otherwise be required. | 19-40 | the *Secretary |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Reviewable decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 1AC | A decision that a person is not a genuine student in relation to a unit of study | subsection 36-5(5) | the *Secretary |
| 1AD | A decision that undertaking a unit of study will impose an unreasonable study load on a student | subsection 36-12(2) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision—the Secretary |
| 1A | A decision that section 36-20 does not apply to a person | section 36-20 | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision that the section does not apply—the Secretary |
| 1AAA | If a person applies for a grant for the purposes specified in item 14 of the table in subsection 41-10(1) and the grant is not approved—the decision not to approve the grant | section 41-20 | the Minister |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 206-1

| **Reviewable decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 1BA | Refusal to re-credit a person's *SLE amount with an amount equal to the *EFTSL value of a unit of study | subsection 79-1(1) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |
| 1BB | Refusal to re-credit one or more of the amounts referred to in paragraphs 79-1(2)(a), (b) and (c) to take account of a re-credit of a person's *SLE amount under subsection 79-1(1) | subsection 79-1(2) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |
| 1B | Refusal to re-credit a person's *HELP balance | subsection 97-25(2) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Reviewable decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 1C | Refusal to re-credit a person's *HELP balance | subsection 97-45(1) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision—the Secretary |
| 1D | Refusal to re-credit a person's *HELP balance | subsection 97-50(1) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision—the Secretary |
| 1E | A decision that a student is not a genuine student in relation to a unit of study | subsection 104-1(1AA) | the *Secretary |
| 1F | A decision that undertaking a unit of study will impose an unreasonable study load on a student | subsection 104-1AA(2) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision—the Secretary |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 206-1

| **Reviewable decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 2 | Refusal to re-credit a person's *HELP balance | subsection 104-25(1) | (a) the higher education provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |
| 2A | Refusal to re-credit a person's *HELP balance | subsection 104-25(2) | (a) *Open Universities Australia; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |
| 2AAA | A decision that a student is not a genuine student in relation to an *accelerator program course | section 128B-10 | the *Secretary |
| 2AAB | A decision that undertaking an *accelerator program course will impose an unreasonable study load on a student | subsection 128B-15(2) | (a) the higher education provider with whom the student is enrolled in the accelerator program course; or<br>(b) if the *Secretary made the decision—the Secretary |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Reviewable decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 2AAC | A decision that section 128E-1 does not apply to a person | subsection 128E-1(1) | (a) the higher education provider with whom the student is enrolled in the *accelerator program course; or<br>(b) if the *Secretary made the decision that the section does not apply—the Secretary |
| 2AA | A decision that the indexation of a person's *accumulated HELP debt is not to be reduced, or is to be reduced in respect of a particular number of days | section 142-10 or 144-5 | the *Secretary |
| 2AB | A decision that a person's accumulated HELP debt is not to be reduced, or is to be reduced by a particular amount | section 142-15 or 144-10 | the *Secretary |
| 3 | Deferral of making an assessment or refusal to defer the making of an assessment | section 154-45 | the *Commissioner |
| 4 | Amending the assessment or refusal to amend an assessment | section 154-50 | the *Commissioner |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Reviewable decisions | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 5 | A determination that Part 5-1A applies, or does not apply, to a specified higher education provider | subsection 166-5(2) | the Minister |
| 6 | A decision that the *Higher Education Tuition Protection Director is satisfied that there are one or more suitable *replacement courses for a student | paragraph 166-26B(2)(a) | the Higher Education Tuition Protection Director |
| 7 | A decision that the *Higher Education Tuition Protection Director is not satisfied that there is a suitable *replacement course for a student | paragraph 166-26B(2)(b) | the Higher Education Tuition Protection Director |

Note 1: The decisions referred to in items 1A, 1BA, 1BB, 1B, 1C, 1D and 2 of the table are made by a higher education provider on the Secretary's behalf.

Note 2: The decisions referred to in item 2A of the table are made by Open Universities Australia on the Secretary's behalf.

## 206-5 Deadlines for making reviewable decisions

If:

(a) this Act provides for a person to apply to a *decision maker to make a *reviewable decision; and

(b) a period is specified under this Act for giving notice of the decision to the applicant; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(c) the decision maker has not notified the applicant of the decision maker's decision within that period;

the decision maker is taken, for the purposes of this Act, to have made a decision to reject the application.

## 206-10 Decision maker must give reasons for reviewable decisions

(1) If this Act requires the *decision maker to notify a person of the making of a *reviewable decision, the notice must include reasons for the decision.

(2) Subsection (1) does not affect an obligation, imposed upon the *decision maker by any other law, to give reasons for a decision.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 209—How are decisions reconsidered?

## 209-1 Reviewer of decisions

(1) The ***reviewer*** of a *reviewable decision is:

(a) if the *decision maker was a higher education provider acting on behalf of the *Secretary—the Secretary; or

(b) if the *decision maker was *Open Universities Australia acting on behalf of the *Secretary—the Secretary; or

(c) in any other case—the decision maker, but see subsection (2).

(2) If:

(a) a *reviewable decision was made by a delegate of a *decision maker; and

(b) the decision is to be reconsidered by a delegate of the decision maker;

then the delegate who reconsiders the decision must be a person who:

(c) was not involved in making the decision; and

(d) occupies a position that is senior to that occupied by any person involved in making the decision.

Note 1: The Secretary may delegate to a review officer of a higher education provider the power to reconsider reviewable decisions made under subsection 36-12(2) or 36-20(1) or Chapter 3: see subsection 238-1(2).

Note 2: The Secretary may also delegate to a review officer of Open Universities Australia the power to reconsider reviewable decisions made under Chapter 3: see subsection 238-1(2A).

## 209-5 Reviewer may reconsider reviewable decisions

(1) The *reviewer of a *reviewable decision may reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so.

(2) The *reviewer may reconsider the decision even if:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) an application for reconsideration of the decision has been made under section 209-10; or

(b) the decision has been confirmed, varied or set aside under section 209-10 and an application has been made under section 212-1 for review of the decision.

(2A) If an application has been made under section 212-1 for review of a *reviewable decision, section 31 (decision cannot be altered outside Tribunal process) of the *Administrative Review Tribunal Act 2024* applies to the decision if:

(a) the application is referred to the *guidance and appeals panel under section 122 of that Act; or

(b) a *guidance and appeals panel application is taken to be made because the Administrative Review Tribunal's decision on the review is referred to the guidance and appeals panel under section 128 of that Act.

(3) After reconsidering the decision, the *decision maker must, subject to subsection (2A):

(a) confirm the decision; or

(b) vary the decision; or

(c) set the decision aside and substitute a new decision.

(4) The *reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:

(a) on the day specified in the decision on review; or

(b) if a day is not specified—on the day on which the decision on review was made.

(5) The *reviewer must give written notice of the decision on review to the person to whom that decision relates.

(6) The notice:

(a) must be given within a reasonable period after the decision is made; and

(b) must contain a statement of the reasons for the *reviewer's decision on review.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

## 209-10 Reconsideration of reviewable decisions on request

(1) A person whose interests are affected by a *reviewable decision may request the *reviewer to reconsider the decision.

(2) The person's request must be made by written notice given to the *reviewer within 28 days, or such longer period as the reviewer allows, after the day on which the person first received notice of the decision.

(3) The notice must set out the reasons for making the request.

(4) After receiving the request, the *reviewer must reconsider the decision and:
  (a) confirm the decision; or
  (b) vary the decision; or
  (c) set the decision aside and substitute a new decision.

(4A) Despite subsection (4), the *reviewer is not required to reconsider the decision if:
  (a) the decision was made under paragraph 166-26B(2)(b); and
  (b) the person gave notice in writing, under paragraph 166-26B(8)(c), that the person would not seek reconsideration of the decision.

(5) The *reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
  (a) on the day specified in the decision on review; or
  (b) if a day is not specified—on the day on which the decision on review was made.

(5A) The *reviewer must give the person written notice of the decision on review.

(5B) The notice:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) must be given within a reasonable period after the decision on review is made; and

(b) must contain a statement of the reasons for the decision on review.

(6) The *reviewer is taken, for the purposes of this Part, to have confirmed the decision if the reviewer does not give notice of a decision to the person within 45 days after receiving the person's request.

Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 212—Which decisions are subject to ART review?

## 212-1 ART review of reviewable decisions

(1) An application may be made to the Administrative Review Tribunal for the review of a *reviewable decision that has been confirmed, varied or set aside under section 209-5 or 209-10.

(2) Despite subsection (1), an application cannot be made for the review of a decision made under paragraph 166-26B(2)(a) or (b) (about suitable replacement courses).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 5-8—Regulatory powers

## 215-1 What this Part is about

Certain persons have monitoring and investigation powers under the Regulatory Powers Act to ensure this Act is being complied with.

This Part also provides for the application of the Regulatory Powers Act in relation to civil penalties, infringement notices, enforceable undertakings and injunctions.

## 215-5 Monitoring powers

(1) The provisions of this Act (other than Schedule 1A) are subject to monitoring under Part 2 of the *Regulatory Powers Act.

Note 1: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether this Act has been complied with. It includes powers of entry and inspection.

Note 2: Schedule 1A of this Act contains separate monitoring and investigation powers in relation to matters dealt with in that Schedule: see Subdivision 5A-C of that Schedule.

(2) Information given in compliance or purported compliance with a provision mentioned in subsection (1) is subject to monitoring under Part 2 of the *Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

(3) For the purposes of Part 2 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):

(a) each *HESA investigator and *TEQSA investigator is an authorised applicant; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) each HESA investigator and TEQSA investigator is an authorised person; and
(c) a *judicial officer is an issuing officer; and
(d) for an authorised person who is a HESA investigator, the *Secretary is the relevant chief executive; and
(e) for an authorised person who is a TEQSA investigator, the Chief Executive Officer of *TEQSA is the relevant chief executive; and
(f) each *applicable court is a relevant court.

(4) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to this Act (other than Schedule 1A).

## 215-10 Investigation powers

(1) A provision is subject to investigation under Part 3 of the *Regulatory Powers Act if it is:
(a) a *civil penalty provision of this Act (other than Schedule 1A); or
(b) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act (other than Schedule 1A).

Note 1: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

Note 2: Schedule 1A of this Act contains separate monitoring and investigation powers in relation to matters dealt with in that Schedule: see Subdivision 5A-C of that Schedule.

(2) For the purposes of Part 3 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):
(a) each *HESA investigator and *TEQSA investigator is an authorised applicant; and
(b) each HESA investigator and TEQSA investigator is an authorised person; and
(c) a *judicial officer is an issuing officer; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(d) for an authorised person who is a HESA investigator, the *Secretary is the relevant chief executive; and

(e) for an authorised person who is a TEQSA investigator, the Chief Executive Officer of *TEQSA is the relevant chief executive; and

(f) each *applicable court is a relevant court.

(3) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the *Regulatory Powers Act in relation to this Act (other than Schedule 1A).

## 215-15 Civil penalty provisions

(1) Each *civil penalty provision of this Act (other than Schedule 1A) is enforceable under Part 4 of the *Regulatory Powers Act.

Note 1: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Note 2: Schedule 1A of this Act contains separate monitoring and investigation powers in relation to matters dealt with in that Schedule: see Subdivision 5A-A of that Schedule.

(2) For the purposes of Part 4 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):

(a) each of the following is an authorised applicant:

(i) the *Secretary;

(ii) an SES employee, or an acting SES employee, in the Department; and

(b) each *applicable court is a relevant court.

(3) For the purposes of Part 4 of the *Regulatory Powers Act as it applies in relation to Part 5-1A of this Act, the *Higher Education Tuition Protection Director is an authorised applicant.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 215-20 Infringement notices

(1) A *civil penalty provision of this Act (other than Schedule 1A) is subject to an infringement notice under Part 5 of the *Regulatory Powers Act.

Note 1: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Note 2: Schedule 1A of this Act contains separate monitoring and investigation powers in relation to matters dealt with in that Schedule: see Subdivision 5A-B of that Schedule.

(2) For the purposes of Part 5 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):

(a) each of the following is an infringement officer:

(i) a member of the staff of TEQSA (within the meaning of the *TEQSA Act) who is an SES employee or an acting SES employee;

(ii) a member of the staff of TEQSA (within the meaning of the *TEQSA Act) who is an APS employee who holds or performs the duties of an Executive Level 2 position or an equivalent position;

(iii) an SES employee, or an acting SES employee, in the Department; and

(b) the relevant chief executive is:

(i) for an infringement notice given by an infringement officer covered by subparagraph (a)(i) or (ii)—the Chief Executive Officer of *TEQSA; or

(ii) for an infringement notice given by an infringement officer covered by subparagraph (a)(iii)—the *Secretary.

(3) For the purposes of Part 5 of the *Regulatory Powers Act as it applies in relation to Part 5-1A of this Act, the *Higher Education Tuition Protection Director:

(a) is an infringement officer; and

(b) is the relevant chief executive.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 215-25 Enforceable undertakings

(1) The provisions of this Act (other than Schedule 1A) are enforceable under Part 6 of the *Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

(2) For the purposes of Part 6 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):

(a) the *Secretary is an authorised person; and

(b) each *applicable court is a relevant court.

## 215-30 Injunctions

(1) The provisions of this Act (other than Schedule 1A) are enforceable under Part 7 of the *Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

(2) For the purposes of Part 7 of the *Regulatory Powers Act as it applies in relation to the provisions mentioned in subsection (1):

(a) the *Secretary is an authorised person; and

(b) each *applicable court is a relevant court.

## 215-35 Appointment of investigators

(1) The *Secretary may, in writing, appoint a person as a ***HESA investigator***.

(2) The Chief Executive Officer of *TEQSA may, in writing, appoint a member of the staff of TEQSA (within the meaning of the *TEQSA Act) as a ***TEQSA investigator***.

(3) A person must not be appointed as a *HESA investigator, or a *TEQSA investigator, unless the appointer is satisfied that the person has the knowledge or experience necessary to properly exercise the powers of such an investigator.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(4) A *HESA investigator, and a *TEQSA investigator, must, in exercising powers as such, comply with any directions of the appointer.

(5) If a direction is given under subsection (4) in writing, the direction is not a legislative instrument.

## 215-40 Delegation of regulatory powers

(1) The *Secretary may, in writing, delegate his or her powers and functions under the *Regulatory Powers Act as it applies in relation to this Act (other than Schedule 1A), to an SES employee, or an acting SES employee, in the Department.

(1A) The *Higher Education Tuition Protection Director may, in writing, delegate the following functions and powers to an SES employee, or an acting SES employee, in the Department:

(a) the Director's functions and powers under the *Regulatory Powers Act as it applies in relation to Part 5-1A of this Act;

(b) the Director's functions and powers under the Regulatory Powers Act as it applies in relation to Part 5A of the *TEQSA Act.

(2) The Chief Executive Officer of *TEQSA may, in writing, delegate his or her powers and functions under the *Regulatory Powers Act as it applies in relation to this Act, to a member of the staff of TEQSA (within the meaning of the *TEQSA Act) who is:

(a) an SES employee or an acting SES employee; or

(b) an APS employee who holds or performs the duties of an Executive Level 2 position or an equivalent position.

(3) A person exercising powers or performing functions under a delegation under subsection (1) or (2) must comply with any directions of the delegator.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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### 215-45 Contravening offence and civil penalty provisions

(1) This section applies if a provision of this Act provides that a person contravening another provision of this Act (the ***conduct provision***) commits an offence or is liable to a civil penalty.

(2) For the purposes of this Act, and the *Regulatory Powers Act to the extent that it relates to this Act, a reference to a contravention of an offence provision or a *civil penalty provision includes a reference to a contravention of the conduct provision.

### 215-50 Certain references to higher education provider include references to agent

A reference in a *civil penalty provision in this Act to a higher education provider includes a reference to a person acting on behalf of the provider.

### 215-55 Other enforcement action

To avoid doubt, taking action under this Part does not limit the taking of action under any other provision of this Act.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Chapter 7—Miscellaneous

## 238-1A Giving false or misleading information

(1) A person contravenes this subsection if:

(a) a person gives information or a document under, or for the purposes of, this Act; and

(b) the information or document:

(i) is false or misleading; or

(ii) omits any matter or thing without which the information or document is misleading.

Civil penalty: 60 penalty units.

(2) Subsection (1) does not apply if the information or document is not false or misleading in a material particular.

## 238-1 Delegations by Secretary

(1) The *Secretary may, in writing, delegate to an APS employee all or any of the powers of the Secretary under this Act, the regulations or any Guidelines made under section 238-10.

(2) The *Secretary may, in writing, delegate to a *review officer of a higher education provider the Secretary's powers under Division 209 to reconsider *reviewable decisions made by the provider:

(a) under subsection 36-12(2) or 36-20(1); or

(b) relating to Chapter 3.

(2A) The *Secretary may, in writing, delegate to a *review officer of *Open Universities Australia the Secretary's powers under Division 209 to reconsider *reviewable decisions made by Open Universities Australia relating to Chapter 3.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2B) A ***review officer*** of *Open Universities Australia is a person, or a person included in a class of persons, whom:

(a) the chief executive officer of Open Universities Australia; or

(b) a delegate of the chief executive officer of Open Universities Australia;

has appointed to be a review officer of Open Universities Australia for the purposes of reviewing decisions made by it relating to assistance under Chapter 3.

(3) In exercising powers under the delegation, the delegate must comply with any directions of the *Secretary.

## 238-5 Delegations by Minister

(1) The Minister may, by writing, delegate to:

(a) the *Secretary; or

(aa) the *Higher Education Tuition Protection Director; or

(b) an APS employee;

all or any of the Minister's powers under this Act (other than under section 38-45, 41-45 or 46-40).

(2) In exercising powers under the delegation, the delegate must comply with any directions of the Minister.

## 238-6 Delegations by Higher Education Tuition Protection Director

(1) The *Higher Education Tuition Protection Director may, in writing, delegate all or any of the Director's functions or powers under this Act (other than paragraphs 167-20(1)(e) and (ea) and Part 5-8) or the *TEQSA Act (other than Division 5 of Part 7 of that Act) to an APS employee who holds or performs the duties of an APS Level 6 position, or an equivalent or higher position, in the Department.

Note 1: Paragraphs 167-20(1)(e) and (ea) give the Higher Education Tuition Protection Director the functions of making a legislative instrument under section 13 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020* and section 13 of the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note 2: Paragraph 167-20(1)(g) of this Act gives the Higher Education Tuition Protection Director certain functions in relation to tuition protection under the TEQSA Act.

(2) Before delegating a function or power under subsection (1), the Higher Education Tuition Protection Director must have regard to:

(a) if the function or power is delegated to an APS employee holding, occupying, or performing the duties of, a specified office or position—whether the office or position is sufficiently senior for the employee to perform the function or exercise the power; or

(b) otherwise—whether the employee has appropriate qualifications or expertise to perform the function or duty or exercise the power.

(3) In performing functions or exercising powers under the delegation, the delegate must comply with any directions of the *Higher Education Tuition Protection Director.

## 238-7 Review of operation of tuition protection

(1) Before 1 July 2021, the Minister must commence a review of the operation of Parts 5-1A (about tuition protection) and 5-1B (about the *Higher Education Tuition Protection Fund and related matters).

Note: The review must be conducted at the same time as a review of the operation of Parts 5 and 5A of the *Education Services for Overseas Students Act 2000* and of Parts 5A and 5B of the *VET Student Loans Act 2016* (see section 113A of the latter Act).

(2) The Minister must cause to be prepared a report of a review under subsection (1).

(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 238-8 Extent of Commissioner's general administration of this Act

The *Commissioner has the general administration of this Act to the following extent:

(a) Chapter 4, except section 154-30;

(b) section 179-25;

(c) section 179-30, so far as it relates to the Commissioner;

(d) Part 5-5;

(e) Divisions 206 and 209, so far as they relate to *reviewable decisions for which the Commissioner is the *decision maker;

(f) clause 76 of Schedule 1A;

(g) clause 77 of Schedule 1A, so far as that clause relates to the Commissioner;

(h) Division 15 of Schedule 1A.

Note: One effect of this is that this Act is to that extent a taxation law for the purposes of the *Taxation Administration Act 1953*.

## 238-10 Guidelines

(1) The Minister may, by legislative instrument, make Guidelines, specified in the second column of the table, providing for matters:

(a) required or permitted by the corresponding provision (or a term defined in the Dictionary in Schedule 1 that is required for the purposes of the provision) specified in the third column of the table to be provided; or

(b) necessary or convenient to be provided in order to carry out or give effect to that provision.

**Guidelines**

| Item | Guidelines | Provision |
|---|---|---|
| 1 | Administration Guidelines | section 19-37;<br>section 33-30;<br>section 36-21; Chapter 5 |
| 2 | Commonwealth Grant Scheme Guidelines | Part 2-2 |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Section 238-10

| **Guidelines** | | |
|---|---|---|
| **Item** | **Guidelines** | **Provision** |
| 3 | Commonwealth Scholarships Guidelines | Part 2-4 |
| 4 | FEE-HELP Guidelines | Part 3-3; section 128-20 |
| 5 | HECS-HELP Guidelines | Part 3-2 |
| 6 | Higher Education Provider Guidelines | Part 2-1; Division 36; Subdivision 104-A; section 110-5; Parts 5-1A and 5-1B; section 169-17; section 169-18 |
| 6A | Indigenous Student Assistance Grants Guidelines | Part 2-2A |
| 7 | OS-HELP Guidelines | Part 3-4 |
| 7A | STARTUP-HELP Guidelines | Part 3-7 |
| 8 | Other Grants Guidelines | Part 2-3 |
| 8AA | HELP Debtor Guidelines (Teachers) | Part 4-1 |
| 8AB | HELP Debtor Guidelines (Health Practitioners) | Part 4-1 |
| 8A | Overseas Debtors Repayment Guidelines | Part 4-2 |
| 10 | Student Learning Entitlement Guidelines | Part 3-1 |
| 10A | Student Services, Amenities, Representation and Advocacy Guidelines | section 19-39, 19-40 and 19-67 |

Note: The HELP Debtor Guidelines (Teachers) were previously known as the Very Remote HELP Debtor Guidelines.

(1A) The Minister may, by legislative instrument, make Guidelines, called Guidelines for Overseas Higher Education Providers, specifying additional requirements or conditions applicable to *Table C providers.

(2) The Minister may, by legislative instrument, make Higher Education Provider Guidelines providing for matters required or permitted by the *Higher Education Support (HELP Tuition*

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Protection Levy) Act 2020* to be provided by the Higher Education Provider Guidelines.

*Indexation*

(3) Guidelines may provide for the indexation of any or all amounts in the Guidelines, using the method of indexation set out in Part 5-6.

*HELP Debtor Guidelines (Health Practitioners)*

(4) The Minister must consult the Treasurer before specifying a kind of health practitioner in the HELP Debtor Guidelines (Health Practitioners) for the purposes of paragraph 144-1(1)(d).

(5) Despite subsection 14(2) of the *Legislation Act 2003*, the HELP Debtor Guidelines (Health Practitioners) may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

## 238-12 Appropriation

(1) Amounts payable by the Commonwealth under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

(2) Subsection (1) does not apply in relation to amounts payable in respect of members of the *AEA Advisory Board (see Subdivision 42-B) or priority managers engaged under section 42-75.

## 238-15 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Clause 1

# Schedule 1A—VET FEE-HELP Assistance Scheme

Note: See section 6-1.

## 1 What this Schedule is about

This Schedule provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain vocational education and training (VET) courses.

Note: VET FEE-HELP assistance will be phased out during 2017 and 2018: see subclauses 6(5) and 43(3) to (7).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 1—VET providers

## Division 1—Introduction

### 2 What this Part is about

A body has to be approved as a VET provider before its students can receive VET FEE-HELP. This Part sets out VET provider application and approval processes.

VET providers are subject to the VET quality and accountability requirements.

As part of the phasing out of VET FEE-HELP assistance, VET provider approvals in force immediately before 1 July 2021 are revoked by clause 29 of this Schedule. However, under that clause, provisions of this Act, the VET Guidelines and conditions on the approvals may continue to apply to a body that had been approved as a VET provider.

Note: The Minister must not approve a body as a VET provider after 4 October 2016: see subclause 6(5).

### 3 The VET Guidelines

*VET providers and the *VET quality and accountability requirements are also dealt with in the *VET Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The VET Guidelines are made by the Minister under clause 99.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 3—What is a VET provider?

## Subdivision 3-A—General

### 4 Meaning of *VET provider*

A ***VET provider*** is a body that is approved under this Division.

### 5 When a body becomes or ceases to be a VET provider

(1) A body becomes a *VET provider if approved by the Minister under clause 6.

(2) A *VET provider ceases to be a provider if the provider's approval is revoked or suspended under Division 5 or the notice of the provider's approval ceases to have effect under Part 2 of Chapter 3 (parliamentary scrutiny of legislative instruments) of the *Legislation Act 2003*.

Note: As part of the phasing out of VET FEE-HELP assistance, VET provider approvals are revoked by clause 29 of this Schedule. However, provisions of this Act, the VET Guidelines and conditions on the approvals, may continue to apply to a body that had been approved as a VET provider: see subclauses 29(2) to (4).

## Subdivision 3-B—How are bodies approved as VET providers?

### 6 Approval by the Minister

(1) The Minister, in writing, may approve a body as a *VET provider if:

(aa) the body is a body corporate that is not the trustee of a trust; and

(a) the body:

(i) is established under the law of the Commonwealth, a State or a Territory; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(ii) carries on business in Australia; and

(iii) has its central management and control in Australia; and

(b) subject to subclause (2), providing education is, or is taken to be, the body's principal purpose; and

(c) the body is a *registered training organisation, as listed on the *National Register, that has been a registered training organisation since at least 1 January 2011; and

(ca) the body has been offering:

(i) at least one *qualifying VET course continuously since at least 1 January 2011; or

(ii) one or more series of qualifying VET courses since at least 1 January 2011, with each course in a series superseding the other without interruption; and

(d) the body either fulfils the *VET tuition assurance requirements or is exempted from those requirements under clause 8; and

(da) the body offers at least one *VET course of study; and

(e) the body applies for approval as provided for in clause 9; and

(f) the Minister is satisfied that the body is willing and able to meet the *VET quality and accountability requirements; and

(g) the body complies with any requirements set out in the VET Guidelines; and

(h) the Minister is satisfied that:

(i) the body; and

(ii) each person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the body's affairs;

is a fit and proper person.

(1A) The Minister, in writing, may also approve a body as a *VET provider if:

(a) the body is of a kind specified in the *VET Guidelines; and

(b) the body:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(i) is established under the law of the Commonwealth, a State or a Territory; and
(ii) carries on business in Australia; and
(iii) has its central management and control in Australia; and

(c) subject to subclause (2), providing education is, or is taken to be, the body's principal purpose; and

(d) the body is a *registered training organisation as listed on the *National Register; and

(da) the body has been offering:
(i) at least one *qualifying VET course continuously since at least 1 January 2011; or
(ii) one or more series of qualifying VET courses since at least 1 January 2011, with each course in a series superseding the other without interruption; and

(e) the body either fulfils the *VET tuition assurance requirements or is exempted from those requirements under clause 8; and

(f) the body offers at least one *VET course of study; and

(g) the body applies for approval as provided for in clause 9; and

(h) the Minister is satisfied that the body is willing and able to meet the *VET quality and accountability requirements; and

(i) the body complies with any requirements set out in the VET Guidelines.

(2) For the purpose of paragraph (1)(b) or (1A)(c), the Minister may determine that providing education is taken to be a body's principal purpose if the Minister is satisfied that any of the body's purposes do not conflict with the body's purpose of providing education.

(2A) For the purposes of (but without limiting) paragraph (1)(g) or (1A)(i), the requirements set out in the *VET Guidelines can include requirements relating to a body's capacity to satisfactorily and sustainably provide *VET courses of study.

Note: These requirements could, for example, relate to the stability of the body's ownership and management, its experience, its business

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relationships with particular kinds of educational institutions and its record in providing quality student outcomes.

(3) The Minister must, in deciding whether he or she is satisfied that a person is a fit and proper person, take into account the matters specified in an instrument under subclause (4). The Minister may take into account any other matters he or she considers relevant.

(4) The Minister must, by legislative instrument, specify matters for the purposes of subclause (3).

(5) The Minister must not approve a body as a *VET provider after 4 October 2016.

## 7 The VET tuition assurance requirements

The ***VET tuition assurance requirements*** are that the body complies with the requirements for VET tuition assurance set out in the *VET Guidelines.

## 8 VET tuition assurance requirements exemption for approvals

(1) The Minister may, in writing, exempt a body from the *VET tuition assurance requirements for the purposes of approving the body under clause 6.

Note: This clause only deals with exemptions from the VET tuition assurance requirements when approving bodies as VET providers. The VET Guidelines will deal with exemptions from the VET tuition assurance requirements after approval has happened.

(2) An exemption is subject to such conditions as are specified in the exemption.

Note: A body will not be exempt if a condition of the exemption is not complied with.

(3) An exemption given under this clause is not a legislative instrument.

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## 9 Application

(1) A body that is a *registered training organisation may apply, in writing, to the Minister for approval as a *VET provider.

(2) The application:
  (a) must be in the form approved by the Minister; and
  (b) must be accompanied by such information as the Minister requests.

(3) If:
  (a) a body applies to the Minister for approval as a *VET provider; and
  (b) the Minister decides, under clause 6, not to approve the body as a VET provider;

the body cannot make a subsequent application for approval as a VET provider during the 6-month period starting on the date of the notice given to the applicant under paragraph 11(1)(b) about the decision.

## 10 Minister may seek further information

(1) For the purposes of determining an application, the Minister may, by notice in writing, require an applicant to provide such further information as the Minister directs within the period specified in the notice.

(2) If an applicant does not comply with a requirement under subclause (1), the application is taken to have been withdrawn.

(3) A notice under this clause must include a statement about the effect of subclause (2).

## 11 Minister to decide application

(1A) The Minister is not required to comply with this clause after 4 October 2016.

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Note: The Minister must not approve a body as a VET provider after 4 October 2016: see subclause 6(5).

(1) The Minister must:
  (a) decide an application for approval as a *VET provider; and
  (b) cause the applicant to be notified in writing whether or not the applicant is approved as a VET provider.

(2) For the purposes of paragraph 6(1)(f) or 6(1A)(h):
  (a) the Minister may be satisfied that a body is willing and able to meet the *VET quality and accountability requirements if the body gives the Minister such written undertakings as the Minister requires; and
  (b) the Minister may be satisfied that a body is willing and able to meet:
    (i) the *VET quality and accountability requirements; or
    (ii) one or more of the requirements referred to in paragraphs 13(a) to (f);
  if a body approved under the *VET Guidelines so recommends in accordance with those guidelines.

(2A) Subclause (2) does not limit the circumstances in which the Minister may be satisfied, for the purposes of paragraph 6(1)(f) or 6(1A)(h), that a body is willing and able to meet the *VET quality and accountability requirements.

(3) The Minister's decision must be made:
  (a) within 90 days after receiving the application; or
  (b) if further information is requested under clause 10—within 60 days after the end of the period within which the information was required to be provided under that clause;
whichever is the later.

(3A) However, contravention of subclause (3) does not affect the Minister's power to decide the application or the Minister's obligation to comply with subclause (1).

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(4) If the Minister decides that an applicant is approved as a *VET provider, the notice must also contain such information as is specified in the *VET Guidelines as information that must be provided to an applicant upon approval as a VET provider.

## 12 Approvals are legislative instruments

(1) A notice of approval under paragraph 11(1)(b) is a legislative instrument.

(2) A decision of the Minister to approve a body as a *VET provider takes effect when the notice of approval commences under the *Legislation Act 2003*.

Note: Section 12 of the *Legislation Act 2003* provides for when a legislative instrument commences.

## 12A Conditions of approval

(1) The Minister may impose conditions on a body's approval as a *VET provider. Such conditions need not be imposed at the time notice of approval is given to the provider.

(2) The Minister may vary a condition imposed under subclause (1).

## 12B Minister to cause VET provider to be notified of change in condition of approval

The Minister must, within 30 days of his or her decision to impose or vary a condition on a *VET provider, cause the provider to be notified, in writing, of:

(a) the decision; and

(b) the reasons for the decision; and

(c) the period for which the condition is imposed.

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## 12C Variation of approval if body's name changes

(1) If a body is approved as a *VET provider under clause 6 and the body's name changes, the Minister may vary the approval to include the new name.

(2) The Minister must notify the body in writing of the variation.

(3) A notice of variation under subclause (2) is a legislative instrument.

(4) The variation takes effect when the notice of variation commences under the *Legislation Act 2003*.

Note: Section 12 of the *Legislation Act 2003* provides for when a legislative instrument commences.

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# Division 4—What are the VET quality and accountability requirements?

## Subdivision 4-A—General

### 13 The VET quality and accountability requirements

The ***VET quality and accountability requirements*** are:

(a) the *VET financial viability requirements (see Subdivision 4-B); and

(b) the *VET quality requirements (see Subdivision 4-C); and

(c) the *VET fairness requirements (see Subdivision 4-D); and

(d) the *VET compliance requirements (see Subdivision 4-E); and

(e) the *VET fee requirements (see Subdivision 4-F); and

(f) any other requirements for VET quality and accountability set out in the *VET Guidelines.

## Subdivision 4-B—The VET financial viability requirements

### 14 Basic requirement

A *VET provider:

(a) must be financially viable; and

(b) must be likely to remain financially viable.

### 15 Financial information must be provided

(1) A *VET provider must give to the Minister a financial statement for each *annual financial reporting period for the provider in which a student of the provider receives assistance under this Schedule.

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(2) The statement:
  (a) must be in the form approved by the Minister; and
  (b) must be provided with a report, on the statement, by:
    (i) the Auditor-General of a State, of the Australian Capital Territory or of the Northern Territory; or
    (ii) a registered company auditor (within the meaning of section 9 of the *Corporations Act 2001*), who is independent of the *VET provider; or
    (iii) a person approved by the Minister under paragraph (d) of the definition of ***qualified auditor*** in subclause 1(1) of Schedule 1, who is independent of the VET provider; and
  (c) must be provided within 6 months after the end of the *annual financial reporting period for which the statement was given.

(3) An ***annual financial reporting period***, for a *VET provider, is the period of 12 months:
  (a) to which the provider's accounts relate; and
  (b) that is notified in writing to the Minister as the provider's annual financial reporting period.

## 16 Minister to have regard to financial information

In determining whether a *VET provider is financially viable, and likely to remain so, the Minister must have regard to:
  (a) any financial statement provided by the provider under clause 15; and
  (b) any financial information provided by the provider in response to a notice given to the provider under clause 24.

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## Subdivision 4-C—The VET quality requirements

### 17 Provider must maintain quality

(1) A *VET provider must operate, and continue to operate, at an appropriate level of quality for a VET provider.

(1A) To avoid doubt, subclause (1) covers the quality of all of a *VET provider's operations.

(2) The Minister must not determine that a *VET provider meets an appropriate level of quality for a VET provider unless the Minister is satisfied that the provider meets the requirements relating to quality set out, or referred to, in the *VET Guidelines.

(4) Despite subsection 14(2) of the *Legislation Act 2003*, the *VET Guidelines may refer to a requirement by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

## Subdivision 4-D—The VET fairness requirements

### 18 Equal benefits and opportunity requirements

A *VET provider must comply with the requirements relating to equal benefits and opportunity for students that are set out in the *VET Guidelines.

### 19 Student grievance and review requirements

A *VET provider must comply with the requirements relating to student grievance and review procedures that are set out in the *VET Guidelines.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 20 Tuition assurance requirements

(1) A *VET provider must comply with the *VET tuition assurance requirements.

(2) The Minister may, by declaration in writing, exempt a specified *VET provider from the requirement in subclause (1).

(3) An exemption:
  (a) is subject to such conditions as are specified in the exemption; and
  (b) may be expressed to be in force for a period specified in the exemption.

Note: A body will not be exempt if a condition of the exemption is not complied with.

(4) An exemption given under this clause is not a legislative instrument.

## 21 VET providers to appoint review officers

(1) A *VET provider must appoint a *review officer to undertake reviews of decisions made by the provider relating to assistance under Part 2.

Note: The Secretary may delegate to a review officer of a VET provider the power to reconsider decisions of the provider under Subdivision 16-C: see subclause 98(2).

(2) A ***review officer*** of a *VET provider is a person, or a person included in a class of persons, whom:
  (a) the chief executive officer of the provider; or
  (b) a delegate of the chief executive officer of the provider;

has appointed to be a review officer of the provider for the purposes of reviewing decisions made by the provider relating to assistance under Part 2.

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### 22 Review officers not to review own decisions

A *VET provider must ensure that a *review officer of the provider:

(a) does not review a decision that the review officer was involved in making; and

(b) in reviewing a decision of the provider, occupies a position that is senior to that occupied by any person involved in making the original decision.

### 23 Procedures relating to personal information

(1) A *VET provider must comply with the Australian Privacy Principles in respect of *VET personal information obtained for the purposes of Part 2 of this Schedule or Chapter 4.

(2) A *VET provider must have a procedure under which a student enrolled with the provider may apply to the provider for, and receive, a copy of *VET personal information that the provider holds in relation to that student.

(3) The provider must comply with:

(a) the requirements of the *VET Guidelines relating to *personal information in relation to students; and

(b) the procedure referred to in subclause (2).

## Subdivision 4-E—The VET compliance requirements

### 23A Basic requirement

A *VET provider must comply with:

(a) this Act and the regulations; and

(b) *VET Guidelines that apply to the provider; and

(c) a condition imposed on the provider's approval as a VET provider.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 23B Entry procedure for students

(1) A *VET provider must make and publish a *student entry procedure in accordance with the *VET Guidelines.

(2) A *VET provider must comply with its *student entry procedure.

(3) A ***student entry procedure*** is a written procedure that specifies, in accordance with the *VET Guidelines:

(a) when a student is academically suited to undertake a *VET course of study; and

(b) how to assess whether a student is so suited; and

(c) how to report to the *Secretary about the results of such assessments; and

(d) how long the *VET provider must retain those results.

Note: The VET Guidelines could, for example, require a student entry procedure to:

(a) set out the literacy, numeracy and general academic skills needed by a student to undertake a VET course of study; and

(b) provide for assessments of those skills to be conducted online.

(4) For the purposes of subclause (3), the *VET Guidelines may empower:

(a) a person or body:

(i) to decide whether to approve a particular tool for use when assessing whether a student is academically suited to undertake a *VET course of study; and

(ii) to charge a fee for making such a decision; and

(b) a person or body to charge a fee for the use of a tool for such an assessment.

A fee so charged must not be such as to amount to taxation.

## 23C Receiving requests for Commonwealth assistance

(1) A *VET provider must not treat a student as being entitled to *VET FEE-HELP assistance for a *VET unit of study if:

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Clause 23C

(a) the student gives an *appropriate officer of the VET provider:
(i) a *request for Commonwealth assistance relating to the unit or a *VET course of study of which the unit forms a part; or
(ii) a form that would be such a request if it were signed by a *responsible parent of the student; and
(b) the student is not entitled to that assistance for that unit or course.

Note: To be a request for Commonwealth assistance, a responsible parent must sign the form if the student is under 18 years old and subclause 88(3A) applies (see paragraph 88(3)(aa)).

(2) Before a *VET provider enrols a student in a *VET unit of study less than 2 business days before the *census date for the unit, the VET provider must advise the student that the student will not be able to receive *VET FEE-HELP assistance for the unit.

(3) Before a *VET provider enrols a student in a *VET unit of study, the VET provider must advise the student that any *request for Commonwealth assistance by the student in relation to the unit must be given:
(a) at least 2 business days after the student enrols in:
(i) if the *VET course of study of which the unit forms a part is undertaken with the provider—the course; or
(ii) otherwise—the unit; and
(b) on or before the *census date for the unit;
if the student has not already given an *appropriate officer of the VET provider such a request relating to the course.

(4) A *VET provider must not encourage a student to give a *request for Commonwealth assistance relating to a *VET unit of study so that the request is given less than 2 business days after the student enrols in the unit.

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## 24 VET provider to provide statement of general information

(1) A *VET provider must give to the Minister such statistical and other information that the Minister by notice in writing requires from the provider in respect of:
  (a) the provision of vocational education and training by the provider; and
  (b) compliance by the provider with the requirements of this Schedule.

(2) The information must be provided:
  (a) in a form (if any) approved by the Minister for the information; and
  (b) in accordance with such other requirements as the Minister makes.

(3) A notice under this section must not require the giving of information that a *VET provider is required to give to the Minister under clause 28.

## 25 Notice of events that affect provider's ability to comply with VET quality and accountability requirements

(1) A *VET provider must, by writing, inform the Minister of any event affecting:
  (a) the provider; or
  (b) a *related body corporate of the provider;
that may significantly affect the provider's capacity to meet the *VET quality and accountability requirements.

(2) A *VET provider must, by writing, inform the Minister of any event that may significantly affect whether:
  (a) if the VET provider was approved under subclause 6(1)—any of the conditions in subclause 6(1) are or could be met in relation to the provider after the event; or

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(aa) if the VET provider was approved under subclause 6(1A)—any of the conditions in subclause 6(1A) are or could be met in relation to the provider after the event.

(3) A notice under subclause (1) or (2) must be given to the Minister as soon as practicable after the *VET provider becomes aware of the event mentioned in the subclause.

## 25A Copy of notice given to National VET Regulator about material changes

(1) If a *VET provider gives the *National VET Regulator a notice under section 25 of the *National Vocational Education and Training Regulator Act 2011*, the provider must give a copy of the notice to the Minister.

(2) A copy of the notice must be given to the Minister at the same time it must be given to the *National VET Regulator.

## 26 Compliance assurance—provider

(1) The Minister may require a *VET provider to be audited:

(a) about compliance with any or all of the following requirements:

(i) the *VET financial viability requirements;

(ii) the *VET fairness requirements;

(iii) the *VET compliance requirements;

(iv) the *VET fee requirements;

(v) other requirements for VET quality and accountability set out in the *VET Guidelines; or

(b) about any or all of the following matters relating to *VET courses of study provided by the VET provider:

(i) the approaches used to recruit or enrol students (or potential students) of those courses who receive (or who

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could receive) *VET FEE-HELP assistance for *VET units of study forming part of those courses;

(ii) the veracity of enrolments in those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses;

(iii) the level of teaching resources, or the quality of those resources, for any of those courses;

(iv) the level of engagement in any of those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses;

(v) the completion rates for any of those courses of students who receive VET FEE-HELP assistance for VET units of study forming part of those courses.

(2) The audit must be conducted:

(a) by a body determined in writing by the Minister; and

(b) at such time or times, and in such manner, as the Minister requires.

(2A) To avoid doubt, if the Minister makes a determination under subclause (2) in relation to the *National VET Regulator, the determination is not a direction for the purpose of subsection 160(2) of the *National Vocational Education and Training Regulator Act 2011*.

(3) The provider must:

(a) fully co-operate with the auditing body in the course of its audit; and

(b) pay to the auditing body any charges payable for such an audit.

(4) A determination made under paragraph (2)(a) is not a legislative instrument.

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Clause 26A

## 26A Compliance notices

*Grounds for giving a compliance notice*

(1) The Minister may give a *VET provider a written notice (a ***compliance notice***) in accordance with this clause if the Minister is satisfied that the provider has not complied with, or is aware of information that suggests that the provider may not comply with, one or more of the following:

(a) this Act or the regulations;

(b) *VET Guidelines that apply to the provider;

(c) a condition imposed on the provider's approval as a VET provider.

*Content of compliance notice*

(2) The compliance notice must:

(a) set out the name of the provider to which the notice is given; and

(b) set out brief details of the non-compliance or possible non-compliance; and

(c) specify action that the provider must take, or refrain from taking, in order to address the non-compliance or possible non-compliance; and

(d) specify a reasonable period within which the provider must take, or refrain from taking, the specified action; and

(e) if the Minister considers it appropriate—specify a reasonable period within which the provider must provide the Minister with evidence that the provider has taken, or refrained from taking, the specified action; and

(f) in any case—state that a failure to comply with the notice is a breach of a *VET quality and accountability requirement which may lead to the provider's approval as a *VET provider being suspended or revoked; and

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(g) in any case—set out any other matters specified in the *VET Guidelines for the purposes of this paragraph.

*Matters that Minister must consider in giving compliance notice*

(3) In deciding whether to give the compliance notice, the Minister must consider all of the following matters:

(a) whether the non-compliance or possible non-compliance is of a minor or major nature;

(b) the period for which the provider has been approved as a *VET provider;

(c) the provider's history of compliance with:

(i) this Act and the regulations; and

(ii) the *VET Guidelines that apply to the provider; and

(iii) any conditions imposed on the provider's approval as a VET provider;

(d) the impact of the VET provider's non-compliance or possible non-compliance, and of the proposed compliance notice, on:

(i) the VET provider's students; and

(ii) the provision of vocational education and training generally;

(e) the public interest;

(f) any other matter specified in the VET Guidelines for the purposes of this paragraph.

*VET provider to comply with compliance notice*

(4) A *VET provider must comply with a compliance notice given to the provider under this clause.

Note: A failure to comply with a compliance notice is a breach of a VET quality and accountability requirement which may lead to the provider's approval as a VET provider being suspended or revoked (see clauses 33 and 36).

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*Variation and revocation of compliance notice*

(5) The Minister may, by written notice given to the *VET provider, vary or revoke a compliance notice if, at the time of the variation or revocation, the Minister considers that taking such action is in the public interest.

Note: A variation could, for example, specify different action to be taken by the provider or a different period for complying with the notice.

(6) In deciding whether to vary or revoke the compliance notice, the Minister must consider any submissions that are received from the *VET provider before the end of the period mentioned in paragraph (2)(d).

## Subdivision 4-F—The VET fee requirements

### 27 Determining tuition fees for all students

(1) This section applies to a *VET unit of study that a *VET provider provides or proposes to provide during a period ascertained in accordance with the *VET Guidelines.

(2) The provider must determine, for the unit, the ***VET tuition fees*** that are to apply to students who may enrol in the unit during the period.

(3) In determining *VET tuition fees under subclause (2), the provider may have regard to any matters the provider considers appropriate, other than matters specified in the *VET Guidelines as matters to which a provider must not have regard.

(4) The provider must not vary a *VET tuition fee unless the provider:
(a) does so:
(i) before the date ascertained in accordance with the *VET Guidelines; and
(ii) in circumstances specified in the VET Guidelines; or
(b) does so with the written approval of the Minister.

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## 27A Requirements in the VET Guidelines

A *VET provider must comply with any requirements set out in the *VET Guidelines relating to:

(a) fees for *VET units of study; or

(b) fees for *VET courses of study; or

(c) matters or things for which fees may be charged.

## 28 Schedules of VET tuition fees

*General rule*

(1) A *VET provider must give the Minister a schedule of the *VET tuition fees determined under clause 27 for all the VET units of study it provides or proposes to provide, other than under *VET restricted access arrangements, during a period ascertained in accordance with the *VET Guidelines. It must give the schedule:

(a) in a form approved by the Minister; and

(b) in accordance with the requirements that the Minister determines in writing.

(2) The provider must:

(a) ensure that the schedule provides sufficient information to enable a person to work out the person's *VET tuition fee for each *VET unit of study the provider provides or is to provide; and

(b) publish the schedule for a particular period by the date ascertained in accordance with the *VET Guidelines; and

(c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the provider on request and without charge.

*Restricted access arrangements*

(2A) A *VET provider must give the Minister a schedule of the *VET tuition fees determined under clause 27 for each *VET unit of

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study it provides or proposes to provide under a *VET restricted access arrangement during a period ascertained in accordance with the *VET Guidelines. It must give the schedule:

(a) in a form approved by the Minister; and

(b) in accordance with the requirements that the Minister determines in writing.

(2B) The provider must:

(a) ensure that the schedule provides sufficient information to enable a person to work out the person's *VET tuition fee for the *VET unit of study the provider provides or is to provide under the *VET restricted access arrangement; and

(b) ensure that the schedule is available, on request and without charge, to all students enrolled, or eligible to be enrolled, under the VET restricted access arrangement.

*Replacement schedules*

(3) If:

(a) the provider has given the Minister a schedule (the ***previous schedule***) under:

(i) subclause (1) or (2A); or

(ii) this subclause; and

(b) the provider varies a *VET tuition fee in the previous schedule;

the provider must:

(c) by written notice given to the Minister:

(i) withdraw the previous schedule; and

(ii) inform the Minister of the variation; and

(d) give the Minister a replacement schedule incorporating the variation.

Note: The provider must comply with subclause 27(4) when varying a tuition fee.

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(4) Subclauses (1) to (2B) apply to the replacement schedule in a corresponding way to the way in which they apply to the previous schedule.

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# Division 5—Revocation of VET provider approvals

## 29 Revocation of approval

*Revocation of approval*

(1) If an approval of a body as a *VET provider is in force immediately before 1 July 2021, the approval is revoked at the start of that day.

*Continuing application of Act etc.*

(2) Despite the revocation of a body's approval as a *VET provider by subclause (1):

(a) the Act, and the *VET Guidelines, continue to apply in relation to the body on and after 1 July 2021 as if the body were still a VET provider; and

(b) any conditions:

(i) imposed on the approval of the body; and

(ii) in effect immediately before 1 July 2021;

continue to apply to the body on and after 1 July 2021 as if the body were still a VET provider.

(3) Subclause (2) applies for the purpose of dealing with or resolving any matter that arose under this Act during, or that relates to, the period when the body was approved as a *VET provider.

(4) To avoid doubt, if a body that has had its approval revoked by subclause (1) would be required or empowered, but for the revocation, to do a thing under, or for the purposes of, Subdivision 7-B of Division 7 of Part 2 (which deals with re-crediting), the body is, on and after 1 July 2021, required or empowered to do the thing as if the body were still a *VET provider.

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*Interaction with the Acts Interpretation Act 1901*

(5) This clause does not limit the effect of section 7 of the *Acts Interpretation Act 1901*.

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# Division 5A—Civil penalty provisions and enforcement

## Subdivision 5A-A—Civil penalty provisions

### 39DA Civil penalty provisions

*Enforceable civil penalty provisions*

(1) Each *civil penalty provision of this Division is enforceable under Part 4 of the *Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

*Authorised applicant*

(2) For the purposes of Part 4 of the *Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the *civil penalty provisions:

(a) the *Secretary;

(b) an SES employee, or an acting SES employee, in the Department.

*Relevant court*

(3) For the purposes of Part 4 of the *Regulatory Powers Act, each *applicable court is a relevant court in relation to the *civil penalty provisions.

### 39DB Civil penalty—publishing information that suggests VET FEE-HELP assistance is not a loan etc.

(1) A person contravenes this subclause if:

(a) the person is a *VET provider; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the VET provider publishes information, or causes information to be published; and
(c) the information suggests that:
(i) *VET FEE-HELP assistance for a *VET unit of study or *VET course of study is not in the nature of a loan, or does not need to be repaid; or
(ii) if a student receives VET FEE-HELP assistance for such a unit or course, that the unit or course is free from any fees or charges.

Civil penalty: 60 penalty units.

(2) A person contravenes this subclause if:
(a) the person publishes information; and
(b) the person does so as agent for a *VET provider; and
(c) the information suggests that:
(i) *VET FEE-HELP assistance for a *VET unit of study or *VET course of study is not in the nature of a loan, or does not need to be repaid; or
(ii) if a student receives VET FEE-HELP assistance for such a unit or course, that the unit or course is free from any fees or charges.

Civil penalty: 60 penalty units.

## 39DC Civil penalty—inappropriate inducements

(1) A person contravenes this subclause if:
(a) the person is a *VET provider; and
(b) the VET provider:
(i) offers a person a benefit; or
(ii) provides a person with a benefit; or
(iii) causes a person to be offered or provided with a benefit; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(c) the benefit would be reasonably likely to induce a person (the ***student***) to:
(i) enrol in a *VET unit of study or *VET course of study; and
(ii) complete, sign and give an *appropriate officer of the VET provider a *request for Commonwealth assistance relating to the unit or course; and
(d) the student receives *VET FEE-HELP assistance for that unit or course.

Civil penalty: 60 penalty units.

(2) A person contravenes this subclause if:
(a) the person offers a person a benefit, or provides a person with a benefit; and
(b) the person does so as agent for a *VET provider; and
(c) the benefit would be reasonably likely to induce a person (the ***student***) to:
(i) enrol in a *VET unit of study or *VET course of study; and
(ii) complete, sign and give an *appropriate officer of the VET provider a *request for Commonwealth assistance relating to the unit or course; and
(d) the student receives *VET FEE-HELP assistance for that unit or course.

Civil penalty: 60 penalty units.

(3) To avoid doubt, the person in paragraph (1)(b) or (2)(a) who is offered, or provided with, the benefit need not be the student.

## 39DD Appropriate and inappropriate inducements

(1) Subclauses 39DC(1) and (2), and subclause (2) of this clause, do not apply in relation to any of the following benefits:

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(a) the content and quality of the *VET unit of study or *VET course of study;
(b) the amount of *tuition fees of the unit or course (other than so much of the fees as is conditional on a person identifying other persons as prospective students for a unit or course);
(c) *VET FEE-HELP assistance for the unit or course;
(d) the use of a thing if:
(i) the use is limited to the period the student is participating in the unit or course; and
(ii) the use is required or necessary for the completion of the unit or course (having regard to the learning objectives and outcomes of the unit or course); and
(iii) the use of such a thing is available on the same terms to all students, of a kind specified in the *VET Guidelines for the purposes of this subparagraph, who are participating in the unit or course.

(2) Without limiting subclauses 39DC(1) and (2), those subclauses apply in relation to the following benefits:
(a) the use of an electronic device outside the period the student is participating in the *VET unit of study or *VET course of study;
(b) internet use, or the use of software, outside that period;
(c) travel, entertainment, hospitality or accommodation services;
(d) vouchers redeemable for goods or services;
(e) money (other than amounts covered by paragraph (1)(b) or (c)).

## 39DE Civil penalty—failure to provide VET FEE-HELP notices

A person contravenes this clause if:
(a) the person is a *VET provider; and
(b) the VET provider fails to comply with subclause 64(1), (2), (2A) or (3).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Civil penalty: 60 penalty units.

### 39DF Civil penalty—failure to comply with student requests

(1) A person contravenes this subclause if:
  (a) the person is a *VET provider; and
  (b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and
  (c) the student is entitled to *VET FEE-HELP assistance for the unit; and
  (d) before the end of the *census date for the unit, the student requests, in writing, the VET provider to:
    (i) cancel the enrolment; or
    (ii) withdraw the student's *request for Commonwealth assistance relating to the unit or the *VET course of study of which the unit forms a part; and
  (e) the VET provider fails to comply with the request before the end of that census date.

Civil penalty: 60 penalty units.

(2) For the purposes of paragraph (1)(c), disregard subparagraph 43(1)(f)(ii) and paragraph 45C(1)(c).

### 39DG Civil penalty—charging a fee etc. for a student to cancel an enrolment or request for assistance

(1) A person contravenes this subclause if:
  (a) the person is a *VET provider; and
  (b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and
  (c) the student is entitled to *VET FEE-HELP assistance for the unit; and
  (d) before the end of the *census date for the unit, the student requests, in writing, the VET provider to:

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(i) cancel that enrolment; or

(ii) withdraw the student's *request for Commonwealth assistance relating to the unit or the *VET course of study of which the unit forms a part; and

(e) the VET provider charges the student a fee, or imposes a penalty, (however described) in order to do so.

Civil penalty: 60 penalty units.

(2) For the purposes of paragraph (1)(c), disregard subparagraph 43(1)(f)(ii) and paragraph 45C(1)(c).

### 39DH Civil penalty—accepting requests for Commonwealth assistance etc. when student not entitled

(1) A person contravenes this subclause if:

(a) the person is a *VET provider; and

(b) an *appropriate officer of the VET provider is given a *request for Commonwealth assistance by another person (the ***student***) relating to a *VET unit of study or the *VET course of study of which the unit forms a part; and

(c) the VET provider treats the student as being entitled to *VET FEE-HELP assistance for the unit; and

(d) the student is not so entitled.

Civil penalty: 60 penalty units.

(2) A person contravenes this subclause if:

(a) the person is a *VET provider; and

(b) an *appropriate officer of the VET provider is given a form by another person (the ***student***); and

(c) subclause 88(3A) (about certain students under 18 years old) applies to the student; and

(d) that form is not signed by a *responsible parent of the student; and

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(e) that form would have been a *request for Commonwealth assistance relating to:

(i) a *VET unit of study; or

(ii) the *VET course of study of which the unit forms a part;

if it had been signed by a responsible parent of the student; and

(f) the VET provider treats the student as being entitled to *VET FEE-HELP assistance for the unit.

Civil penalty: 60 penalty units.

## 39DI Civil penalty—failure to advise about requests etc.

(1) A person contravenes this subclause if:

(a) the person is a *VET provider; and

(b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and

(c) the student has not already given an *appropriate officer of the VET provider a *request for Commonwealth assistance relating to the *VET course of study of which the unit forms a part; and

(d) the student enrols in the unit less than 2 business days before the *census date for the unit; and

(e) before enrolling the student, the VET provider failed to advise the student that the student would not be able to receive *VET FEE-HELP assistance for the unit; and

(f) the student completes, signs and gives an appropriate officer of the VET provider a request for Commonwealth assistance relating to the unit or the VET course of study of which the unit forms a part.

Civil penalty: 60 penalty units.

(2) A person contravenes this subclause if:

(a) the person is a *VET provider; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and

(c) the student completes, signs and gives an *appropriate officer of the VET provider a *request for Commonwealth assistance relating to the unit or a *VET course of study of which the unit forms a part; and

(d) the request is so given less than 2 business days after the student enrols in the unit; and

(e) either or both of the following subparagraphs applies:

(i) before enrolling the student, the VET provider failed to advise the student that *VET FEE-HELP assistance for the unit can only be received if the request is given at least 2 business days after enrolling;

(ii) the VET provider encouraged the student to give the request so that it would be given less than 2 business days after enrolling.

Civil penalty: 60 penalty units.

## 39DJ Civil penalty—failure to apportion fees appropriately

A person contravenes this clause if:

(a) the person is a *VET provider; and

(b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and

(c) the student receives *VET FEE-HELP assistance for the unit; and

(d) the VET provider charges the student *tuition fees for the unit; and

(e) for the purposes of clause 27A, the *VET Guidelines specify when the tuition fees may be charged; and

(f) the tuition fees are not charged in accordance with those VET Guidelines.

Civil penalty: 60 penalty units.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 39DK Civil penalty—failure to publish fees

A person contravenes this clause if:

(a) the person is a *VET provider; and

(b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and

(c) the student receives *VET FEE-HELP assistance for the unit; and

(d) the VET provider charges the student *tuition fees for the unit; and

(e) on the day before the student enrols in the unit, the tuition fees were not available on the VET provider's website in a way that was readily accessible by the public.

Civil penalty: 60 penalty units.

## 39DL Civil penalty—failure to report data

A person contravenes this clause if:

(a) the person is a *VET provider; and

(b) the VET provider enrols another person (the ***student***) in a *VET unit of study; and

(c) the student receives *VET FEE-HELP assistance for the unit; and

(d) the VET provider is subject to a requirement under subclause 24(1) or (2) to provide information relating to the VET FEE-HELP assistance; and

(e) the VET provider fails to comply with the requirement.

Civil penalty: 60 penalty units.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 5A-B—Infringement notices

### 39EA Infringement notices

A *civil penalty provision of this Division is subject to an infringement notice under Part 5 of the *Regulatory Powers Act.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

### 39EB Infringement officers

For the purposes of Part 5 of the *Regulatory Powers Act, an infringement officer in relation to the *civil penalty provisions is:

(a) each *NVETR staff member who is:
  (i) an SES employee or an acting SES employee; or
  (ii) an APS employee who holds or performs the duties of an Executive Level 2 position or an equivalent position; or
(b) each SES employee, or an acting SES employee, in the Department.

### 39EC Relevant chief executive

For the purposes of Part 5 of the *Regulatory Powers Act, the relevant chief executive in relation to the *civil penalty provisions is:

(a) for an infringement notice given by an infringement officer covered by paragraph 39EB(a)—the *National VET Regulator; and
(b) for an infringement notice given by an infringement officer covered by paragraph 39EB(b)—the *Secretary.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 5A-C—Monitoring and investigation powers

### 39FA Monitoring powers

(1) Subdivision 5A-A is subject to monitoring under Part 2 of the *Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether Subdivision 5A-A has been complied with. It includes powers of entry and inspection.

(2) Information given in compliance or purported compliance with a provision of Subdivision 5A-A is subject to monitoring under Part 2 of the *Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

### 39FB Monitoring powers—persons exercising relevant roles etc.

(1) For the purposes of Part 2 of the *Regulatory Powers Act, as it applies in relation to Subdivision 5A-A of this Schedule:

(a) each *civil penalty provision of this Division is related to Subdivision 5A-A of this Schedule; and

(b) each *Departmental investigator and *NVETR investigator is an authorised applicant; and

(c) each Departmental investigator and NVETR investigator is an authorised person; and

(d) a *judicial officer is an issuing officer; and

(e) for an authorised person who is a Departmental investigator, the *Secretary is the relevant chief executive; and

(f) for an authorised person who is a NVETR investigator, the *National VET Regulator is the relevant chief executive; and

(g) each *applicable court is the relevant court.

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*Person assisting*

(2) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the *Regulatory Powers Act in relation to a provision of Subdivision 5A-A of this Schedule.

## 39FC Investigation powers

Each *civil penalty provision of this Division is subject to investigation under Part 3 of the *Regulatory Powers Act.

Note: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

## 39FD Investigation powers—persons exercising relevant roles etc.

(1) For the purposes of Part 3 of the *Regulatory Powers Act, as it applies in relation to evidential material that relates to a *civil penalty provision of this Division:

(a) each *Departmental investigator and *NVETR investigator is an authorised applicant; and

(b) each Departmental investigator and NVETR investigator is an authorised person; and

(c) a *judicial officer is an issuing officer; and

(d) for an authorised person who is a Departmental investigator, the *Secretary is the relevant chief executive; and

(e) for an authorised person who is a NVETR investigator, the *National VET Regulator is the relevant chief executive; and

(f) each *applicable court is the relevant court.

*Person assisting*

(2) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of

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the *Regulatory Powers Act in relation to evidential material that relates to a provision of Subdivision 5A-A of this Schedule.

## Subdivision 5A-D—Other matters

### 39GA Appointment of investigators

(1) The *Secretary may, in writing, appoint a person as a ***Departmental investigator*** for the purposes of this Division.

(2) The *National VET Regulator may, in writing, appoint a *NVETR staff member as a ***NVETR investigator*** for the purposes of this Division.

(3) A person must not be appointed as a *Departmental investigator, or a *NVETR investigator, unless the appointer is satisfied that the person has the knowledge or experience necessary to properly exercise the powers of such an investigator.

(4) A *Departmental investigator, and a *NVETR investigator, must, in exercising powers as such, comply with any directions of the appointer.

(5) If a direction is given under subclause (4) in writing, the direction is not a legislative instrument.

### 39GB Functions and powers

The functions and powers of a person referred to in:

(a) subclause 39DA(2) (about authorised applicants); or
(b) clause 39EB or 39EC (about infringement notices); or
(c) paragraph 39FB(1)(b), (c), (d), (e) or (f) (about monitoring powers); or
(d) paragraph 39FD(1)(a), (b), (c), (d) or (e) (about investigation powers);

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include those conferred by Part 2, 3, 4 or 5 (as applicable) of the *Regulatory Powers Act in relation to this Division.

## 39GC Delegation by relevant chief executive etc.

(1) The *Secretary may, in writing, delegate his or her powers and functions that:

(a) arise under the *Regulatory Powers Act as the relevant chief executive; and

(b) relate to this Division;

to an SES employee, or an acting SES employee, in the Department.

(2) The *National VET Regulator may, in writing, delegate his or her powers and functions that:

(a) arise under the *Regulatory Powers Act as the relevant chief executive and relate to this Division; or

(b) arise under clause 39GA of this Schedule;

to an *NVETR staff member who is:

(c) an SES employee or an acting SES employee; or

(d) an APS employee who holds or performs the duties of an Executive Level 2 position or an equivalent position.

(3) A person exercising powers or performing functions under a delegation under subclause (1) or (2) must comply with any directions of the delegator.

(4) A person must not exercise powers or perform functions under a delegation under subclause (1) or (2) in relation to an infringement notice given by the person.

## 39GD Other enforcement action

To avoid doubt, action may be taken under this Division in addition to, or instead of, any action that may be taken under any

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Clause 39GD

other provision of this Act, including under any or all of the following provisions of this Schedule:

(a) clause 12A (about imposing conditions on an approval);

(b) clause 26A (about compliance notices);

(d) Subdivision 7-B (about re-crediting *HELP balances).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 2—VET FEE-HELP assistance

## Division 6—Introduction

### 40 What this Part is about

A student may be entitled to VET FEE-HELP assistance for VET units of study if certain requirements are met.

The amount of assistance to which the student may be entitled is based on his or her VET tuition fees for the units, but there is a limit on the total amount of assistance that the student can receive. The assistance is paid to a VET provider to discharge the student's liability to pay his or her VET tuition fees.

Note 1: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Chapter 4.

Note 2: VET FEE-HELP assistance will be phased out during 2017 and 2018: see subclauses 43(3) to (7).

### 41 The VET Guidelines

(1) *VET FEE-HELP assistance is also dealt with in the *VET Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

(2) *VET tuition fees are also dealt with in the *VET Guidelines.

Note: The VET Guidelines are made by the Minister under clause 99.

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# Division 7—Who is entitled to VET FEE-HELP assistance?

## Subdivision 7-A—Basic rules

### 43 Entitlement to VET FEE-HELP assistance

(1) Subject to this clause, a student is entitled to *VET FEE-HELP assistance for a *VET unit of study if:

(a) the student meets the citizenship or residency requirements under clause 44; and

(b) the student's *HELP balance is greater than zero; and

(c) the *census date for the unit is on or after 1 January 2008; and

(d) the unit meets the course requirements under clause 45; and

(e) the unit is, or is to be, undertaken as part of a *VET course of study; and

(ea) the student meets the entry procedure requirements under clause 45B; and

(f) the student:

(i) enrols in the unit at least 2 business days before the census date for the unit; and

(ii) at the end of the census date, remained so enrolled; and

(fa) in a case where the student is not already entitled to VET FEE-HELP assistance for another VET unit of study forming part of the course—the body with whom the student is enrolled is approved as a *VET provider:

(i) for the day of the enrolment; or

(ii) if that day falls within a period when the body's approval as a VET provider is suspended under subclause 36(5)—for a later day because that suspension has ended; and

(fb) if the VET provider was approved as a VET provider after 2015, the course is:

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(i) one of the *qualifying VET courses that enabled paragraph 6(1)(ca) or (1A)(da) to be satisfied for the purposes of that approval; or

(ii) a qualifying VET course that superseded such a course directly or indirectly without interruption; and

(g) the student *meets the tax file number requirements (see clause 80); and

(h) the student meets the request for Commonwealth assistance requirements under clause 45C; and

(i) the student meets any other requirements set out in the *VET Guidelines.

Note 1: For the purposes of paragraph (e), clause 45A affects whether a person undertakes a VET unit of study as part of a VET course of study.

Note 2: For the purposes of paragraph (fa), a body's approval as a VET provider ceases while the approval is suspended (see clause 29). If this approval is suspended when the student first enrols in units forming part of the course, the student can only become entitled to VET FEE-HELP assistance when that suspension ends.

(2) A student is not entitled to *VET FEE-HELP assistance for a *VET unit of study if:

(a) the unit forms a part of a *VET course of study; and

(b) the VET course of study is, or is to be, undertaken by the student primarily at an overseas campus.

(3) A student is not entitled to *VET FEE-HELP assistance for a *VET unit of study if:

(a) the *census date for the unit is on or after 1 January 2017; or

(b) if the student is covered by subclause (4)—the census date for the unit is on or after:

(i) unless subparagraph (ii) applies—1 January 2018; or

(ii) if the Minister is satisfied that exceptional circumstances justify continued entitlement to VET FEE-HELP assistance for the student—a day determined in writing by the Minister.

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Clause 43

(4) A student is covered by this subclause if:
  (a) immediately before 1 January 2017, the student was enrolled in the *VET course of study of which the *VET unit of study forms a part; and
  (b) the unit is provided:
    (i) by the *VET provider with whom the student was enrolled immediately before 1 January 2017; or
    (ii) in compliance with the *VET tuition assurance requirements as they apply in relation to the provider; and
  (c) before 1 January 2017, the student received *VET FEE-HELP assistance for another unit that formed a part of the course; and
  (d) the Secretary is satisfied that, at all times from the commencement of this paragraph, the student has been a genuine student (within the meaning of the *VET Student Loans Act 2016*).

(5) A student is not entitled to *VET FEE-HELP assistance for a *VET unit of study if a *VET student loan has been approved for the student for the *VET course of study of which the unit forms a part.

(6) The *VET Guidelines may specify matters to which the Minister must or may have regard in deciding for the purposes of subparagraph (3)(b)(ii) whether exceptional circumstances justify continued entitlement to *VET FEE-HELP assistance for the student.

(7) A determination under subparagraph (3)(b)(ii) is not a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 44 Citizenship or residency requirements

(1) The citizenship or residency requirements for *VET FEE-HELP assistance for a *VET unit of study are that the student in question is:

(a) an Australian citizen; or

(b) a *permanent humanitarian visa holder who will be resident in Australia for the duration of the unit; or

(c) a student to whom subclause (3) applies.

(2) In determining, for the purpose of paragraph (1)(b), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or

(b) is required for the purpose of completing a requirement of that unit.

(3) This subclause applies to a student who:

(a) is a New Zealand citizen; and

(b) holds a special category visa under the *Migration Act 1958*; and

(c) both:

(i) first began to be usually resident in Australia at least 10 years before the day referred to in subclause (4) (the ***test day***); and

(ii) was a *dependent child when he or she first began to be usually resident in Australia; and

(d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and

(e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

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(4) For the purposes of subclause (3), the day is the earlier of:
(a) if the student has previously made a successful *request for Commonwealth assistance under this Part for a *VET unit of study that formed part of the same *VET course of study—the day the student first made such a request; or
(b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

## 45 Course requirements

(1) The course requirements for *VET FEE-HELP assistance for a *VET unit of study are that the unit:
(a) is being undertaken as part of a *VET course of study that meets any requirements set out in the *VET Guidelines; and
(b) is not being undertaken as part of a VET course of study that:
(i) is subject to a specification under subclause (2); or
(ii) is with a *VET provider that is subject to a specification under subclause (2).

Note: For the purposes of paragraph (1)(a), clause 45A affects whether a person undertakes a VET unit of study as part of a VET course of study.

(1A) For the purposes of paragraph (1)(a), the *VET Guidelines:
(a) may set out different requirements relating to different students undertaking the *VET unit of study; and
(b) may set out requirements relating to only some students undertaking the VET unit of study (while not setting out requirements relating to other students undertaking the unit).

(2) The *VET Guidelines may specify that:
(a) a specified course or a specified kind of course provided by a specified *VET provider or a specified kind of VET provider is a course in relation to which *VET FEE-HELP assistance is unavailable; or

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(b) all courses provided by a specified VET provider or a specified kind of VET provider are courses in relation to which VET FEE-HELP assistance is unavailable.

(3) In deciding whether to make a specification for the purposes of subclause (2), the Minister must have regard to the effect of the specification on students undertaking the course or courses.

## 45A VET unit of study not undertaken as part of VET course of study

For the purposes of paragraphs 43(e) and 45(1)(a), a student is taken not to undertake a *VET unit of study as part of a *VET course of study if undertaking the unit involves the student doing more than he or she needs to do to be awarded a *VET qualification that the course leads to.

## 45B Entry procedure requirements

The entry procedure requirements for *VET FEE-HELP assistance for a *VET unit of study are that the student, in accordance with the *VET provider's *student entry procedure, has been assessed as academically suited to undertake the *VET course of study of which the unit forms a part.

## 45C Request for Commonwealth assistance requirements

(1) The request for Commonwealth assistance requirements for *VET FEE-HELP assistance for a *VET unit of study are that:

(a) the student completes, signs and gives an *appropriate officer of the *VET provider a *request for Commonwealth assistance that:

(i) if the *VET course of study of which the unit forms a part is undertaken with the provider—relates to the course, and is so given at least 2 business days after the student enrols in the course; or

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(ii) otherwise—relates to the unit, and is so given at least 2 business days after the student enrols in the unit; and

(b) the request is so given on or before the *census date for the unit; and

(ba) if the student enrols in the course after the day the *Higher Education Support Amendment (VET FEE-HELP Reform) Act 2015* receives the Royal Assent—the student being entitled to the VET FEE-HELP assistance for the unit:

(i) would not cause the VET provider's *VET FEE-HELP account to be in deficit at the end of that census date (see subclause 45D(7)); and

(ii) would not cause or contribute to that account being in deficit at the end of 2016 or a later calendar year; and

(c) the request is not withdrawn before the end of that census date.

*If VET provider incorrectly treats student as being entitled*

(2) However, for the purposes of this Act (other than clause 39DH), if:

(a) either or both of the following things happen:

(i) the student fails to comply with paragraph (1)(a) of this clause by not giving the request at least 2 business days after the enrolment referred to in that paragraph;

(ii) paragraph (1)(ba) of this clause is not complied with; and

(b) the *VET provider treats the student as being entitled to *VET FEE-HELP assistance for the unit;

those paragraphs of this clause are taken to have been complied with.

Note 1: The VET provider should not treat the student as being entitled to VET FEE-HELP assistance:

(a) if the student requests the assistance during the 2 business day cooling-off period after the enrolment; or

(b) if being entitled would cause or contribute to the provider's VET FEE-HELP account being in deficit.

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Note 2: However, if the provider does treat the student as being entitled, the provider will contravene subclause 39DH(1) (a civil penalty provision), and the student may still be able to receive the assistance.

## 45D Notional VET FEE-HELP accounts

(1) There is a notional ***VET FEE-HELP account*** for each *VET provider.

Note 1: The VET provider will need to monitor the balance of its account, as it will have to repay an amount to the Commonwealth if the account is in deficit at the end of 2016 or a later year.

Note 2: This account applies in relation to all students entitled to VET FEE-HELP assistance for VET units of study with census dates on or after 1 January 2016 (whether or not the student received VET FEE-HELP assistance for earlier units before that day). See subclause (7).

*Credits to the VET provider's VET FEE-HELP account*

(2) A credit arises in the *VET provider's *VET FEE-HELP account as follows:

(a) if the VET provider is already a VET provider on 1 January 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (3);

(b) if the VET provider becomes a VET provider during 2015, a credit arises on the first day of each later calendar year that is equal to the amount worked out under subclause (4);

(c) if the VET provider becomes a VET provider on a day after 2015, a credit arises on that day that is equal to the amount worked out under subclause (5);

(d) if the VET provider pays on a particular day any part of any amount that becomes due under subclause 45E(2), a credit arises on that day that is equal to the amount of that payment;

(e) if another body ceases to be a VET provider, a credit may arise:

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(i) in accordance with a determination under subclause (6) at the time of the cessation; and

(ii) that is equal to the amount worked out under that determination;

(f) if the *Secretary, on application by the VET provider, is satisfied on a particular day that:

(i) the VET provider is offering a VET course of study that confers skills in an identified area of national importance; and

(ii) the course is relevant for employment in a licensed occupation; and

(iii) one or more students are unable to readily access training places in courses of this kind with any other VET provider; and

(iv) insufficient credits have arisen in the VET provider's VET FEE-HELP account for an appropriate number of students to undertake the course with the VET provider; and

(v) granting an extra credit of a particular amount is appropriate (which need not be the amount specified in the application);

the Secretary may grant a credit, which arises on that day, that is equal to the amount considered appropriate under subparagraph (v).

(3) For the purposes of paragraph (2)(a), the amount to be credited is the amount equal to:

$$\frac{3}{2} \times \text{VET provider's adjusted 2015 total loan amount}$$

where:

***VET provider's adjusted 2015 total loan amount*** means the sum of the amounts of *VET FEE-HELP assistance paid for students undertaking, with the *VET provider, *VET units of study that had

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*census dates during the period starting on 1 January 2015 and ending on 31 August 2015.

(4) For the purposes of paragraph (2)(b), the amount to be credited is the amount equal to the sum of:

(a) the *VET provider's fee revenue for the period:

(i) starting on 1 January 2015; and

(ii) ending on the day before the VET provider was approved as a VET provider;

for *domestic students undertaking *qualifying VET courses in that period; and

(b) the sum of the amounts of *VET FEE-HELP assistance paid for students undertaking, with the VET provider, *VET units of study that had *census dates during 2015.

(5) For the purposes of paragraph (2)(c), the amount to be credited is the amount equal to the *VET provider's fee revenue for the 2015 calendar year for *domestic students undertaking in that year the *qualifying VET courses that enabled paragraph 6(1)(ca) or (1A)(da) to be satisfied for the purposes of the VET provider's approval as a VET provider.

(6) The Minister may, by legislative instrument, determine:

(a) whether credits arise in the *VET FEE-HELP accounts of specified *VET providers when another body ceases to be a VET provider; and

(b) the amounts of such credits.

*Debits to the VET FEE-HELP account*

(7) A debit arises in the *VET provider's *VET FEE-HELP account if a student is entitled to *VET FEE-HELP assistance for a *VET unit of study:

(a) that is to be undertaken with the VET provider; and

(b) that has a *census date on or after 1 January 2016.

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The debit arises at the end of that census date, and is equal to the amount of that assistance.

## 45E Effect of VET FEE-HELP account being in deficit at the end of a calendar year

(1) If:

(a) a *VET provider's *VET FEE-HELP account is in deficit at the end of a calendar year; and

(b) the *Secretary gives the VET provider a written notice about the deficit;

the VET provider must pay to the Commonwealth an amount equal to the amount of the deficit (the ***excess loan amount***).

(2) The excess loan amount is due on the seventh day (the ***due day***) after the day the notice is given.

*Late payments of the excess loan amount attract the general interest charge*

(3) If some or all of the excess loan amount remains unpaid after the due day, the *VET provider must pay to the Commonwealth an amount (the ***general interest charge***) relating to the unpaid amount for each day in the period that:

(a) starts at the beginning of the day after the due day; and

(b) ends at the end of the last day on which, at the end of the day, any of the following remains unpaid:

(i) the excess loan amount;

(ii) general interest charge on any of the excess loan amount.

(4) The general interest charge for a particular day is worked out by multiplying the *general interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the general interest charge from previous days;

(b) the excess loan amount.

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(5) The general interest charge for a day is due and payable to the Commonwealth at the end of that day.

(6) The *Secretary may give written notice to the *VET provider of the amount of the general interest charge for a particular day or days. A notice given under this subclause is prima facie evidence of the matters stated in the notice.

(7) The *Secretary may remit all or a part of the general interest charge payable by the *VET provider if the Secretary is satisfied:

(a) that:

(i) the circumstances that contributed to the delay in payment were not due to, or caused directly or indirectly by, an act or omission of the VET provider; and

(ii) the VET provider has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; or

(b) that it is otherwise appropriate to do so.

(8) An amount payable under this clause may be recovered by the Commonwealth from the *VET provider as a debt due to the Commonwealth.

## Subdivision 7-B—Re-crediting HELP balances in relation to VET FEE-HELP assistance

### 46 Main case of re-crediting a person's HELP balance in relation to VET FEE-HELP assistance

(1) If clause 46A, 46AA or 51 applies to re-credit a person's *HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person has received for a *VET unit of study, then this clause does not apply in relation to that unit.

Note: For ***HELP balance***, see section 128-15, and for ***HELP loan limit***, see section 128-20.

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Clause 46

(2) A *VET provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person received for a *VET unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and

(c) the provider is satisfied that special circumstances apply to the person (see clause 48); and

(d) the person applies in writing to the provider for re-crediting of the HELP balance; and

(e) either:

(i) the application is made before the end of the application period under clause 49; or

(ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-18.

(3) If the provider is unable to act for one or more of the purposes of subclause (2), or clause 48, 49 or 50, the *Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

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## 46A Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance—unacceptable conduct by provider or provider's agent

*Decision to re-credit due to unacceptable conduct*

(1) The *Secretary must re-credit a person's *HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person received for a *VET unit of study if the Secretary is satisfied that:

(a) the person has been enrolled in the unit with a *VET provider; and

(b) the person has not completed the requirements for the unit during the period the person undertook, or was to undertake, the unit; and

(c) circumstances exist, of a kind specified in the *VET Guidelines for the purposes of this paragraph, involving unacceptable conduct by the VET provider (or an agent of the VET provider) relating to the person's *request for Commonwealth assistance relating to:

(i) the unit; or

(ii) the *VET course of study of which the unit forms a part; and

(d) the person has applied in writing to the Secretary for re-crediting of the HELP balance under this subclause; and

(e) the application is in the form approved by the Secretary, and is accompanied by such information as the Secretary requests; and

(f) either:

(i) the application was made during the first 3 years after the period during which the person undertook, or was to undertake, the unit; or

(ii) it would not be, or was not, possible for the application to be made during those 3 years.

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Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-18.

(2) If:

(a) the person received the *VET FEE-HELP assistance as a result of giving an *appropriate officer of the *VET provider a form; and

(b) the form would have been a *request for Commonwealth assistance relating to the unit if it had been signed by a *responsible parent of the person;

paragraph (1)(c) applies as if the form were the person's request for Commonwealth assistance relating to the unit.

Note: To be a request for Commonwealth assistance, a responsible parent must sign the form if the student is under 18 years old and subclause 88(3A) applies (see paragraph 88(3)(aa)).

*Inviting submissions before making a decision*

(3) Before making a decision under subclause (1), the *Secretary must give the applicant and the *VET provider a notice in writing:

(a) stating that the Secretary is considering making the decision; and

(b) describing the decision and stating the reasons why the Secretary is considering making it; and

(c) inviting the applicant and the VET provider to each make written submissions to the Secretary within 28 days on either or both of the following matters:

(i) why that decision should not be made;

(ii) if that decision would re-credit the applicant's *HELP balance with a particular amount—why that amount should be changed; and

(d) informing the applicant and the VET provider that, if no submissions are received within the 28 day period, the Secretary may proceed to make the decision.

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(4) In deciding whether to make the decision under subclause (1), the *Secretary must consider any submissions received from the applicant, and from the *VET provider, within the 28 day period.

*Notice of a decision*

(5) The *Secretary must give written notice of a decision under subclause (1) to the applicant and the *VET provider. The notice must be given within 28 days after the day the decision was made.

## 46AA Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance—inappropriate conduct by provider or provider's agent

*Re-crediting*

(1) The *Secretary may, on application under subclause (3) or on the Secretary's own initiative, re-credit a person's *HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person received for a *VET unit of study with a *VET provider, if the Secretary is satisfied that:

(a) either:

(i) the person has not completed the requirements for the unit during the period the person undertook, or was to undertake, the unit; or

(ii) under *VET Guidelines prescribed for the purposes of this subparagraph, the person is taken not to have completed those requirements during that period; and

(b) it is reasonably likely that, having regard to any matters prescribed by the *VET Guidelines for the purposes of this paragraph, the VET provider (or an agent of the VET provider) engaged in inappropriate conduct towards the person in relation to the unit, or the *VET course of study of which the unit forms a part.

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Note 1: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-18.

Note 2: The VET provider may be required to repay an amount to the Commonwealth under subclause 56(4), depending on the nature of the inappropriate conduct.

(2) The *VET Guidelines may prescribe matters for the purposes of paragraph (1)(b) that are also prescribed for the purposes of paragraph 46A(1)(c) (circumstances involving unacceptable conduct).

(3) A person may apply to the *Secretary for the person's *HELP balance to be re-credited under subclause (1). The application must:

(a) be in writing; and

(b) be in the form (if any) approved by the Secretary and accompanied by the information (if any) required by the Secretary; and

(c) meet any requirements prescribed by the *VET Guidelines for the purposes of this paragraph.

*Submissions by applicants before refusal to re-credit*

(4) Before making a decision to refuse a person's application under subclause (3) for re-crediting of the person's *HELP balance, the Secretary must give the person a notice in writing:

(a) stating that the Secretary is considering making the decision; and

(b) stating the reasons why the Secretary is considering making the decision; and

(c) inviting the person to make written submissions to the Secretary, within 28 days, about why that decision should not be made; and

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(d) informing the person that, if no submissions are received within the 28 day period, the Secretary may proceed to make the decision.

(5) In deciding whether to re-credit the *HELP balance, the *Secretary must take into account any submissions received from the person within the 28 day period.

*Submissions by providers before decision to re-credit in circumstances requiring repayment by provider*

(6) Before making a decision to re-credit a person's *HELP balance to which subclause 56(4) applies, the Secretary must give the *VET provider a notice in writing:

(a) stating that the Secretary is considering making the decision; and

(b) stating that, if the Secretary makes the decision, the VET provider will be required to pay an amount to the Commonwealth under subclause 56(4) in relation to the re-crediting; and

(c) stating the reasons why the Secretary is considering making the decision; and

(d) inviting the VET provider to make written submissions to the Secretary, within 28 days, about why that decision should not be made; and

(e) informing the VET provider that, if no submissions are received within the 28 day period, the Secretary may proceed to make the decision.

(7) In deciding whether to re-credit the *HELP balance, the *Secretary must take into account any submissions received from the *VET provider within the 28 day period.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Written notice of decision*

(8) If the *Secretary re-credits a person's *HELP balance under subclause (1), the Secretary must, as soon as practicable, give written notice of the Secretary's decision and the reasons for it to:
  (a) the person; and
  (b) if subclause 56(4) applies to the decision—the *VET provider.

*Final date for re-crediting*

(9) The *Secretary must not re-credit a person's *HELP balance under subclause (1) on the Secretary's own initiative, after:
  (a) 31 December 2020; or
  (b) if a later day is prescribed by the *VET Guidelines for the purposes of this paragraph—that later day.

(10) The *Secretary must not re-credit a person's *HELP balance under subclause (1) on application made by the person, if the application is made after:
  (a) 31 December 2020; or
  (b) if a later day is prescribed by the *VET Guidelines for the purposes of this paragraph—that later day.

## 46B Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance—VET FEE-HELP account in deficit at the end of a calendar year

*Main case*

(1) A *VET provider must, on the *Secretary's behalf, re-credit a student's *HELP balance with an amount if:
  (a) the student receives *VET FEE-HELP assistance in a calendar year for a *VET unit of study undertaken with the VET provider; and

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(b) under subclause 45E(1), the Secretary notifies the VET provider that the VET provider's *VET FEE-HELP account was in deficit at the end of the calendar year; and

(c) the VET provider reasonably believes that some or all of that assistance caused or contributed to the deficit.

(2) The amount to be re-credited is equal to so much of that assistance as the *VET provider reasonably believes caused or contributed to the deficit.

Note: A corresponding amount of the student's VET FEE-HELP debt relating to the unit will be remitted (see section 137-18).

(3) The *Secretary may re-credit the student's *HELP balance under this subclause if:

(a) the *VET provider is unable to do so under subclauses (1) and (2); and

(b) the Secretary knows how much of that assistance that the VET provider reasonably believes caused or contributed to the deficit.

*If not all of the deficit can be re-credited under subclauses (1) and (3)*

(4) If the deficit exceeds the total amount able to be re-credited under subclauses (1) and (3) for all of the *VET provider's students who received *VET FEE-HELP assistance in the calendar year for *VET units of study undertaken with the VET provider, the *Secretary may re-credit the *HELP balance of each of those students with the amount equal to:

That excess × Student's percentage of the total assistance

where:

***student's percentage of the total assistance*** means the percentage equal to the percentage that the student's *VET FEE-HELP assistance referred to in paragraph (1)(a) is of the total VET FEE-HELP assistance received by students of the *VET provider in

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the calendar year for *VET units of study undertaken with the VET provider.

## 47 Re-crediting a person's HELP balance—no tax file number

(1) A *VET provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person received for a *VET unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) subclause 89(1) applies to the person in relation to the unit.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see section 137-18.

(2) The *Secretary may re-credit the person's *HELP balance under subclause (1) if the provider is unable to do so.

## 48 Special circumstances

For the purposes of paragraph 46(2)(c), special circumstances apply to the person if and only if the *VET provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the *VET unit of study in question; and

(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

## 49 Application period

(1) If:

(a) the person applying under paragraph 46(2)(d) for the re-crediting of the person's *HELP balance in relation to a

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*VET unit of study has withdrawn his or her enrolment in the unit; and

(b) the *VET provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subclause (1) does not apply, the application period for the application is the period of 12 months after the period during which the person undertook, or was to undertake, the unit.

## 50 Dealing with applications

(1) If:

(a) the application is made under paragraph 46(2)(d) before the end of the relevant application period; or

(b) the *VET provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

Note: Refusals of applications are reviewable under Division 16.

## 51 Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance if provider ceases to provide course of which unit forms part

(1) A *VET provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of

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*VET FEE-HELP assistance that the person received for a *VET unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider ceased to provide the unit as a result of ceasing to provide the course of which the unit formed part; and

(c) the *VET tuition assurance requirements applied to the provider at the time the provider ceased to provide the unit; and

(d) the person chose the option designated under the VET tuition assurance requirements as VET tuition fee repayment in relation to the unit.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see subsection 137-18(4).

(2) The *Secretary may re-credit the person's *HELP balance under subclause (1) if the provider is unable to do so.

## 51A Implications for the student's liability to the VET provider for the VET tuition fee

If a student's *HELP balance is re-credited in accordance with this Subdivision with an amount for a *VET unit of study, the student is discharged from all liability to pay or account for so much of the student's *VET tuition fee for the unit as is equal to that amount.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 8—How are amounts of VET FEE-HELP assistance worked out?

## 52 The amount of VET FEE-HELP assistance for a VET unit of study

The amount of *VET FEE-HELP assistance to which a student is entitled for a *VET unit of study is the difference between:

(a) the student's *VET tuition fee for the unit; and

(b) the sum of any *up-front VET payments made in relation to the unit.

Note: A lesser amount may be payable because of clause 54.

## 53 Up-front payments

(1) An ***up-front VET payment***, in relation to a *VET unit of study for which a student is liable to pay a *VET tuition fee, is a payment of all or part of the student's VET tuition fee for the unit, other than a payment of *VET FEE-HELP assistance under this Part.

(2) The payment must be made on or before the *census date for the unit.

## 54 Amounts of VET FEE-HELP assistance, HECS-HELP assistance and FEE-HELP assistance must not exceed the HELP balance

*Amount of VET FEE-HELP assistance for one unit*

(1) The amount of *VET FEE-HELP assistance to which a student is entitled for a *VET unit of study is an amount equal to the student's *HELP balance on the *census date for the unit if:

(a) there is no other:

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(i) VET unit of study, with the same census date, for which the student is entitled to VET FEE-HELP assistance; or

(ia) unit of study, with the same census date, for which the student is entitled to *HECS-HELP assistance; or

(ii) unit of study, with the same census date, for which the student is entitled to *FEE-HELP assistance; and

(b) the amount of VET FEE-HELP assistance to which the student would be entitled under clause 52 for the unit would exceed that HELP balance.

Note 1: For transitional provisions relating to subparagraph (a)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

*Amount of VET FEE-HELP assistance for more than one unit*

(2) If the sum of:

(a) the amount of *VET FEE-HELP assistance to which a student would be entitled under clause 52 for a *VET unit of study; and

(b) any other amounts of:

(i) VET FEE-HELP assistance to which the student would be entitled under that clause for other units that have the same *census date as that unit; and

(ia) *HECS-HELP assistance to which the student would be entitled under section 93-1 for other units that have the same census date as that unit; and

(ii) *FEE-HELP assistance to which the student would be entitled under section 107-1 for other units that have the same census date as that unit;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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would exceed the student's *HELP balance on the census date for the unit, then, despite subclause (1) of this clause, the total amount of VET FEE-HELP assistance, HECS-HELP assistance and FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that HELP balance.

Example: Kath has a HELP balance of $2,000, and is enrolled in 4 units with the same census date. Kath's VET tuition fee for each unit is $600. The total amount of VET FEE-HELP assistance to which Kath is entitled for the units is $2,000, even though the total amount of her VET tuition fees for the units is $2,400.

Note 1: For transitional provisions relating to subparagraph (b)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

(3) If the student has enrolled in the units with more than one *VET provider or higher education provider, the student must notify each provider of the proportion of the total amount of *VET FEE-HELP assistance,*HECS-HELP assistance or *FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 9—How are amounts of VET FEE-HELP assistance paid?

Note: Division 11 also deals with payments by the Commonwealth under this Schedule.

## 55 Payments

(1) If a student is entitled to an amount of *VET FEE-HELP assistance for a *VET unit of study with a *VET provider, the Commonwealth must:

(a) as a benefit to the student, lend to the student the amount of VET FEE-HELP assistance; and

(b) pay the amount lent to the provider in discharge of the student's liability to pay his or her *VET tuition fee for the unit.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Chapter 4.

(2) However, the Commonwealth must not pay an amount to a provider under paragraph (1)(b) in respect of a *VET unit of study unless the provider has given the Minister notice of the student's liability to pay his or her *VET tuition fee for the unit, including the amount of the liability, before the reporting deadline for the unit.

(3) The amount paid to a provider for a unit under paragraph (1)(b) must not exceed the amount notified for the purposes of subclause (2) before the reporting deadline for the unit.

(4) If the Commonwealth does not pay an amount to a provider because of the operation of subclause (2), the student is discharged from all liability to pay or account for so much of the student's *VET tuition fee for the *VET unit of study as is equal to that amount.

(5) For the purposes of this clause, the ***reporting deadline*** for a unit is:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(a) for a unit with a *census date before 1 January 2018—before 1 July 2021; or

(b) for any other unit—before 1 January 2022.

## 56 Effect of HELP balance being re-credited

*Re-crediting other than under subclause 46AA(1)*

(1) If, under subclause 46(2), 46A(1) or 47(1), or clause 51, a person's *HELP balance is re-credited with an amount relating to *VET FEE-HELP assistance for a *VET unit of study, the provider must pay to the Commonwealth an amount equal to the amount of VET FEE-HELP assistance to which the person was entitled for the unit.

Note: The provider must repay the amount under subclause (1) even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

(2) Subclause (1) does not apply to the provider if:

(a) the person's *HELP balance was re-credited under subclause 46(2) (main case of re-crediting a person's HELP balance); and

(b) the person enrolled in the unit in circumstances that make it a replacement unit within the meaning of the *VET tuition assurance requirements.

(3) The *VET Guidelines may, in setting out the *VET tuition assurance requirements, specify, in relation to the re-crediting of a person's *HELP balance in circumstances to which subclause (2) applies:

(a) the amount (if any) that is to be paid to the Commonwealth; and

(b) the person (if any) who is to pay the amounts.

*Re-crediting under subclause 46AA(1)*

(4) If:

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Clause 56

(a) under subclause 46AA(1) (inappropriate conduct by provider or provider's agent), a person's *HELP balance is re-credited with an amount relating to *VET FEE-HELP assistance for a *VET unit of study with a *VET provider; and

(b) the inappropriate conduct which the *Secretary is satisfied was reasonably likely to have been engaged in was, or included, the VET provider treating the person as being entitled to the assistance under clause 43, when the person was not entitled to that assistance;

the VET provider must pay to the Commonwealth an amount equal to the amount of VET FEE-HELP assistance to which the person was treated as being entitled for the unit.

Note: The VET provider must repay the amount under subclause (4) even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 3—Administration

## Division 10—Introduction

### 57 What this Part is about

This Part deals with the following administrative matters:

- payments made by the Commonwealth under this Schedule (see Division 11);
- administrative requirements that are imposed on VET providers (see Division 12);
- electronic communication between VET providers and students (see Division 13);
- management of information (see Division 14);
- tax file numbers of students (see Division 15);
- reconsideration and administrative review of certain decisions (see Division 16).

### 58 The VET Guidelines

Administrative matters are also dealt with in the *VET Guidelines. The provisions of this Part may indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The VET Guidelines are made by the Minister under clause 99.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 11—Payments by the Commonwealth

## 59 What this Division is about

This Division contains general provisions relating to how the Commonwealth makes payments under this Schedule to VET providers.

## 60 Time and manner of payments

(1) Amounts payable by the Commonwealth to a *VET provider under this Schedule are to be paid in accordance with an applicable determination under subclause (2) or (3).

(2) The Minister may, by legislative instrument, determine the way (including payment in instalments or in arrears), and the times when, amounts payable by the Commonwealth under this Schedule are to be paid to specified kinds of *VET providers.

(3) The Minister may, in writing, determine the way (including payment in instalments or in arrears), and the times when, amounts payable by the Commonwealth under this Schedule are to be paid to a particular *VET provider.

(4) A determination under subclause (3) is not a legislative instrument.

## 61 Advances

(1) The *Secretary may determine that an advance is to be made to a *VET provider on account of an amount that is expected to become payable under a provision of this Schedule to the provider.

(1A) The *Secretary may vary or revoke a determination that an advance is to be made to a *VET provider if:

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(a) the Secretary is satisfied that the provider has not complied with this Schedule and the regulations (if any) relating to this Schedule, and the *VET Guidelines that apply to the provider; or

(b) the Secretary is aware of information that suggests that the provider may not comply with this Schedule and the regulations (if any) relating to this Schedule, and the VET Guidelines that apply to the provider; or

(c) the Secretary is aware of information that suggests that the provider may not remain financially viable.

(1B) In deciding whether to take action under subclause (1A), the *Secretary may consider any or all of the following matters:

(a) in the case of non-compliance or possible non-compliance by the *VET provider:

(i) whether the non-compliance or possible non-compliance is of a minor or major nature; and

(ii) the period for which the provider has been approved as a VET provider; and

(iii) the provider's history of compliance with this Schedule and the regulations (if any) relating to this Schedule, and the *VET Guidelines that apply to the provider;

(b) in any case, the impact of the VET provider's non-compliance, possible non-compliance or possible lack of financial viability, and of the proposed variation or revocation of the determination, on:

(i) the VET provider's students; and

(ii) vocational education and training provided by the VET provider; and

(iii) the provision of vocational education and training generally;

(c) in any case, the public interest;

(d) in any case, any other matters specified in the VET Guidelines.

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(2) If the advance exceeds the amount that becomes payable, an amount equal to the excess may be:

(a) deducted from any amount that is payable, or to be paid, to the provider under this Schedule; or

(aa) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:

(i) if the provider is a higher education provider—under section 110-1 of this Act; or

(ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or

(b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.

(3) If the provider uses the advance for a purpose other than that for which it was given, an amount equal to the advance may be:

(a) deducted from any amount that is payable, or to be paid, to the provider under this Schedule; or

(aa) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:

(i) if the provider is a higher education provider—under section 110-1 of this Act; or

(ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or

(b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.

(4) The conditions that would be applicable to a payment of the amount on account of which the advance is made are applicable to the advance.

(5) This clause does not affect determinations of advances under section 164-10.

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## 61A Amounts owed by VET providers may be set off against amounts payable under this Act or the *VET Student Loans Act 2016*

An amount payable by a *VET provider to the Commonwealth under this Schedule may, in whole or in part, be:

(a) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:

(i) if the provider is a higher education provider—under section 110-1 of this Act; or

(ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or

(b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.

Example: If the VET provider is an approved course provider under the *VET Student Loans Act 2016*, amounts payable by the provider to the Commonwealth under clause 56 of this Schedule may be set off against loan amounts payable to the provider under that Act.

## 62 Rounding of amounts

If an amount payable by the Commonwealth under this Schedule is an amount made up of dollars and cents, round the amount down to the nearest dollar.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 12—Administrative requirements on VET providers

## 63 What this Division is about

This Division imposes a number of administrative requirements on VET providers.

## 64 Notices

*Who gets a notice?*

(1) A *VET provider must give such notices as are required by the *VET Guidelines to a person:

(a) who is enrolled with the provider for a *VET unit of study; and

(b) who is seeking Commonwealth assistance under this Schedule for the unit.

*Contents of notice*

(2) A notice must contain the information set out in the *VET Guidelines as information that must be provided in such a notice.

*Manner in which notice to be given*

(2A) A notice must be given in the manner (if any) set out in the *VET Guidelines.

*Date by which notice to be given*

(3) A notice must be given within the period set out in the *VET Guidelines.

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*Purpose and effect of notice*

(4) A notice under this clause is given for the purpose only of providing information to a person. Any liability or entitlement of a person under this Schedule is not affected by:
  (a) the failure of a *VET provider to give a notice under this clause; or
  (b) the failure of a VET provider to give such a notice by the date required under the *VET Guidelines; or
  (c) the notice containing an incorrect statement.

## 65 Correction of notices

*VET provider to correct notice*

(1) If, after giving a person a notice under clause 64, a *VET provider is satisfied that a material particular in the notice was not, or has ceased to be, correct, the provider must give a further written notice to the person setting out the correct particular.

*Person may request correction of notice*

(2) A person who receives a notice from a *VET provider under clause 64 may give to the provider a written request for the notice to be corrected in respect of a material particular if the person considers that the notice was not, or has ceased to be, correct in that particular.

(3) The request must be given to an *appropriate officer of the provider either:
  (a) within 14 days after the day the notice was given; or
  (b) within such further period as the provider allows for the giving of the request.

(4) The request must:

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(a) specify the particular in the notice that the person considers is incorrect; and
(b) specify the reasons the person has for considering that the particular is incorrect.

(5) The making of the request does not affect any liability or entitlement of the person under this Schedule.

*VET provider to process request*

(6) If a *VET provider receives a request under this clause the provider must, as soon as practicable:
(a) determine the matter to which the request relates; and
(b) notify the person in writing of the provider's determination; and
(c) if the provider determines that a material particular in the notice was not, or has ceased to be, correct—give a further notice under subclause (1).

## 66 Charging VET tuition fees

A *VET provider must not require a *domestic student who is enrolling in a unit in circumstances that make it a replacement unit within the meaning of the *VET tuition assurance requirements to pay to the provider the student's *VET tuition fee for the unit.

## 67 Determining census dates

(1) A *VET provider must, for each *VET unit of study it provides or proposes to provide during a period ascertained in accordance with the *VET Guidelines, determine for that period a particular date to be the *census date for the unit.

Note: If a VET provider provides the same unit over different periods, the unit is taken to be a different VET unit of study in respect of each period. Therefore the provider will have to determine a separate census date in respect of each period.

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(2) A date determined under subclause (1) must be determined in accordance with the *VET Guidelines.

(3) The provider must publish the *census date for the unit by the date ascertained in accordance with, and in the manner specified in, the *VET Guidelines.

*Variations*

(4) The provider must not vary the *census date for the unit after publication under subclause (3), unless the provider:

(a) does so:

(i) before the date ascertained in accordance with the *VET Guidelines; and

(ii) in circumstances specified in the VET Guidelines; or

(b) does so with the written approval of the Minister.

(5) If paragraph (4)(a) applies, the provider must publish the variation by the date ascertained in accordance with, and in the manner specified in, the *VET Guidelines.

(6) If paragraph (4)(b) applies, the provider must publish the variation by the date, and in the manner, specified by the Minister in the approval.

## 68 Communications with the Commonwealth concerning students etc.

In communications under, or for the purposes of, this Schedule between the Commonwealth and a *VET provider concerning a person who:

(a) is enrolled, or seeking to enrol, in a *VET unit of study with the provider; and

(b) has indicated that the person is seeking Commonwealth assistance under this Schedule for the unit;

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Clause 68

the provider must use any identifier for that person that the *Secretary has indicated must be used in such communications.

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# Division 13—Electronic communications

## 69 What this Division is about

Certain documents that this Schedule requires or permits to be given between students and VET providers may be transmitted electronically.

## 70 Guidelines may deal with electronic communications

(1) The *VET Guidelines may make provision for or in relation to requiring or permitting information or documents to be given by students to *VET providers, or by VET providers to students, in accordance with particular information technology requirements:

(a) on a particular kind of data storage device; or

(b) by means of a particular kind of electronic communication.

(2) The *VET Guidelines may make provision for or in relation to requiring, in relation to an electronic communication from a student to a *VET provider:

(a) that the communication contain an electronic signature (however described); or

(b) that the communication contain a unique identification in an electronic form; or

(c) that a particular method be used to identify the originator of the communication and to indicate the originator's approval of the information communicated.

(3) The reference in subclause (1) to giving information includes a reference to anything that is ***giving information*** for the purposes of section 9 of the *Electronic Transactions Act 1999*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Clause 70

(4) In this clause:

***data storage device*** has the same meaning as in the *Electronic Transactions Act 1999*.

***electronic communication*** has the same meaning as in the *Electronic Transactions Act 1999*.

***information*** has the same meaning as in the *Electronic Transactions Act 1999*.

***information technology requirements*** has the same meaning as in the *Electronic Transactions Act 1999*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 14—Management of information

## 71 What this Division is about

A VET officer who discloses, copies or records VET personal information otherwise than in the course of official employment, or causes unauthorised access to or modification of VET personal information, commits an offence unless an exception applies.

## 72 Meaning of *VET personal information*

***VET personal information*** is:

(a) information or an opinion about an identified individual, or an individual who is reasonably identifiable:
  (i) whether the information or opinion is true or not; and
  (ii) whether the information or opinion is recorded in a material form or not; and

(b) obtained or created by a *VET officer for the purposes of:
  (i) Division 5A of Part 1, or Part 2, of this Schedule; or
  (ii) Chapter 4, to the extent that it relates to this Schedule.

## 73 Use of VET personal information

*Offence*

(1) A *VET officer commits an offence if:
  (a) the officer either:
    (i) discloses information; or
    (ii) makes a copy or other record of information; and
  (b) the information is *VET personal information; and
  (c) the information was acquired by the officer in the course of the officer's *official employment; and

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(d) the disclosure did not occur, or the copy or record was not made, in the course of that official employment.

Penalty: Imprisonment for 2 years.

*Exception—consent*

(2) Subclause (1) does not apply if the person to whom the *VET personal information relates has consented to the disclosure, or the making of the copy or record.

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

*Exception—authorised or required by a Commonwealth law*

(3) Subclause (1) does not apply if the disclosure, or the making of the copy or record, is authorised or required by a law of the Commonwealth.

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

*Exception—authorised or required by certain State or Territory laws*

(4) Subclause (1) does not apply if the disclosure, or the making of the copy or record, is authorised or required by a law of a State or Territory:

(a) that relates to the administration, regulation or funding of vocational education or training; or

(b) that is specified in the *VET Guidelines for the purposes of this paragraph.

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

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## 74 Meanings of *VET officer* etc. and *official employment*

*Meaning of **VET officer***

(1) A person is a ***VET officer*** if:

(a) the person is or was a *Commonwealth officer (see subsection 179-15(2)); or

(aa) the person is or was an *officer of a Tertiary Admission Centre (see subsection 179-15(3B)); or

(b) the person is or was an *officer of a *VET provider (see subclause (2)).

(2) A person is an ***officer of a VET provider*** if the person is:

(a) an officer or employee of the provider; or

(b) a person who, although not an officer or employee of the provider, performs services for or on behalf of the provider.

*Meaning of **official employment***

(3) ***Official employment*** of a *VET officer is:

(a) for a *Commonwealth officer—the performance of duties or functions, or the exercise of powers:

(i) under, or for the purposes of, this Schedule; or

(ii) conferred as described in clause 39GB (about functions and powers under the Regulatory Powers Act); or

(aa) for an *officer of a Tertiary Admission Centre—service as such an officer; or

(b) for an *officer of a VET provider—service as such an officer.

## 75 When information is disclosed in the course of official employment

Without limiting the matters that are disclosures that occur in the course of a *VET officer's *official employment for the purposes of paragraph 73(d), the following disclosures are taken to be

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disclosures that occur in the course of a VET officer's official employment:

(a) disclosure by a *Commonwealth officer of *VET personal information to another Commonwealth officer to assist that other officer in the other officer's official employment;

(aa) disclosure by a Commonwealth officer of VET personal information in accordance with Division 180;

(ab) disclosure by a Commonwealth officer of VET personal information relating to a *civil penalty provision for purposes relating to:

(i) monitoring or investigating compliance with the civil penalty provision; or

(ii) enforcing the civil penalty provision; or

(iii) issuing an infringement notice in relation to the civil penalty provision;

(b) disclosure by a VET officer of VET personal information to the Administrative Review Tribunal in connection with a *reviewable VET decision;

(c) disclosure by a Commonwealth officer of VET personal information to an *officer of a VET provider to assist the provider's officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule;

(ca) disclosure by a Commonwealth officer of VET personal information to an *officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule;

(cb) disclosure by a Commonwealth officer of VET personal information to a person appointed to, or employed or engaged by, a *State or Territory VET regulator to assist the person in their service with that regulator;

(d) disclosure by an officer of a VET provider of VET personal information to a Commonwealth officer to assist the

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Commonwealth officer in the Commonwealth officer's official employment;

(e) disclosure by an officer of a VET provider of VET personal information to an officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule;

(f) disclosure by an officer of a Tertiary Admission Centre of VET personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment;

(g) disclosure by an officer of a Tertiary Admission Centre of VET personal information to an officer of a VET provider to assist the provider's officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule.

## 76 Commissioner may disclose information

(1) Despite anything in an Act of which the *Commissioner has the general administration, the Commissioner, or a person authorised by the Commissioner, may communicate *VET personal information to a *VET officer for use by that officer:

(a) in the case of a *Commonwealth officer—in the course of the officer's *official employment; or

(aa) in the case of an *officer of a Tertiary Admission Centre—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule; or

(b) in the case of an *officer of a *VET provider—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule.

(2) Despite subsection 13.3(3) of the *Criminal Code*, in a prosecution for an offence against an Act of which the *Commissioner has the

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general administration, the defendant does not bear an evidential burden in relation to whether this clause applies to a communication of *VET personal information.

## 77 Oath or affirmation to protect information

(1) A *VET officer must, if and when required by the *Secretary or the *Commissioner to do so, make an oath or affirmation to protect information in accordance with this Division.

(2) The *Secretary may determine, in writing:
  (a) the form of the oath or affirmation that the Secretary will require; and
  (b) the manner in which the oath or affirmation must be made.

(3) The *Commissioner may determine, in writing:
  (a) the form of the oath or affirmation that the Commissioner will require; and
  (b) the manner in which the oath or affirmation must be made.

## 78 Unauthorised access to, or modification of, VET personal information

(1) A person commits an offence if:
  (a) the person causes any unauthorised access to, or modification of, *VET personal information:
    (i) that is held in a computer; and
    (ii) to which access is restricted by an access control system associated with a function of the computer; and
  (b) the person intends to cause the access or modification; and
  (c) the person knows that the access or modification is unauthorised; and
  (d) either of the following apply:
    (i) the VET personal information is held in a computer of a *VET provider;

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(ii) the VET personal information is held on behalf of a provider;

(iii) the VET personal information is held on a computer of a *Tertiary Admission Centre;

(iv) the VET personal information is held on behalf of a Tertiary Admission Centre.

Penalty: 2 years imprisonment.

(2) Absolute liability applies to paragraph (1)(d).

## 78A Officer may use information

A *VET officer may use *VET personal information in the course of the officer's *official employment.

## 78B This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *VET personal information.

Note: The disclosure or use of VET personal information may also be authorised in other circumstances. For example, see Division 180 and the *Privacy Act 1988*.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 15—Tax file numbers

## Subdivision 15-A—Introduction

### 79 What this Division is about

Requirements relating to students' tax file numbers apply to assistance under Part 2 that gives rise to VET FEE-HELP debts.

The Commissioner may notify VET providers or the Secretary of matters relating to tax file numbers.

VET providers have obligations relating to notifying students about tax file number requirements.

VET providers have obligations relating to cancelling the enrolment of students who do not have tax file numbers.

Note: Part VA of the *Income Tax Assessment Act 1936* provides for issuing, cancelling or altering tax file numbers.

## Subdivision 15-B—What are the tax file number requirements for assistance under Part 2?

### 80 Meeting the tax file number requirements

(1) A student who is enrolled, or proposes to enrol, with a *VET provider in a *VET unit of study ***meets the tax file number requirements*** for assistance under Part 2 if:

(a) the student notifies his or her *tax file number to:

(i) an *appropriate officer of the provider; and

(ii) the *Secretary;

and the provider is satisfied (in accordance with subclause (4)) that this number is a valid tax file number; or

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the student gives to the officer a certificate from the *Commissioner stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to the student.

(2) Compliance by a person with subclause (1) in relation to a *VET course of study is to be ignored in determining whether there has been compliance by the person with subclause (1) in relation to any other VET course of study.

(2A) If the student is seeking *VET FEE-HELP assistance for a *VET unit of study, he or she does not meet the tax file number requirements for the assistance unless he or she complies with subclause (1) on or before the *census date for the unit.

(3) A notification under paragraph (1)(a) may be included in a *request for Commonwealth assistance that the student has given to the provider in relation to:

(a) the *VET unit of study for which the assistance is sought; or

(b) the *VET course of study of which the unit forms a part; or

(c) any other VET unit of study forming part of that course.

(4) The *Commissioner may issue guidelines about the circumstances in which a *VET provider is to be, or is not to be, satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(a).

(5) A certificate under paragraph (1)(b) must be in the *approved form.

(6) A guideline issued under subclause (4) is a legislative instrument.

## 81 Who is an appropriate officer?

An ***appropriate officer*** of a *VET provider, means a person, or a person included in a class of persons, whom:

(a) the chief executive officer of the provider; or

(b) a delegate of the chief executive officer of the provider;

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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has appointed to be an appropriate officer of the provider for the purposes of this Schedule.

### 82 Student to notify tax file number when issued

If a student *meets the tax file number requirements for the assistance under paragraph 80(1)(b):

(a) the student must notify his or her *tax file number to:
  (i) an *appropriate officer of the *VET provider; and
  (ii) the *Secretary;
  within 21 days from the day on which the *Commissioner issues the tax file number to the student; and

(b) the provider must be satisfied (in accordance with subclause 80(4)) that this number is a valid tax file number.

## Subdivision 15-C—Who can the Commissioner notify of tax file number matters?

### 83 When tax file numbers are issued etc.

The *Commissioner may give to a *VET provider, and to the *Secretary, written notice of the *tax file number of a student who is enrolled in a *VET course of study with the provider if the Commissioner:

(a) issues the tax file number to the student; or

(b) refuses to issue a tax file number to the student on the ground that the student already has a tax file number.

### 84 When tax file numbers are altered

(1) The *Commissioner may give to a *VET provider, and to the *Secretary, written notice of the *tax file number of a student who is enrolled in a *VET course of study with the provider if the Commissioner issues a new tax file number to the student in place of a tax file number that has been withdrawn.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) That new number is taken to be the number that the student notified to the provider and to the *Secretary.

## 85 When tax file numbers are incorrectly notified—students with tax file numbers

(1) If the *Commissioner is satisfied:

(a) that the *tax file number that a student has notified to a *VET provider or the *Secretary (or both):

(i) has been cancelled or withdrawn since the notification was given; or

(ii) is otherwise wrong; and

(b) that the student has a tax file number;

the Commissioner may give to the provider and the Secretary written notice of the incorrect notification and of the student's tax file number.

(2) That number is taken to be the number that the student notified to the provider and to the *Secretary.

## 86 When tax file numbers are incorrectly notified—students without tax file numbers

(1) If:

(a) the *Commissioner is satisfied that the *tax file number that a student notified to a *VET provider or the *Secretary (or both):

(i) has been cancelled since the notification was given; or

(ii) is for any other reason not the student's tax file number; and

(b) the Commissioner is not satisfied that the student has a tax file number;

the Commissioner may give to the provider and the Secretary a written notice informing the provider and the Secretary accordingly.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(2) The *Commissioner must give a copy of any notice under subclause (1) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subclause (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

### 87 When applications are refused or tax file numbers are cancelled

(1) If the *Commissioner:

(a) refuses a student's application for the issue of a *tax file number; or

(b) cancels a tax file number issued to a student;

the Commissioner may give to a *VET provider with which the student is enrolled in a *VET course of study, and to the *Secretary, a written notice informing the provider and the Secretary accordingly.

(2) The *Commissioner must give a copy of any notice under subclause (1) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subclause (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

## Subdivision 15-D—Other provisions relating to tax file numbers

### 88 Giving information about tax file number requirements

*Requests for VET FEE-HELP assistance—requirements on VET providers*

(1) A *VET provider must notify a person in writing how to *meet the tax file number requirements if:

(a) the person is enrolled in a *VET unit of study with the provider; and

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(b) the person has, on or before the *census date for the unit, completed, signed and given to the *appropriate officer of the provider a *request for Commonwealth assistance in relation to the unit or, where the *VET course of study of which the unit forms a part is undertaken with the provider, in relation to the VET course of study; and

(c) in that request, the person requests *VET FEE-HELP assistance for the unit or the course; and

(d) the request does not include a number that purports to be the person's *tax file number.

(2) The provider must notify the person under subclause (1):

(a) on or before the *census date for the unit; or

(b) within 7 days after the person gives the provider the *request for Commonwealth assistance;

whichever is earlier.

(3) A ***request for Commonwealth assistance***, in relation to a person enrolling in a *VET unit of study means a document:

(a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the unit or, where the unit forms part of a *VET course of study undertaken with the provider, in relation to the course of study; and

(aa) if subclause (3A) applies to the person—that is signed by a *responsible parent of the person (in addition to being signed by the person); and

(b) that is in the form approved by the Minister.

(3A) This subclause applies to the person if the person:

(a) is under 18 years old; and

(b) has at least one *responsible parent;

unless the person is receiving, or has received, youth allowance (within the meaning of the *Social Security Act 1991*) on the basis that the person is independent (within the meaning of Part 2.11 of that Act).

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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*Cases where there is no obligation to notify*

(4) Subclauses (1) and (2) do not apply to the person if the person, in the *request for Commonwealth assistance, requests *VET FEE-HELP assistance but the person is not entitled to the assistance.

## 89 No entitlement to VET FEE-HELP assistance for students without tax file numbers

(1) This subclause applies to a person in relation to a *VET unit of study if:

(a) the person is enrolled with a *VET provider in the unit; and

(b) the provider receives notice under clause 86 or 87 to the effect that the person does not have, or no longer has, a *tax file number; and

(c) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subclause (3)) is a valid tax file number; and

(d) the person is entitled to *VET FEE-HELP assistance for the unit (ignoring paragraph 43(1)(h)).

Note: The person's HELP balance in relation to the unit is re-credited: see subclause 47(1).

(2) A *VET provider must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(d), comply with the guidelines issued by the *Commissioner under subclause 80(4).

(3) A *VET provider must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons of the need to obtain a valid *tax file number where the persons may be affected by subclause (1) applying to them.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(4) A guideline issued under subclause (3) is a legislative instrument.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Division 16—Review of decisions

## Subdivision 16-A—Introduction

### 90 What this Division is about

Some decisions made under this Schedule are subject to reconsideration and then review by the Administrative Review Tribunal.

## Subdivision 16-B—Which decisions are subject to review?

### 91 Reviewable VET decisions etc.

The following table sets out:

(a) the ***reviewable VET decisions*** under this Schedule; and

(b) the ***decision maker***, for the purposes of this Division, in respect of each of those decisions.

**Reviewable VET decisions**

| Item | Decision | Provision under which decision is made | Decision maker |
|---|---|---|---|
| 1A | A decision to impose a condition on the approval of a *VET provider | subclause 12A(1) | the Minister |
| 1B | A decision to vary a condition imposed on the approval of a *VET provider | subclause 12A(2) | the Minister |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| **Reviewable VET decisions** | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 1E | Refusal to grant a credit for a *VET provider's *VET FEE-HELP account | paragraph 45D(2)(f) | the *Secretary |
| 1F | Granting a credit for a *VET provider's *VET FEE-HELP account | paragraph 45D(2)(f) | the *Secretary |
| 1G | Refusal to remit the general interest charge | subclause 45E(7) | the *Secretary |
| 1H | Remitting part of the general interest charge | subclause 45E(7) | the *Secretary |
| 1 | Refusal to re-credit a person's *HELP balance | subclause 46(2) | (a) the *VET provider with whom the student is enrolled in the unit; or<br>(b) if the *Secretary made the decision to refuse the re-crediting—the Secretary |
| 2 | Refusal to re-credit a person's *HELP balance | subclause 46A(1) | the *Secretary |
| 3 | Re-crediting a person's *HELP balance | subclause 46A(1) | the *Secretary |
| 4 | Refusal of an application under subclause 46AA(3) to re-credit a person's *HELP balance | subclause 46AA(1) | the *Secretary |

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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| Reviewable VET decisions | | | |
|---|---|---|---|
| **Item** | **Decision** | **Provision under which decision is made** | **Decision maker** |
| 5 | A decision to re-credit a person's *HELP balance to which subclause 56(4) applies | subclause 46AA(1) | the *Secretary |

Note: The decisions referred to in item 1 of the table are made by a VET provider on the Secretary's behalf.

## 92 Deadlines for making reviewable VET decisions

If:

(a) this Schedule provides for a person to apply to a *decision maker to make a *reviewable VET decision; and

(b) a period is specified under this Schedule for giving notice of the decision to the applicant; and

(c) the decision maker has not notified the applicant of the decision maker's decision within that period;

the decision maker is taken, for the purposes of this Schedule, to have made a decision to reject the application.

## 93 Decision maker must give reasons for reviewable VET decisions

(1) If this Schedule requires the *decision maker to notify a person of the making of a *reviewable VET decision, the notice must include reasons for the decision.

(2) Subclause (1) does not affect an obligation, imposed upon the *decision maker by any other law, to give reasons for a decision.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## Subdivision 16-C—How are decisions reconsidered?

### 94 Reviewer of decisions

(1) The ***reviewer*** of a *reviewable VET decision is:

(a) if the *decision maker was a *VET provider acting on behalf of the *Secretary—the Secretary; or

(b) in any other case—the decision maker, but see subclause (2).

(2) If:

(a) a *reviewable VET decision was made by a delegate of a *decision maker; and

(b) the decision is to be reconsidered by a delegate of the decision maker;

then the delegate who reconsiders the decision must be a person who:

(c) was not involved in making the decision; and

(d) occupies a position that is senior to that occupied by any person involved in making the decision.

Note: The Secretary may delegate to a review officer of a VET provider the power to reconsider reviewable VET decisions made under Part 2: see subclause 98(2).

### 95 Reviewer may reconsider reviewable VET decisions

(1) The *reviewer of a *reviewable VET decision may reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so.

(2) The *reviewer may reconsider the decision even if:

(a) an application for reconsideration of the decision has been made under clause 96; or

(b) the decision has been confirmed, varied or set aside under clause 96 and an application has been made under clause 97 for review of the decision.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Clause 95

(2A) However, if an application has been made under clause 97 for review of the decision, section 31 (decision cannot be altered outside Tribunal process) of the *Administrative Review Tribunal Act 2024* applies to the decision if:

(a) the application is referred to the *guidance and appeals panel under section 122 of that Act; or

(b) a *guidance and appeals panel application is taken to be made because the Administrative Review Tribunal's decision on the review is referred to the guidance and appeals panel under section 128 of that Act.

(3) After reconsidering the decision, the *decision maker must, subject to subsection (2A):

(a) confirm the decision; or

(b) vary the decision; or

(c) set the decision aside and substitute a new decision.

(4) The *reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:

(a) on the day specified in the decision on review; or

(b) if a day is not specified—on the day on which the decision on review was made.

(5) The *reviewer must give written notice of the decision on review to the person to whom that decision relates.

(6) The notice:

(a) must be given within a reasonable period after the decision is made; and

(b) must contain a statement of the reasons for the *reviewer's decision on review.

Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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## 96 Reconsideration of reviewable VET decisions on request

(1) A person whose interests are affected by a *reviewable VET decision may request the *reviewer to reconsider the decision.

(2) The person's request must be made by written notice given to the *reviewer within 28 days, or such longer period as the reviewer allows, after the day on which the person first received notice of the decision.

(3) The notice must set out the reasons for making the request.

(4) After receiving the request, the *reviewer must reconsider the decision and:
  (a) confirm the decision; or
  (b) vary the decision; or
  (c) set the decision aside and substitute a new decision.

(5) The *reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
  (a) on the day specified in the decision on review; or
  (b) if a day is not specified—on the day on which the decision on review was made.

(6) The *reviewer must give the person written notice of the decision on review.

(7) The notice:
  (a) must be given within a reasonable period after the decision on review is made; and
  (b) must contain a statement of the reasons for the decision on review.

(8) The *reviewer is taken, for the purposes of this Division, to have confirmed the decision if the reviewer does not give notice of a decision to the person within 45 days after receiving the person's request.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

## Subdivision 16-D—Which decisions are subject to ART review?

### 97 ART review of reviewable VET decisions

An application may be made to the Administrative Review Tribunal for the review of a *reviewable VET decision that has been confirmed, varied or set aside under clause 95 or 96.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Part 4—Miscellaneous

## 97A Compensation for acquisition of property

(1) If the operation of this Schedule would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this clause:

***acquisition of property*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

***just terms*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

## 98 Delegations by Secretary

(1) The *Secretary may, in writing, delegate to an APS employee all or any of the powers of the Secretary under the *VET Guidelines.

Note: Section 238-5 provides for the Minister to delegate his or her powers under this Act.

(2) The *Secretary may, in writing, delegate to a *review officer of a *VET provider the Secretary's powers under Subdivision 16-C to reconsider *reviewable VET decisions made by the provider relating to Part 2.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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(3) In exercising powers under the delegation, the delegate must comply with any directions of the *Secretary.

## 99 VET Guidelines

(1) The Minister may, by legislative instrument, make guidelines (the ***VET Guidelines***), providing for matters:

(a) required or permitted by this Schedule to be provided; or

(b) necessary or convenient to be provided in order to carry out or give effect to this Schedule.

Note: The VET Guidelines may make different provision with respect to different matters or different classes of matters (see subsection 33(3A) of the *Acts Interpretation Act 1901*). For example, the VET Guidelines may provide for different requirements for different kinds of VET providers.

*Indexation*

(2) The *VET Guidelines may provide for the indexation of any or all amounts in the VET Guidelines, using the method of indexation set out in Part 5-6.

*To find definitions of asterisked terms, see the Dictionary in Schedule 1.



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# Schedule 1—Dictionary

Note: Section 1-10 describes how asterisks are used to identify terms that are defined in this Act.

## 1 Definitions

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

***ABS Remoteness Structure*** means the Remoteness Structure described in:

(a) the document titled "Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure, July 2016", published by the Australian Statistician, as amended from time to time; or

(b) the most recent replacement of the document referred to in paragraph (a) that is published by the Australian Statistician, as amended from time to time.

Note: The Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure, July 2016 could in 2019 be viewed on the Australian Bureau of Statistics website (https://www.abs.gov.au).

***academic freedom*** means the following:

(a) the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research;

(b) the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research;

(c) the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled;

(d) the freedom of academic staff to participate in professional or representative academic bodies;

(e) the freedom of students to participate in student societies and associations;



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(f) the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.

***accelerator program course*** has the meaning given by subsection 128B-25(1).

***accelerator program course fee*** has the meaning given by subsection 19-92(3).

***accredited course*** means a *course of study (other than an *enabling course) that:

(a) if a *registered higher education provider is authorised by or under the *TEQSA Act to self-accredit the course of study—is accredited by the provider; and

(b) otherwise—is accredited by TEQSA.

***accumulated HELP debt*** has the meaning given by section 140-25.

***additional SLE*** means additional SLE that a person has under subsection 73-10(1).

***AEA Advisory Board*** has the meaning given by section 42-10.

***affected unit***, of an *original course, means a unit of study that a student was undertaking as part of a *course of study when a higher education provider *defaulted in relation to the student.

***annual financial reporting period*** has the meanings given by subsection 19-10(3) and subclause 15(3) of Schedule 1A.

***applicable court*** means:

(a) the Federal Court of Australia; or

(b) the Federal Circuit and Family Court of Australia (Division 2); or

(c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

***appropriate officer***:



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(a) in relation to a higher education provider, has the meaning given by section 187-2; and
(b) in relation to a *VET provider, has the meaning given by clause 81 of Schedule 1A.

***approved form*** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

***assessed worldwide income*** has the meaning given by section 154-17.

***assessing body*** has the meaning given by section 104-55.

***assessing body of a State or Territory*** has the meaning given by subsection 104-55(3).

***assessment statement*** has the meaning given by section 104-50.

***Australian branch***, of a *Table C provider, means:
(a) if that provider conducts its higher education operations in Australia through a branch of the body corporate that is listed in Table C in section 16-23—that branch; or
(b) otherwise—the body corporate through which that provider conducts its higher education operations in Australia.

***Australian Qualifications Framework*** means the framework for recognition and endorsement of qualifications:
(a) that is established by the Council consisting of the Ministers for the Commonwealth and each State and Territory responsible for higher education; and
(b) that is to give effect to agreed standards in relation to the provision of education in Australia;
as in force from time to time.

***Australian Quality Training Framework*** means the arrangements agreed from time to time between the Commonwealth, the States and the Territories to ensure the high quality of vocational education and training (VET) services.



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***Australian Statistician*** means the Australian Statistician referred to in subsection 5(2) of the *Australian Bureau of Statistics Act 1975*.

***Australian university*** means a *registered higher education provider:

(a) that, for the purposes of the *TEQSA Act, is registered in a provider category that permits the use of the word "university"; and

(b) that:

(i) is established by or under, or recognised by, a law of the Commonwealth, a State or a Territory; or

(ii) is registered as a company under Part 2A.2 of the *Corporations Act 2001*.

***Australia's Economic Accelerator program*** means a program specified in the Other Grants Guidelines under which grants for purposes specified in item 14 of the table in subsection 41-10(1) are to be paid.

***Australia's Economic Accelerator program information*** has the meaning given by section 181-10.

***Australia's greenhouse gas emissions reduction targets*** means:

(a) if:

(i) Australia's current nationally determined contribution was communicated in accordance with Article 4 of the Paris Agreement in June 2022; and

(ii) that nationally determined contribution has not been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement;

the greenhouse gas emissions reduction targets set out in paragraphs 10(1)(a) and (b) of the *Climate Change Act 2022*; or

(b) in any other case—the greenhouse gas emissions reduction targets included in:



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(i) Australia's current nationally determined contribution communicated in accordance with Article 4 of the Paris Agreement; or

(ii) if that nationally determined contribution has been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement—that nationally determined contribution, as adjusted and in force from time to time.

***bridging course for overseas-trained professionals*** has the meaning given by section 104-45.

***census date***:

(a) for a unit of study for a year, means:

(i) if the student undertaking the unit has not accessed it through *Open Universities Australia—the date determined under subsection 169-25(1); and

(ii) if the student undertaking the unit has accessed it through Open Universities Australia—the date determined under subsection 104-4(5); and

(aa) for an *accelerator program course for a period ascertained in accordance with the Administration Guidelines, means the date determined for that period under subsection 169-25(1A); and

(b) for a *VET unit of study for a year, means the date determined under clause 67 of Schedule 1A.

***census day***, for a course or a part of a course, has the same meaning as in the *VET Student Loans Act 2016*.

***Chief Executive Centrelink*** has the same meaning as in the *Human Services (Centrelink) Act 1997*.

***civil penalty provision***:

(a) other than in Schedule 1A—has the same meaning as in the Regulatory Powers Act; and

(b) in Schedule 1A—means each of the following clauses or subclauses of that Schedule:

(i) subclauses 39DB(1) and (2);



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(ii) subclauses 39DC(1) and (2);
(iii) clause 39DE;
(iv) subclause 39DF(1);
(v) subclause 39DG(1);
(vi) subclauses 39DH(1) and (2);
(vii) subclauses 39DI(1) and (2);
(viii) clauses 39DJ, 39DK and 39DL.

***Commissioner*** means the Commissioner of Taxation.

***Commonwealth contribution amount*** means an amount specified in subsection 33-10(1).

***Commonwealth officer*** has the meaning given by subsection 179-15(2).

***Commonwealth scholarship*** means a scholarship payable under Part 2-4.

***Commonwealth supported student*** has the meaning given by section 36-5.

***compact and academic freedom requirements*** are the requirements set out in Subdivision 19-G.

***compliance requirements*** are the requirements set out in Subdivision 19-E.

***compulsory repayment amount*** means an amount that:
(a) is required to be paid in respect of an *accumulated HELP debt under section 154-1 or 154-16; and
(b) is included in a notice of an assessment made under section 154-35.

***consent*** includes consent that can reasonably be inferred from the conduct of the person concerned.

***contribution and fee requirements*** are the requirements set out in Subdivision 19-F.



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***course of study*** means:

(a) an *enabling course; or

(b) a single course leading to a *higher education award; or

(c) a course recognised by the higher education provider at which the course is undertaken as a combined or double course leading to 1 or more *higher education awards; or

(d) in Part 3-3 and any other provision of this Act, to the extent that the provision applies, or relates, to *FEE-HELP assistance (and without limiting paragraph (a), (b) or (c) of this definition)—a *microcredential course.

Example: An example of a combined or double course covered by paragraph (c) is a course that leads to the higher education awards of Bachelor of Arts and Bachelor of Laws.

***course of study in aviation***: see subsection 128-20(2).

***course of study in dentistry*** means a *course of study, completion of which would satisfy the minimum academic requirements for registration as a dentist by an authority of a State, a Territory or the Commonwealth, regardless of whether further dentistry study is completed before registration is sought.

***course of study in education***: see section 142-5.

***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.

***course of study in veterinary science*** means a *course of study, completion of which would satisfy the minimum academic requirements for registration as a veterinary surgeon or veterinary practitioner by an authority of a State, a Territory or the Commonwealth, regardless of whether further veterinary science study is completed before registration is sought.

***covered by a person's Student Learning Entitlement*** has the meaning given by subsections 82-1(1) and (2) and 82-5(2).



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***CPI indexation factor*** has the meaning given by subsection 140-10(1B).

***CPI index number*** has the meaning given by subclause 2(1) of this Schedule.

***decision maker***:

(a) for a *reviewable decision, means the person listed in column 3 of the table in section 206-1, in respect of a decision in column 2 of the table, as the decision maker in respect of that decision; and

(b) for a *reviewable VET decision, means the person listed in column 3 of the table in clause 91 of Schedule 1A, in respect of a decision in column 2 of the table, as the decision maker in respect of that decision.

***default***: see section 166-10.

***demand driven higher education course*** means a *course of study that:

(a) is undertaken by an *Indigenous person; and

(b) is leading to a *higher education award that is a bachelor degree or bachelor honours degree; and

(c) is not a *designated higher education course.

***Departmental investigator*** means a person appointed under subclause 39GA(1) of Schedule 1A.

***dependent child*** means a person who is aged under 18 and does not have a spouse or de facto partner (within the meaning of the *Acts Interpretation Act 1901*).

***designated higher education course*** has the meaning given by subsection 30-12(1).

***domestic student*** means a student who is not an *overseas student.

***EFTSL*** has the meaning given by section 169-27.

***EFTSL value***:



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(a) of a unit of study—has the meaning given by subsection 169-28(1); or

(b) of an *accelerator program course—has the meaning given by subsection 169-28(3A).

***electronic communication*** has the meaning given by the *Electronic Transactions Act 1999*.

***eligible former permanent humanitarian visa holder*** means a person who:

(a) is not a *permanent humanitarian visa holder; and

(b) was previously a permanent humanitarian visa holder; and

(c) is the holder of a visa in a class or subclass of visas specified in a determination under subclause (1A).

***eligible person*** has the meaning given by subsection 73-5(4).

***eligible scholarship provider*** has the meaning given by subsection 46-15(3).

***employer contribution amount***, for a unit of study, is the amount that an employer has contributed, towards the cost of the unit, for a student enrolled in the unit under a *restricted access arrangement for the *course of study of which the unit forms a part.

***employer reserved place*** means a place, in a *course of study, made available under a *restricted access arrangement for the course.

***enabling course*** means a course of instruction provided to a person for the purpose of enabling the person to undertake a course leading to a *higher education award, but does not include:

(a) a course leading to a higher education award; or

(b) any course that the Minister determines is not an enabling course for the purposes of this Act.

***enrolled***:

(a) a person ***enrolled*** in a *course of study includes a person undertaking the course of study; and



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(aa) a person ***enrolled*** in an *accelerator program course includes a person undertaking the accelerator program course; and

(b) a person ***enrolled*** in a *VET course of study includes a person undertaking the VET course of study.

***exempt foreign income*** has the meaning given by subsection 154-5(4).

***exempt student*** has the meaning given by section 169-20.

***fairness requirements*** are the requirements set out in Subdivision 19-D.

***Federal Register of Legislation*** means the Federal Register of Legislation established under the *Legislation Act 2003*.

***fee***, for a unit of study for a year:

(a) if the student undertaking the unit has not accessed it through *Open Universities Australia—has the meaning given by section 19-102; and

(b) if the student undertaking the unit has accessed it through Open Universities Australia—has the meaning given by subsections 104-4(3) and (4).

***FEE-FREE Uni Ready course*** means an *enabling course undertaken by a *Commonwealth supported student.

***FEE-HELP assistance*** means assistance payable under Part 3-3.

***FEE-HELP debt*** has the meaning given by section 137-10.

***financial viability requirements*** are the requirements set out in Subdivision 19-B.

***first funding cluster*** means the *funding cluster referred to in item 1 of the table in section 30-15.

***foreign resident*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.



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***former accumulated HELP debt*** has the meaning given by section 140-5.

***funding clusters*** has the meaning given by section 30-15.

***general interest charge rate*** has the same meaning as in section 8AAD of the *Taxation Administration Act 1953*.

***grandfathered Commonwealth contribution amount*** has the meaning given by subsection 33-10(2).

***grandfathered funding cluster part*** means:

(a) any part of the *first funding cluster other than the Society and Culture part of that cluster; or

(b) the Social Studies or Behavioural Science subpart of the Society and Culture part of the first funding cluster; or

(c) any other subpart of the Society and Culture part of the first funding cluster; or

(d) any part of the *second funding cluster.

***grandfathered student***: a person is a ***grandfathered student*** if:

(a) any of the following apply in relation to the person:

(i) the person commenced a *course of study (the ***ongoing course***) with a higher education provider before 1 January 2021 but has not completed the ongoing course immediately before that day;

(ia) the person commenced a course of study (the ***ongoing course***) with a higher education provider before 1 January 2021 and, on or after that day, the person completes the ongoing course and commences another course of study (the ***honours course***) that relates to the ongoing course and that is leading to a *higher education award that is an honours degree;

(ii) the person completed a course of study (the ***earlier course***) with a higher education provider before 1 January 2021 and, on or after that day, the person commences another course of study (the ***honours course***) that relates to the earlier course and that is



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leading to a higher education award that is an honours degree;

(iii) the person was undertaking, in 2020, an *enabling course and, on or after 1 January 2021, the person commences another course of study (the ***later course***) that is leading to a higher education award;

(iv) the person was undertaking, in 2020, a course of study (the ***UC course***) leading to a higher education award that is an undergraduate certificate and, on or after 1 January 2021, the person commences another course of study (the ***higher qualification course***) that relates to the UC course and that is leading to a higher education award that is a bachelor degree; and

(b) the person was, at any time before 1 January 2021, a *Commonwealth supported student in relation to a unit of study in the ongoing course, earlier course, enabling course or UC course (as the case may be); and

(c) the person undertakes a unit of study (the ***later unit of study***) that has a *census date on or after 1 January 2021; and

(d) the later unit of study is one of the following:

(i) part of the ongoing course, honours course, later course or higher qualification course (as the case may be);

(ii) a *replacement unit in relation to an *affected unit of that course;

(iii) part of a *replacement course in relation to that course.

Note 1: An undergraduate certificate is an award conferred by higher education providers under the Australian Qualifications Framework.

Note 2: For the effect of a restructure of an ongoing course (or of a replacement course in relation to an ongoing course), see subclause (1C).

***grant year*** has the meaning given by subsection 30-25(1).

***guidance and appeals panel*** has the same meaning as in the *Administrative Review Tribunal Act 2024*.



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***guidance and appeals panel application*** has the same meaning as in the *Administrative Review Tribunal Act 2024*.

***HECS-HELP assistance*** means assistance payable under Part 3-2.

***HECS-HELP debt*** has the meaning given by section 137-5.

***HELP balance*** has the meaning given by section 128-15.

***HELP debt*** has the meaning given by section 137-1.

***HELP debt indexation factor*** has the meaning given by section 140-10.

***HELP loan limit*** has the meaning given by section 128-20.

***HELP program*** has the meaning given by subsection 180-28(6).

***HELP program Commonwealth officer*** has the meaning given by subsection 180-28(7).

***HELP tuition protection levy*** means levy imposed by the *Higher Education Support (HELP Tuition Protection Levy) Act 2020*.

***HESA investigator*** means a person appointed under subsection 215-35(1).

***higher education award*** means:

(a) a degree, status, title or description of bachelor, master or doctor; or

(b) an award of graduate diploma or graduate certificate; or

(c) any other award offered or conferred by a higher education provider under the *Australian Qualifications Framework, except an award offered or conferred for completing a *VET course of study.

***higher education course*** means a *course of study other than the following:

(a) a course of study that is a *designated higher education course;



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(b) a course of study that is a *demand driven higher education course.

***higher education provider*** has the meaning given by section 16-1.

***higher education provider charge*** means charge imposed by the *Higher Education Support (Charges) Act 2019*.

***Higher Education Support Act information*** has the meaning given by section 180-5.

***Higher Education Tuition Protection Director*** means the person referred to in section 167-15.

***Higher Education Tuition Protection Fund*** means the Fund established by section 167-1.

***Higher Education Tuition Protection Fund Advisory Board*** means the Board established by section 167-30.

***income tax*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

***income tax law*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

***income year*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

***indexation factor*** has the meaning given by section 198-15.

***index number*** has the meaning given by section 198-20.

***Indigenous person*** has the same meaning as in the *Indigenous Education (Targeted Assistance) Act 2000*.

***ineligible work experience unit*** for a *non-grandfathered student or a *grandfathered student means a unit of study that the student is enrolled in that meets the following conditions:

(a) the unit wholly consists of *work experience in industry;

(b) either:



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(i) the student is exempt from paying his or her *student contribution amount in relation to the unit; or

(ii) the unit does not meet the requirements specified by the Administration Guidelines for the purposes of this subparagraph.

***information system*** has the meaning given by the *Electronic Transactions Act 1999*.

***judicial officer*** means:

(a) a magistrate; or

(b) a Judge of a court of a State or Territory; or

(c) a Judge of the Federal Circuit and Family Court of Australia (Division 2); or

(d) a Judge of the Federal Court of Australia.

***lifelong SLE*** means lifelong SLE that a person has under subsection 73-15(1).

***listed professional occupation*** has the meaning given by section 104-60.

***listed provider*** has the meaning given by section 16-10.

***location-preferred HELP debtor (health practitioner)***: see section 144-1.

***location-preferred HELP debtor (teacher)***: see section 142-1.

***maximum basic grant amount*** has the meaning given by section 30-27.

***maximum OS-HELP (Asian language study) amount*** has the meaning given by section 121-15.

***maximum OS-HELP (overseas study) amount*** has the meaning given by section 121-5.

***maximum student contribution amount for a place*** has the meaning given by section 93-10.



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***Medicare levy*** means the Medicare levy imposed by the *Medicare Levy Act 1986*.

***meets the tax file number requirements*** has the meanings given by section 187-1 and clause 80 of Schedule 1A.

***microcredential course*** means a course of instruction:

(a) that consists of one or more units of study; and

(b) that meets the requirements specified in the FEE-HELP Guidelines.

***Military Rehabilitation and Compensation Commission*** means the Military Rehabilitation and Compensation Commission established by section 361 of the *Military Rehabilitation and Compensation Act 2004*.

***minimum OS-HELP (Asian language study) amount***, in relation to a higher education provider, means an amount determined by the provider under section 121-20.

***minimum OS-HELP (overseas study) amount***, in relation to a higher education provider, means an amount determined by the provider under section 121-10.

***minimum repayment income*** has the meaning given by section 154-10.

***national priority*** has the meaning given by section 30-20.

***National Register*** has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

***National VET Regulator*** has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

***non-award basis***: an enrolment in:

(a) a subject or unit that a person may undertake with a higher education provider as part of a *course of study; or

(b) a course of instruction with a higher education provider; or



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(c) a tuition and training program with a higher education provider;

is an enrolment on a ***non-award basis*** if the unit, course or program is not being undertaken as part of a course of study.

***non-grandfathered student*** means a person other than a *grandfathered student.

***non self-accrediting entity*** means a body corporate that:

(a) is a *registered higher education provider; and

(b) has no authorisation conferred by or under the *TEQSA Act to self-accredit any *course of study that leads to a *higher education award.

***number of Commonwealth supported places*** means:

(a) in relation to an allocation of a number of Commonwealth supported places for a *funding cluster or a *grandfathered funding cluster part—the number of places allocated under section 30-10 for that funding cluster or that grandfathered funding cluster part; or

(b) in relation to the provision of a number of Commonwealth supported places in respect of *non-grandfathered students—the number worked out under subsection 33-30(1); or

(c) in relation to the provision of a number of Commonwealth supported places in respect of *grandfathered students—the number worked out under subsection 33-30(1A).

***NVETR investigator*** means a person appointed under subclause 39GA(2) of Schedule 1A.

***NVETR staff member*** means a member of the staff of the Regulator (within the meaning of the *National Vocational Education and Training Regulator Act 2011*).

***occupation*** includes the meaning given by section 104-65.

***officer*** has the meaning given by subsection 179-15(1).



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***officer of a higher education provider*** has the meaning given by subsection 179-15(3).

***officer of a registered higher education provider*** has the meaning given by subsection 179-15(3AA).

***officer of a Tertiary Admission Centre*** has the meaning given by subsection 179-15(3B).

***officer of a VET provider*** has the meaning given by subclause 74(3) of Schedule 1A.

***officer of Open Universities Australia*** has the meaning given by subsection 179-15(3A).

***official employment*** has the meanings given by subsection 179-15(4) and subclause 74(3) of Schedule 1A.

***Open Universities Australia*** means Open Universities Australia Pty Ltd (ACN 053 431 888).

***ordinary SLE*** means ordinary SLE that a person has under subsection 73-5(1) or (2).

***original course*** means a *course of study in relation to which a higher education provider has *defaulted.

***OS-HELP assistance*** means assistance payable under Part 3-4.

***OS-HELP debt*** has the meaning given by section 137-15.

***overseas student*** means a person who:

(a) is not an Australian citizen; and

(b) is enrolled, or proposes to become enrolled, in:

(i) a *course of study with a higher education provider; or

(ii) a unit of study access to which was provided by *Open Universities Australia;

but does not include:

(c) a person entitled to stay in Australia, or to enter and stay in Australia, without any limitation as to time; or



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(d) a New Zealand citizen; or

(e) a diplomatic or consular representative of New Zealand, a member of the staff of such a representative or the spouse, de facto partner (within the meaning of the *Acts Interpretation Act 1901*) or dependent relative of such a representative.

Note: In relation to paragraph (e) of the definition of ***Overseas student***, see also subclause (2).

***Pacific engagement visa holder*** means the holder of:

(a) a visa referred to in the regulations made under the *Migration Act 1958* as a Subclass 192 (Pacific Engagement) visa; or

(b) a visa of a kind determined under subclause (4).

***Paris Agreement*** means the Paris Agreement, done at Paris on 12 December 2015, as amended and in force for Australia from time to time.

Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

***permanent humanitarian visa holder*** means the holder of a visa that is, or has at any time been, defined as a permanent humanitarian visa for the purposes of the regulations made under the *Migration Act 1958*.

***permanent visa holder*** means the holder of a permanent visa within the meaning of subsection 30(1) of the *Migration Act 1958*.

***personal information*** has the meaning given by section 179-5.

***postgraduate course of study*** means a *course of study that:

(a) leads to one or more of the following *higher education awards:

(i) a graduate diploma;

(ii) a graduate certificate;

(iii) a master's degree;

(iv) a doctoral degree; and



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(b) does not lead to any other higher education award.

***pre-1 July 2019 VSL debt*** has the meaning given by subsection 137-19(1).

***provider obligation period***: see subsection 166-25(2).

***qualified auditor*** means:

(a) a registered company auditor (within the meaning of the *Corporations Act 2001*); or

(d) a person approved by the Minister in writing as a qualified auditor for the purposes of this Act.

***qualifying VET course*** means a structured and integrated program of vocational education or vocational training, usually consisting of a number of modules (units of study) or shorter programs, and leading to the award of a *VET diploma, *VET advanced diploma, *VET graduate diploma or *VET graduate certificate.

***quality and accountability requirements*** has the meaning given by section 19-1.

***quality requirements*** are the requirements set out in Subdivision 19-C.

***quarter*** means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

***registered higher education provider*** has the same meaning as in the *TEQSA Act.

***registered training organisation*** has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

***Regulatory Powers Act*** means the *Regulatory Powers (Standard Provisions) Act 2014*.

***related body corporate*** has the meaning given by section 9 of the *Corporations Act 2001*.



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***Repatriation Commission*** means the body corporate continued in existence by section 179 of the *Veterans' Entitlements Act 1986*.

***repayable debt***, for an *income year, has the meaning given by section 154-15.

***repayment income*** has the meaning given by section 154-5.

***replacement course*** means a *course of study that enables a student to finish:

(a) an *original course; or

(b) a course that is equivalent to an *original course.

***replacement unit*** means a unit of study that replaces an *affected unit of an *original course.

***request for Commonwealth assistance***:

(a) in relation to a person enrolling in a unit of study with a higher education provider (where access to the unit is not provided by *Open Universities Australia)—has the meaning given by subsection 36-40(3); and

(b) in relation to a person to whom access to a unit of study is provided by Open Universities Australia—has the meaning given by subsection 193-1(2C); and

(ba) in relation to a *student services and amenities fee imposed on a person enrolled with a higher education provider in a *course of study or *bridging course for overseas-trained professionals, or an *accelerator program course—has the meaning given by subsection 126-1(2); and

(bb) in relation to a person enrolling in an accelerator program course—has the meaning given by subsection 128B-1(6); and

(c) in relation to a person enrolling in a *VET unit of study has the meaning given by subclause 88(3) of Schedule 1A.

***requirements for entry***, to a *listed professional occupation, has the meaning given by section 104-70.

***responsible parent*** has the same meaning as in the *Australian Citizenship Act 2007*.



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***restricted access arrangement***, for a *course of study, means an arrangement:

(a) that was entered into between the higher education provider providing the course and an employer or industry body; and

(b) that limits or restricts enrolments in some or all of the places in the course.

***return*** means an income tax return within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

***reversed***: see the following provisions for when an amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is ***reversed***:

(a) subsection 128E-1(2) (special circumstances);

(b) section 128E-20 (no tax file number);

(c) section 128E-25 (provider completes request for assistance);

(d) section 128E-30 (no entitlement);

(e) section 128E-35 (no assessment of whether academically suited);

(f) section 128-40 (provider non-compliance).

***reviewable decision*** means a decision listed in the table in section 206-1.

***reviewable VET decision*** means a decision listed in the table in clause 91 of Schedule 1A.

***reviewer*** has the meanings given by section 209-1 and clause 94 of Schedule 1A.

***review officer***:

(a) of a higher education provider—has the meaning given by subsection 19-50(2); and

(b) of *Open Universities Australia—has the meaning given by subsection 238-1(2B); and

(c) of a *VET provider—has the meaning given by subclause 21(2) of Schedule 1A.



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***SA-HELP assistance*** means assistance payable under Part 3-5.

***SA-HELP debt*** has the meaning given by section 137-16.

***second funding cluster*** means the *funding cluster referred to in item 2 of the table in section 30-15.

***Secretary*** means the Secretary of the Department.

***self-accrediting entity*** means a body corporate that:

(a) is a *registered higher education provider; and

(b) is authorised by or under the *TEQSA Act to self-accredit one or more *courses of study that lead to a *higher education award.

***SLE amount*** has the meaning given by subsection 73-1(2).

***STARTUP-HELP assistance*** means assistance payable under Part 3-7.

***STARTUP-HELP debt*** has the meaning given by section 137-17.

***State or Territory VET regulator*** means an agency or authority of a State or Territory responsible for regulating vocational education or vocational training in the State or Territory.

***student*** means:

(a) a person who is enrolled in a *course of study with a higher education provider, and includes a person who is enrolled in a unit of study access to which was provided by *Open Universities Australia; or

(aa) a person who is enrolled in an *accelerator program course; or

(b) a person who is enrolled in a *VET course of study with a *VET provider.

***student contribution amount*** has the meaning given by section 93-5.



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***student contribution amount for a place*** has the meaning given by subsection 93-5(1).

***student entry procedure*** has the meaning given by subclause 23B(3) of Schedule 1A.

***student identifier*** has the same meaning as in the *Student Identifiers Act 2014*.

***Student Learning Entitlement*** has the meaning given by subsection 73-1(1).

***student led organisation*** has the meaning given by subsection 19-39(3).

***student services and amenities fee*** has the meaning given by subsection 19-37(5).

***subject to review***: a decision (however described) is ***subject to review*** until:

(a) any applicable time limits for applying for a review (however described) or lodging an appeal (however described) of or in relation to the decision have expired; and

(b) if there is such a review or appeal of or in relation to the decision—the review or appeal (and any later reviews or appeals) have been finally disposed of.

***supplementary amount for Asian language study*** means a supplementary amount of *OS-HELP assistance included under paragraph 121-1(1)(b).

***Table A provider*** means a body listed in Table A in section 16-15.

***Table B provider*** means a body listed in Table B in section 16-20.

***Table C provider*** means a body listed in Table C in section 16-22.

***taxable income*** has the meaning given by section 4-15 of the *Income Tax Assessment Act 1997*.



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***tax file number***: a person's tax file number is a number that the *Commissioner has issued to the person and that is either:

(a) a number issued under Part VA of the *Income Tax Assessment Act 1936*; or

(b) a number issued to a person under section 44 or 48 of the *Higher Education Funding Act 1988*; or

(c) a number that the Commissioner notified to the person as the person's income tax file number.

***TEQSA*** (short for Tertiary Education Quality and Standards Agency) means the body established by section 132 of the *TEQSA Act.

***TEQSA Act*** means the *Tertiary Education Quality and Standards Agency Act 2011*.

***TEQSA investigator*** means a person appointed under subsection 215-35(2).

***Tertiary Admission Centre*** means a person, body or organisation that provides services in relation to student admissions and enrolments on behalf of:

(a) higher education providers; or

(b) *VET providers; or

(c) both higher education providers and VET providers.

***total basic grant amount*** has the meaning given by section 33-5.

***tuition fee***:

(a) in relation to a unit of study access to which is not provided by *Open Universities Australia—has the meaning given by section 19-105; and

(b) in relation to a unit of study access to which is provided by Open Universities Australia—means:

(i) if only one fee has been determined for the unit under subsection 104-4(2)—that fee; or



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(ii) if more than one fee has been determined for the unit under that subsection—the fee determined under that subsection that applies to the person.

***tuition protection requirements*** has the meaning given by section 16-30.

***undergraduate course of study*** means a *course of study that is neither an *enabling course nor a *postgraduate course of study.

***unit of study*** means:

(a) a subject or unit that a person may undertake with a higher education provider as part of a *course of study; or

(b) a subject or unit made available by a higher education provider:

(i) access to which was provided by *Open Universities Australia; and

(ii) that a person could undertake as part of a course of study leading to a *higher education award; or

(c) a part of a *bridging course for overseas-trained professionals.

If a higher education provider provides the same such subject or unit in respect of more than one period, the subject or unit is taken to be a different unit of study in respect of each period.

***up-front payment***:

(a) in relation to a unit of study, has the meaning given by section 93-15 or 107-5; or

(b) in relation to an *accelerator program course, has the meaning given by section 128C-5.

***Up-front Payments Guidelines*** means the guidelines made under section 26B of the *TEQSA Act.

***up-front payments tuition protection levy*** means levy imposed by the *Higher Education (Up-front Payments Tuition Protection Levy) Act 2020.*



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***up-front VET payment*** has the meaning given by subclause 53(1) of Schedule 1A.

***VET advanced diploma*** means a qualification:

(a) at the level of advanced diploma in the Australian Qualifications Framework; and

(b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework.

***VET compliance requirements*** means the requirements set out in Subdivision 4-E of Schedule 1A.

***VET course of study*** means a structured and integrated program of vocational education or vocational training, usually consisting of a number of modules (units of study) or shorter programs, and leading to the award of a *VET qualification.

***VET credit transfer arrangement*** means an arrangement for crediting a *VET unit of study or *VET course of study toward a *higher education award.

***VET diploma*** means a qualification:

(a) at the level of diploma in the Australian Qualifications Framework; and

(b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework.

***VET fairness requirements*** means the requirements set out in Subdivision 4-D of Schedule 1A.

***VET FEE-HELP account*** has the meaning given by clause 45D of Schedule 1A.

***VET FEE-HELP assistance*** means assistance payable under Part 2 of Schedule 1A.

***VET FEE-HELP debt*** has the meaning given by subsection 137-18(1).



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***VET fee requirements*** means the requirements set out in Subdivision 4-F of Schedule 1A.

***VET financial viability requirements*** means the requirements set out in Subdivision 4-B of Schedule 1A.

***VET graduate certificate*** means a qualification:

(a) at the level of graduate certificate in the Australian Qualifications Framework; and

(b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework.

***VET graduate diploma*** means a qualification:

(a) at the level of graduate diploma in the Australian Qualifications Framework; and

(b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework.

***VET Guidelines*** means the guidelines made under clause 99 of Schedule 1A.

***VET officer*** has the meaning given by subclause 74(1) of Schedule 1A.

***VET personal information*** has the meaning given by clause 72 of Schedule 1A.

***VET provider*** has the meaning given by clause 4 of Schedule 1A.

***VET qualification*** means:

(a) a *VET diploma; or

(b) a *VET advanced diploma; or

(c) a *VET graduate diploma; or

(d) a *VET graduate certificate; or

(e) a qualification specified by the *VET Guidelines.

***VET quality and accountability requirements*** has the meaning given by clause 13 of Schedule 1A.



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***VET quality requirements*** are the requirements set out in Subdivision 4-C of Schedule 1A.

***VET Regulator*** has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

***VET restricted access arrangement***, for a *VET course of study, means an arrangement:

(a) that was entered into between the *VET provider providing the course and an employer or industry body; and

(b) that limits or restricts enrolments in some or all of the places in the course.

***VET student loan*** has the same meaning as in the *VET Student Loans Act 2016*.

***VET tuition assurance requirements*** means the requirements set out in clause 7 of Schedule 1A.

***VET tuition fee***: a person's ***VET tuition fee*** for a *VET unit of study is the fee determined under subclause 27(2) of Schedule 1A for the unit that applies to the person.

***VET unit of study*** means a subject or unit that a person may undertake with a *VET provider as part of a *VET course of study. If a VET provider provides the same such subject or unit in respect of more than one period, the subject or unit is taken to be a different VET unit of study in respect of each period.

***voluntary repayment*** means a payment made to the *Commissioner in discharge of an *accumulated HELP debt or a *HELP debt. It does not include a payment made in discharge of a *compulsory repayment amount.

***work experience in industry*** means work:

(a) that is done as a part of, or in connection with, a *course of study undertaken with a higher education provider; and

(b) in respect of which student learning and performance is not directed by the provider; and



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(c) the purpose of which is to obtain work experience relevant to the course of study; and

(d) that meets any other requirements specified in the Administration Guidelines.

***WPI indexation factor*** has the meaning given by subsection 140-10(1C).

***WPI index number*** has the meaning given by subclause 2(1A) of this Schedule.

(1A) The Minister may, for the purposes of paragraph (c) of the definition of ***eligible former permanent humanitarian visa holder*** in subclause (1), make a determination in writing specifying a class or subclass of visas provided for by the *Migration Act 1958* or regulations made under that Act.

(1B) A determination under subclause (1A) is a legislative instrument.

(1C) For the purposes of the definition of ***grandfathered student*** in subclause (1), if a *course of study covered by subclause (1D) is or was restructured by the provider on or after 1 January 2021, treat the course of study as continuing in existence as the same course of study after the restructure.

(1CA) Without limiting subclause (1C), a *course of study is taken to be restructured by a provider for the purposes of that subclause if the course of study is discontinued by the provider.

(1D) This subclause covers a *course of study that is:

(a) an ongoing course (within the meaning of paragraph (a) of the definition of ***grandfathered student*** in subclause (1)); or

(b) a *replacement course in relation to such an ongoing course.

(2) For the purposes of paragraph (e) of the definition of ***Overseas student*** in subclause (1), a representative's relatives include (without limitation):

(a) an exnuptial or adoptive child of the representative, or someone of whom the representative is an exnuptial or adoptive child; and



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(b) someone who is a child of the representative, or of whom the representative is a child, because of subclause (3); and

(c) relatives traced through relationships referred to in paragraphs (a) and (b).

(3) For the purposes of paragraph (2)(b), one person is the ***child*** of another person because of this subclause if he or she is a child of the other person within the meaning of the *Family Law Act 1975*.

(4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (b) of the definition of ***Pacific engagement visa holder*** in subclause (1) if the Minister has been advised by the Minister administering the *Migration Act 1958* (the ***Immigration Minister***) that, in the opinion of the Immigration Minister:

(a) the kind of visa has replaced or will replace:

(i) the kind of visa mentioned in paragraph (a) of that definition; or

(ii) a kind of visa previously determined under this subclause; and

(b) the replacement kind of visa is intended to give the same benefits as the replaced kind of visa.

## 2 Meanings of *CPI index number* and *WPI index number*

(1) The ***CPI index number*** for a *quarter is the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the *Australian Statistician in respect of that quarter.

(1A) The ***WPI index number*** for a *quarter is the Wage Price Index (quarterly index/total hourly rates of pay excluding bonuses/Australia/private and public/all industries) number published by the Australian Statistician in respect of that quarter.

(2) Subject to subclause (3), if, at any time before or after the commencement of this clause:



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(a) the *Australian Statistician has published or publishes a *CPI index number or a *WPI index number in respect of a *quarter; and

(b) that CPI index number or WPI index number is in substitution for a CPI index number or WPI index number previously published by the Australian Statistician in respect of that quarter;

disregard the publication of the later CPI index number or WPI index number for the purposes of this clause.

(3) If, at any time before or after the commencement of this clause, the *Australian Statistician has changed or changes the index reference period for the Consumer Price Index or the Wage Price Index, then, in applying this clause after the change took place or takes place, have regard only to *CPI index numbers or *WPI index numbers, as the case requires, published in terms of the new index reference period.



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# Endnotes

## Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

**Abbreviation key—Endnote 2**
The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment



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## Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.



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## Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Act 2003 | 149, 2003 | 19 Dec 2003 | s 1-10–238-15 and Sch 1: 1 Jan 2004 (s 1-5(1) items 2, 3)<br>Remainder: 19 Dec 2003 (s 1-5(1) item 1) | |
| Higher Education Legislation Amendment Act 2004 | 45, 2004 | 21 Apr 2004 | 21 Apr 2004 | — |
| Higher Education Legislation Amendment Act (No. 2) 2004 | 114, 2004 | 13 July 2004 | Schedule 2 (items 39–45, 80): 14 July 2004<br>Remainder: Royal Assent | Sch. 2 (item 85) |
| Higher Education Legislation Amendment Act (No. 3) 2004 | 157, 2004 | 17 Dec 2004 | Sch 1 (items 1–43, 46–52): 17 Dec 2004 (s 2(1) items 2, 4)<br>Sch 1 (items 44, 45): 13 July 2004 (s 2(1) item 3) | — |
| Higher Education Legislation Amendment (2005 Measures No. 1) Act 2005 | 56, 2005 | 25 May 2005 | Sch 1 and 2: 25 May 2005 (s 2(1) items 2–5) | Sch 2 (items 15–17) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Legislation Amendment (2005 Measures No. 2) Act 2005 | 83, 2005 | 6 July 2005 | Sch 1 (items 1–50): 6 July 2005 (s 2(1) item 2)<br>Sch 1 (items 51–59): 3 Aug 2005 (s 2(1) item 3)<br>Sch 1 (items 60, 61): 1 Jan 2004 (s 2(1) item 4) | Sch 1 (items 2, 12, 23, 35, 47, 49) |
| **as amended by** | | | | |
| Higher Education Legislation Amendment (2005 Measures No. 3) Act 2005 | 143, 2005 | 14 Dec 2005 | Sch 7 (item 50): 23 Nov 2004 (s 2(1) item 21)<br>Sch 7 (item 92): 6 July 2005 (s 2(1) item 27) | — |
| Higher Education Legislation Amendment (Workplace Relations Requirements) Act 2005 | 139, 2005 | 18 Nov 2005 | 19 Nov 2005 | Sch. 1 (item 2) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Legislation Amendment (2005 Measures No. 3) Act 2005 | 143, 2005 | 14 Dec 2005 | Sch 1, 2, 4, 5 and Sch 8 (item 2): 14 Dec 2005 (s 2(1) items 2, 4, 28)<br>Sch 3: 28 Dec 2005 (s 2(1) item 3)<br>Sch 6 and Sch 7 (items 1–6, 8, 10, 12–14, 16–36, 39–43, 45, 46, 48–56, 59–81, 83–91): 23 Nov 2004 (s 2(1) items 5, 6, 8, 10, 12, 14, 16, 18, 20, 21, 24, 26)<br>Sch 7 (item 7): 1 Jan 2006 (s 2(1) item 7)<br>Sch 7 (items 9, 11, 15, 37, 38, 57, 58, 82): 6 July 2005 (s 2(1) items 9, 11, 13, 15, 22, 23, 25)<br>Sch 7 (items 44, 47): 1 Jan 2004 (s 2(1) items 17, 19) | Sch 1 (item 11), Sch 2 (item 3), Sch 3 (item 3) and Sch 5 (item 8) |
| Higher Education Legislation Amendment (2005 Budget Measures) Act 2005 | 156, 2005 | 19 Dec 2005 | 19 Dec 2005 | — |
| Higher Education Legislation Amendment (2005 Measures No. 4) Act 2005 | 158, 2005 | 19 Dec 2005 | 20 Dec 2005 | — |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Act 2005 | 159, 2005 | 19 Dec 2005 | 1 Jan 2006 | Sch. 1 (item 1A) |
| Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005 | 161, 2005 | 19 Dec 2005 | 19 Dec 2005 | Sch. 2 (item 32) |
| Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006 | 101, 2006 | 14 Sept 2006 | Schedule 2 (item 116) and Schedule 6 (items 1, 6–11): Royal Assent | Sch. 6 (items 1, 6–11) |
| Higher Education Legislation Amendment (2006 Budget and Other Measures) Act 2006 | 121, 2006 | 4 Nov 2006 | Schedule 1 (items 3–5) and Schedule 2: 1 Jan 2007<br>Remainder: Royal Assent | Sch. 1 (items 4, 5), Sch. 2 (items 3, 4), Sch. 3 (items 12–14) and Sch. 4 (item 5) |
| Higher Education Legislation Amendment (2007 Measures No. 1) Act 2007 | 72, 2007 | 28 May 2007 | Schedule 1: 31 Dec 2007 (*see* F2007L03553)<br>Schedule 3 (items 2–6): 1 Jan 2008<br>Remainder: Royal Assent | Sch. 3 (item 6) and Sch. 5 (item 5) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Legislation Amendment (2007 Budget Measures) Act 2007 | 119, 2007 | 28 June 2007 | Schedule 2, Schedule 3 (items 10–17), Schedules 4, 5, 7, 8, 10 and 11: 1 Jan 2008<br>Remainder: Royal Assent | Sch. 2 (items 3, 4, 6), Sch. 3 (items 9, 17), Sch. 4 (item 5), Sch. 7 (items 3, 7), Sch. 8 (item 20), Sch. 10 (item 2) and Sch. 11 (item 2) |
| Maritime Legislation Amendment Act 2007 | 150, 2007 | 24 Sept 2007 | Schedule 1: 1 Jan 2008 (*see* F2007L04141)<br>Remainder: Royal Assent | — |
| Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007 | 170, 2007 | 28 Sept 2007 | Schedule 1: 1 Jan 2008<br>Remainder: Royal Assent | — |
| Higher Education Support Amendment (VET FEE-HELP Assistance) Act 2008 | 11, 2008 | 20 Mar 2008 | 20 Mar 2008 | — |
| Higher Education Support Amendment (2008 Budget Measures) Act 2008 | 43, 2008 | 25 June 2008 | 25 June 2008 | Sch. 1 (item 17) and Sch. 2 (item 13) |
| Statute Law Revision Act 2008 | 73, 2008 | 3 July 2008 | Sch 1 (items 28, 29): 1 Jan 2004 (s 2(1) item 20) | — |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment (Removal of the Higher Education Workplace Relations Requirements and National Governance Protocols Requirements and Other Matters) Act 2008 | 89, 2008 | 20 Sept 2008 | 20 Sept 2008 | Sch. 1 (item 7) |
| Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008 | 144, 2008 | 9 Dec 2008 | Schedule 5 (items 6–9): 10 Dec 2008 | — |
| Tax Laws Amendment (2009 Measures No. 1) Act 2009 | 27, 2009 | 26 Mar 2009 | Schedule 3 (items 36–39, 102(1)): 27 Mar 2009 | Sch. 3 (item 102(1)) |
| Higher Education Support Amendment (VET FEE-HELP and Providers) Act 2009 | 39, 2009 | 23 June 2009 | 24 June 2009 | Sch. 1 (items 2, 4, 6) and Sch. 2 (item 9) |
| Higher Education Support Amendment (2009 Budget Measures) Act 2009 | 86, 2009 | 18 Sept 2009 | Sch 2, Sch 4 (item 1) and Sch 5: 1 Jan 2010 (s 2(1) items 3, 5, 7) Remainder: 18 Sept 2009 (s 2(1) items 1, 2, 4, 6, 8) | Sch 2 (items 3, 4), Sch 3 (item 2), Sch 5 (items 2, 3) and Sch 6 (item 2) |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| **as amended by** | | | | |
| Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Act 2020 | 93, 2020 | 27 Oct 2020 | Sch 2 (item 11): 1 Jan 2021 (s 2(1) item 4) | — |
| Higher Education Support Amendment (VET FEE-HELP and Tertiary Admission Centres) Act 2009 | 121, 2009 | 7 Dec 2009 | 8 Dec 2009 | Sch. 1 (items 2, 4, 7, 12) |
| Higher Education Support Amendment Act 2010 | 6, 2010 | 19 Feb 2010 | 19 Feb 2010 | — |
| Statute Law Revision Act 2010 | 8, 2010 | 1 Mar 2010 | Sch 5 (item 137(a)): 1 Mar 2010 (s 2(1) item 38) | — |
| Social Security and Other Legislation Amendment (Income Support for Students) Act 2010 | 17, 2010 | 24 Mar 2010 | Schedule 2 (items 5–9): 1 Apr 2010 | — |
| Higher Education Support Amendment (University College London) Act 2010 | 47, 2010 | 31 May 2010 | 1 Jan 2010 | Sch. 1 (item 2) |
| Tax Laws Amendment (Transfer of Provisions) Act 2010 | 79, 2010 | 29 June 2010 | Schedule 1 (items 14–16): 1 July 2010 | — |
| Higher Education Support Amendment (Indexation) Act 2010 | 111, 2010 | 14 July 2010 | 1 Jan 2011 | Sch. 1 (item 6) |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment (2010 Budget Measures) Act 2010 | 129, 2010 | 24 Nov 2010 | Schedule 1: 1 Dec 2010<br>Remainder: Royal Assent | — |
| Higher Education Support Amendment (FEE-HELP Loan Fee) Act 2010 | 132, 2010 | 24 Nov 2010 | 24 Nov 2010 | Sch. 1 (item 2) |
| Statute Law Revision Act 2011 | 5, 2011 | 22 Mar 2011 | Schedule 1 (item 65): Royal Assent | — |
| National Vocational Education and Training Regulator (Consequential Amendments) Act 2011 | 14, 2011 | 12 Apr 2011 | Sch 1 (items 33, 36–54): 1 July 2011 (s 2(1) items 7, 10)<br>Sch 1 (item 34): never commenced (s 2(1) item 8)<br>Sch 1 (item 35): 30 June 2011 (s 2(1) item 9) | Sch 1 (item 54) |
| Human Services Legislation Amendment Act 2011 | 32, 2011 | 25 May 2011 | Schedule 4 (items 278–281): 1 July 2011 | — |
| Higher Education Support Amendment (No. 1) Act 2011 | 72, 2011 | 29 June 2011 | Schedule 1: 30 June 2011<br>Remainder: Royal Assent | Sch. 1 (item 32) |
| Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act 2011 | 74, 2011 | 29 June 2011 | Sch 2 (items 1–39): 29 Jan 2012 (s 2(1) items 8, 9)<br>Sch 2 (items 40–42): never commenced (s 2(1) item 10) | Sch 2 (items 36, 39) |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Indigenous Education (Targeted Assistance) Amendment Act 2011 | 94, 2011 | 8 Sept 2011 | Schedule 2: Royal Assent | — |
| Higher Education Support Amendment (Demand Driven Funding System and Other Measures) Act 2011 | 104, 2011 | 26 Sept 2011 | Schedule 2: 1 Jan 2012<br>Remainder: Royal Assent | Sch. 1 (items 33–36), Sch. 2 (items 37–41) and Sch. 3 (items 8–10) |
| Higher Education Legislation Amendment (Student Services and Amenities) Act 2011 | 130, 2011 | 3 Nov 2011 | Schedule 1 (items 1–43): 1 Jan 2012 (*see* F2011L02499) | Sch. 1 (item 32) |
| Higher Education Support Amendment Act (No. 2) 2011 | 178, 2011 | 5 Dec 2011 | Schedules 2–4: 1 Jan 2012<br>Remainder: Royal Assent | Sch. 1 (item 1), Sch. 2 (item 13), Sch. 3 (item 4) and Sch. 4 (items 8, 9) |
| Higher Education Support Amendment (VET FEE-HELP and Other Measures) Act 2012 | 6, 2012 | 6 Mar 2012 | Schedule 1 (items 1–3, 6–23) and Schedule 2: 7 Mar 2012<br>Schedule 1 (items 4, 5): 6 Sept 2012<br>Remainder: Royal Assent | Sch. 1 (items 3, 5, 17, 20, 23) |



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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment Act (No. 1) 2012 | 38, 2012 | 15 Apr 2012 | Schedule 1 (items 1–4, 6, 9, 10): 1 Jan 2012<br>Schedule 1 (items 5, 7, 8): 1 Jan 2011<br>Schedule 1 (item 11): 1 Jan 2013<br>Schedule 1 (items 12–17): 16 Apr 2012<br>Remainder: Royal Assent | Sch. 1 (items 8, 9, 16, 17) |
| Higher Education Support Amendment (Student Contribution Amounts and Other Measures) Act 2012 | 127, 2012 | 13 Sept 2012 | Sch 2: 1 Jan 2013 (s 2(1) item 3)<br>Remainder: 13 Sept 2012 (s 2(1) items 1, 2) | Sch 1 (item 8) and Sch 2 (item 9) |
| Statute Law Revision Act 2012 | 136, 2012 | 22 Sept 2012 | Sch 1 (items 64–66): 22 Sept 2012 (s 2(1) item 2) | — |
| Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Act 2012 | 156, 2012 | 17 Nov 2012 | Sch 1 and 3: 18 Nov 2012 (s 2) | Sch 3 (item 10) |
| Higher Education Support Amendment (Streamlining and Other Measures) Act 2012 | 160, 2012 | 28 Nov 2012 | Sch 1, 3 and 4: 1 Jan 2013 (s 2(1) items 2, 4, 5)<br>Sch 2: 29 Nov 2012 (s 2(1) item 3) | Sch 1 (items 20–24, 33), Sch 2 (items 18, 26–29) and Sch 3 (item 50) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Privacy Amendment (Enhancing Privacy Protection) Act 2012 | 197, 2012 | 12 Dec 2012 | Sch 5 (items 42–45) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19)<br>Sch 6 (item 1): 12 Dec 2012 (s 2(1) item 16) | Sch 6 (items 1, 15–19) |
| Higher Education Support Amendment (Further Streamlining and Other Measures) Act 2013 | 23, 2013 | 28 Mar 2013 | 29 Mar 2013 (s 2) | Sch 1 (items 8–10), Sch 2 (item 3), Sch 3 (items 12–14), Sch 4 (item 2) and Sch 5 (items 9, 10) |
| Higher Education Support Amendment (Asian Century) Act 2013 | 112, 2013 | 29 June 2013 | Sch 1: 30 June 2013 (s 2(1) item 2) | Sch 1 (items 29, 30) |
| Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015 | 126, 2015 | 10 Sept 2015 | Sch 1 (items 259–297): 5 Mar 2016 (s 2(1) item 2) | — |
| Education Legislation Amendment (Overseas Debt Recovery) Act 2015 | 154, 2015 | 26 Nov 2015 | Sch 1 and Sch 3: 1 Jan 2016 (s 2(1) items 2, 7) | Sch 1 (items 10, 11) and Sch 3 (item 23) |
| Higher Education Legislation Amendment (Miscellaneous Measures) Act 2015 | 160, 2015 | 30 Nov 2015 | Sch 1: 1 Jan 2016 (s 2(1) item 2)<br>Sch 2–4: 1 Dec 2015 (s 2(1) item 3) | Sch 1 (item 12) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment (VET FEE-HELP Reform) Act 2015 | 168, 2015 | 11 Dec 2015 | Sch 1: 31 Dec 2015 (s 2(1) item 2)<br>Sch 2: 11 Dec 2016 (s 2(1) item 3)<br>Remainder: 11 Dec 2015 (s 2(1) item 1) | Sch 1 (items 24, 24A, 31) and Sch 2 (items 14, 15) |
| Labor 2013-14 Budget Savings (Measures No. 2) Act 2015 | 169, 2015 | 11 Dec 2015 | Sch 3 and 4: 12 Dec 2015 (s 2(1) item 3) | Sch 3 (item 10) and Sch 4 (item 8) |
| Budget Savings (Omnibus) Act 2016 | 55, 2016 | 16 Sept 2016 | Sch 1: 1 July 2018 (s 2(1) item 2)<br>Sch 2: 1 Jan 2018 (s 2(1) item 3)<br>Sch 3 (items 1–15, 19): 1 July 2017 (s 2(1) item 4) | Sch 1 (item 6) and Sch 3 (item 19) |
| Higher Education Support Legislation Amendment (2016 Measures No. 1) Act 2016 | 74, 2016 | 23 Nov 2016 | Sch 1 (items 1–12): 1 Jan 2017 (s 2(1) item 2)<br>Sch 2 (items 1–18, 20–23): 24 Nov 2016 (s 2(1) item 6) | Sch 1 (item 8) and Sch 2 (items 20–23) |
| VET Student Loans (Consequential Amendments and Transitional Provisions) Act 2016 | 100, 2016 | 7 Dec 2016 | Sch 1 (items 1–21, 24, 25): 1 Jan 2017 (s 2(1) items 2, 3)<br>Sch 2: 7 Dec 2016 (s 2(1) item 4) | Sch 2 |
| Education Legislation Amendment (Provider Integrity and Other Measures) Act 2017 | 83, 2017 | 16 Aug 2017 | Sch 3: 17 Aug 2017 (s 2(1) item 1) | Sch 3 (items 44, 45) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| **as amended by** | | | | |
| Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Act 2020 | 93, 2020 | 27 Oct 2020 | Sch 4 (item 1): 1 Jan 2021 (s 2(1) item 7)<br>Sch 4 (item 39): 1 Jan 2022 (s 2(1) item 8) | — |
| Statute Update (Winter 2017) Act 2017 | 93, 2017 | 23 Aug 2017 | Sch 1 (items 12, 13): 20 Sept 2017 (s 2(1) item 2) | — |
| Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017 | 132, 2017 | 13 Dec 2017 | Sch 1 (item 25): 1 July 2018 (s 2(1) item 2) | — |
| Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018 | 76, 2018 | 24 Aug 2018 | Sch 1 (items 1, 2, 8–18): 1 July 2019 (s 2(1) item 2)<br>Sch 2A and 4: 1 Jan 2019 (s 2(1) items 3A, 5)<br>Sch 3 (items 1–121, 144–147): 1 Jan 2020 (s 2(1) item 4) | Sch 1 (items 17, 18), Sch 2A (item 3), Sch 3 (items 144–147) and Sch 4 (item 2) |
| **as amended by** | | | | |
| Education Legislation Amendment (2019 Measures No. 1) Act 2019 | 103, 2019 | 28 Nov 2019 | Sch 3 (item 1): 1 Jan 2019 (s 2(1) item 3) | — |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018 | 116, 2018 | 25 Sept 2018 | Sch 1 (items 1–12): 1 July 2019 (s 2(1) item 2)<br>Sch 1 (item 25A): 1 Jan 2020 (s 2(1) item 2A) | — |
| Higher Education Support Amendment (VET FEE-HELP Student Protection) Act 2018 | 160, 2018 | 10 Dec 2018 | Sch 1 (items 1–6, 9): 1 Jan 2019 (s 2(1) item 2)<br>Sch 2 (items 1–7): 1 Jan 2020 (s 2(1) item 3) | Sch 1 (item 9) |
| Higher Education Support Amendment (Cost Recovery) Act 2019 | 86, 2019 | 28 Oct 2019 | Sch 1: 1 Jan 2020 (s 2(1) items 2, 3) | — |
| Education Legislation Amendment (2019 Measures No. 1) Act 2019 | 103, 2019 | 28 Nov 2019 | Sch 1 and 2: 1 Jan 2020 (s 2(1) item 2)<br>Sch 3 (items 2–18, 24): 28 Nov 2019 (s 2(1) item 4) | Sch 1 (items 4, 5), Sch 2 (item 15) and Sch 3 (item 24) |
| Education Legislation Amendment (Tuition Protection and Other Measures) Act 2019 | 111, 2019 | 6 Dec 2019 | Sch 2: 1 Jan 2020 (s 2(1) items 3, 4) | Sch 2 (item 34) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Education Legislation Amendment (2020 Measures No. 1) Act 2020 | 62, 2020 | 19 June 2020 | Sch 1 (items 1–5): 1 Jan 2021 (s 2(1) item 2)<br>Sch 2, 3, 4 and Sch 5 (items 3–5): 19 June 2020 (s 2(1) items 3, 5)<br>Sch 5 (items 1, 2): 1 Jan 2020 (s 2(1) item 4) | Sch 2 and Sch 5 (item 2) |
| National Vocational Education and Training Regulator Amendment (Governance and Other Matters) Act 2020 | 77, 2020 | 3 Sept 2020 | Sch 1 (items 64–66): 1 Jan 2021 (s 2(1) item 2) | — |
| Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Act 2020 | 93, 2020 | 27 Oct 2020 | Sch 1, Sch 2 (items 1–10), Sch 3 (items 1, 2) and Sch 5 (items 2–10): 28 Oct 2020 (s 2(1) items 2, 3, 5, 10)<br>Sch 3 (items 3–7), Sch 4 (items 2–38), Sch 4A and Sch 5 (items 11–15): 1 Jan 2021 (s 2(1) items 6, 7, 8A, 11)<br>Sch 4 (items 39A–41) and Sch 4B: 1 Jan 2022 (s 2(1) items 8, 8B)<br>Sch 5 (item 1): 1 Jan 2020 (s 2(1) item 9) | Sch 1 (items 41, 42), Sch 2 (items 9, 10), Sch 3 (item 2), Sch 4 (items 38, 41), Sch 4A (item 12) and Sch 4B (item 13) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Education Legislation Amendment (Up-front Payments Tuition Protection) Act 2020 | 101, 2020 | 20 Nov 2020 | Sch 2: 1 Jan 2021 (s 2(1) item 1) | Sch 2 (items 69, 70, 105, 106) |
| Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021 | 13, 2021 | 1 Mar 2021 | Sch 2 (items 457, 458): 1 Sept 2021 (s 2(1) item 5) | — |
| Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Act 2021 | 14, 2021 | 1 Mar 2021 | Sch 2 (items 1–4): 2 Mar 2021 (s 2(1) item 4)<br>Sch 2 (item 5): never commenced (s 2(1) item 5) | — |
| VET Student Payment Arrangements (Miscellaneous Amendments) Act 2021 | 17, 2021 | 1 Mar 2021 | Sch 1 (items 1–5): 2 Mar 2021 (s 2(1) item 2)<br>Sch 1 (items 9–17): 1 July 2021 (s 2(1) item 3) | Sch 1 (item 17) |
| Higher Education Support Amendment (Freedom of Speech) Act 2021 | 22, 2021 | 22 Mar 2021 | 23 Mar 2021 (s 2(1) item 1) | — |
| Education Legislation Amendment (2021 Measures No. 1) Act 2021 | 39, 2021 | 27 May 2021 | Sch 2: 28 May 2021 (s 2(1) item 1) | Sch 2 (item 4) |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Higher Education Support Amendment (Extending the Student Loan Fee Exemption) Act 2021 | 51, 2021 | 24 June 2021 | 24 June 2021 (s 2(1) item 1) | — |
| Education Legislation Amendment (2021 Measures No. 2) Act 2021 | 55, 2021 | 24 June 2021 | Sch 1 (items 1–6): 1 Jan 2022 (s 2(1) item 2)<br>Sch 1 (items 7–32): 25 June 2021 (s 2(1) item 3) | Sch 1 (items 6, 12, 19, 23, 32) |
| Education Legislation Amendment (2022 Measures No. 1) Act 2022 | 64, 2022 | 29 Nov 2022 | Sch 1 (items 1–21): 30 Nov 2022 (s 2(1) item 2)<br>Sch 2: 1 Jan 2022 (s 2(1) item 3)<br>Sch 3 and 4: 1 Jan 2023 (s 2(1) items 4, 5) | Sch 1 (items 10, 13), Sch 3 (item 5) and Sch 4 (item 16) |
| Higher Education Support Amendment (2022 Measures No. 1) Act 2023 | 3, 2023 | 20 Feb 2023 | 21 Feb 2023 (s 2(1) item 1) | Sch 1 (items 4–12) and Sch 2 (items 39, 40) |
| Higher Education Support Amendment (Australia's Economic Accelerator) Act 2023 | 5, 2023 | 14 Mar 2023 | 15 Mar 2023 (s 2(1) item 1) | — |
| Education Legislation Amendment (Startup Year and Other Measures) Act 2023 | 36, 2023 | 28 June 2023 | Sch 1 (items 1–76), Sch 3 and Sch 4: 29 June 2023 (s 2(1) items 2, 3) | Sch 3 (item 2) and Sch 4 (item 6) |
| Members of Parliament (Staff) Amendment Act 2023 | 71, 2023 | 19 Sept 2023 | Sch 4 (item 11): 17 Oct 2023 (s 2(1) item 5) | — |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Statute Law Amendment (Prescribed Forms and Other Updates) Act 2023 | 74, 2023 | 20 Sept 2023 | Sch 4 (item 52): 18 Oct 2023 (s 2(1) item 3) | — |
| Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Act 2023 | 89, 2023 | 6 Nov 2023 | Sch 1 (items 6–18): 1 Jan 2024 (s 2(1) item 3)<br>Remainder: 6 Nov 2023 (s 2(1) items 1, 2) | Sch 1 (items 5, 18) |
| Social Services and Other Legislation Amendment (Australia's Engagement in the Pacific) Act 2023 | 100, 2023 | 27 Nov 2023 | Sch 1 (items 2–11, 21): 29 Mar 2024 (s 2(1) item 2) | Sch 1 (item 21) |
| Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024 | 39, 2024 | 31 May 2024 | Sch 5 (items 34–47): 14 Oct 2024 (s 2(1) item 2) | — |
| Universities Accord (Student Support and Other Measures) Act 2024 | 108, 2024 | 5 Dec 2024 | Sch 1 (items 1–17, 56–58), Sch 4 and Sch 6: 5 Dec 2024 (s 2(1) items 2, 6, 9, 11)<br>Sch 1 (items 18, 19): 1 June 2025 (s 2(1) item 3)<br>Schs 2 and 3: 1 Jan 2025 (s 2(1) items 7, 8)<br>Sch 5: awaiting commencement (s 2(1) item 10) | Sch 1 (item 19), Sch 1 (items 56–58), Sch 3 (item 10), Sch 4 (item 2), Sch 5 (items 4–11) and Sch 6 |



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## Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|---|---|---|---|
| Administrative Review Tribunal (Miscellaneous Measures) Act 2025 | 14, 2025 | 20 Feb 2025 | Sch 2 (items 69–71, 94–96): 21 Feb 2025 (s 2(1) item 2) | — |
| Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 | 17, 2025 | 20 Feb 2025 | Sch 8 (items 28–31): 1 July 2026 (s 2(1) item 6) | — |



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# Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Chapter 1** | |
| **Division 1** | |
| s 1-15 | rep No 74, 2011 |
| **Division 2** | |
| s 2-1 | am No 170, 2007; No 104, 2011; No 93, 2020; No 22, 2021 |
| **Division 3** | |
| s 3-1 | am No 170, 2007 |
| s 3-5 | am No 72, 2007; No 119, 2007; No 74, 2016; No 14, 2021 |
| s 3-10 | am No 104, 2011; No 130, 2011; No 93, 2020; No 36, 2023 |
| s 3-25 | rs No 72, 2007 |
| | rep No 74, 2011 |
| s 3-30 | ad No 170, 2007 |
| **Division 5** | |
| Division 5 | ad No 158, 2005 |
| s 5-1 | ad No 158, 2005 |
| | am No 119, 2007; No 170, 2007; No 74, 2011; No 130, 2011; No 6, 2012; No 74, 2016; No 111, 2019; No 36, 2023 |
| **Division 6** | |
| Division 6 | ad. No. 170, 2007 |
| s. 6-1 | ad. No. 170, 2007 |
| **Chapter 2** | |
| Chapter 2 heading | rs. No. 119, 2007 |
| **Division 8** | |
| s 8-1 | am No 72, 2007; No 119, 2007; No 104, 2011; No 74, 2016; No 14, 2021 |
| **Part 2-1** | |
| **Division 13** | |
| s. 13-1 | am. No. 158, 2005; No. 72, 2007 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Division 16** | |
| **Subdivision 16-A** | |
| s 16-1 | am No 83, 2017 |
| s. 16-5 | am. No. 158, 2005; No. 39, 2009; No 126, 2015 |
| **Subdivision 16-B** | |
| s 16-15 | am No 72, 2007; No 150, 2007; No 160, 2015; No 103, 2019; No 62, 2020; No 93, 2020; No 39, 2021; No 108, 2024 |
| s 16-20 | am No 38, 2012; No 160, 2015; No 103, 2019; No 93, 2020; No 39, 2021; No 36, 2023 |
| s 16-22 | ad No 158, 2005 |
| | am No 47, 2010; No 93, 2020 |
| **Subdivision 16-C** | |
| s 16-25 | am No 114, 2004; No 56, 2005; No 72, 2007; No 6, 2010; No 72, 2011; No 74, 2011; No 160, 2012; No 83, 2017; No 111, 2019 |
| s. 16-27 | ad. No. 74, 2011 |
| s 16-30 | am No 45, 2004; No 56, 2005 |
| | rs No 158, 2005; No 111, 2019 |
| s 16-31 | ad No 56, 2005 |
| | rep No 111, 2019 |
| s. 16-35 | rep. No. 72, 2007 |
| s 16-40 | am No 74, 2011; No 83, 2017; No 86, 2019 |
| s. 16-42 | ad. No. 74, 2011 |
| | am. No. 160, 2012 |
| | rep. No. 23, 2013 |
| s. 16-43 | ad. No. 160, 2012 |
| | rep. No. 23, 2013 |
| s. 16-50 | am. No. 72, 2011; No. 6, 2012 |
| s 16-55 | am No 158, 2005; No 39, 2009; No 126, 2015 |
| s 16-60 | ad No 72, 2011 |
| | am No 83, 2017 |
| s. 16-65 | ad. No. 72, 2011 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| s. 16-70 | ad. No. 23, 2013 |
| | am No 126, 2015 |
| **Division 19** | |
| **Subdivision 19-A** | |
| s. 19-1 | am. No. 104, 2011; No. 23, 2013 |
| **Subdivision 19-B** | |
| s 19-10 | am No 83, 2017; No 93, 2020 |
| s 19-12 | rs No 83, 2017 |
| **Subdivision 19-C** | |
| Subdivision 19-C | rs. No. 74, 2011 |
| s. 19-15 | am. No. 72, 2007 |
| | rs. No. 74, 2011 |
| s. 19-20 | am. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 19-25 | am. No. 89, 2008 |
| | rep. No. 74, 2011 |
| s. 19-27 | am. No. 89, 2008 |
| | rep. No. 74, 2011 |
| s. 19-29 | ad. No. 89, 2008 |
| | rep. No. 74, 2011 |
| **Subdivision 19-D** | |
| s 19-35 | am No 114, 2004; No 143, 2005; No 36, 2023 |
| s 19-36 | ad No 83, 2017 |
| s 19-36A | ad No 83, 2017 |
| | am No 36, 2023 |
| s 19-36B | ad No 83, 2017 |
| | am No 55, 2021; No 36, 2023 |
| s 19-36C | ad No 83, 2017 |
| | am No 55, 2021; No 36, 2023 |
| s 19-36D | ad No 83, 2017 |
| s 19-36E | ad No 83, 2017 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| s 19-37 | ad No 159, 2005 |
| | am No 130, 2011; No 38, 2012; No 36, 2023 |
| s 19-38 | ad No 130, 2011 |
| | am No 36, 2023 |
| s 19-39 | ad No 108, 2024 |
| s 19-40 | am No 56, 2005; No 83, 2017 |
| | rep No 111, 2019 |
| | ad No 108, 2024 |
| s 19-42 | ad No 83, 2017 |
| | am No 36, 2023 |
| s 19-43 | ad No 89, 2023 |
| s 19-45 | am No 114, 2004; No 83, 2005; No 104, 2011; No 83, 2017; No 93, 2020; No 36, 2023; No 89, 2023 |
| s 19-50 | am No 83, 2005; No 104, 2011; No 93, 2020 |
| | ed C83 |
| | am No 89, 2023 |
| s 19-60 | am No 83, 2005; No 104, 2011; No 197, 2012; No 93, 2020 |
| | ed C83 |
| | am No 89, 2023 |
| **Subdivision 19-E** | |
| s 19-65 | am No 158, 2005; No 23, 2013 |
| s 19-66 | ad No 86, 2019 |
| s 19-66A | ad No 111, 2019 |
| | ed C72 |
| | am No 101, 2020 |
| s 19-67 | ad No 130, 2011 |
| s 19-70 | am No 6, 2012; No 83, 2017 |
| s 19-71 | ad No 83, 2017 |
| s 19-72 | ad No 83, 2017 |
| s 19-73 | ad No 83, 2017 |
| s 19-75 | am No 83, 2017 |



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| Provision affected | How affected |
|---|---|
| s 19-77 | ad No 72, 2007 |
| | am No 74, 2011; No 83, 2017 |
| s 19-78 | ad No 74, 2011 |
| | am No 83, 2017 |
| s 19-80 | ad No 143, 2005 |
| | am No 74, 2011; No 83, 2017; No 93, 2020 |
| s 19-82 | ad No 23, 2013 |
| | am No 83, 2017 |
| **Subdivision 19-F** | |
| s 19-85 | rs No 36, 2023 |
| s. 19-87 | ad. No. 45, 2004 |
| | am. No. 157, 2004; No. 83, 2005; No. 121, 2006; No. 72, 2007 |
| s. 19-88 | ad. No. 45, 2004 |
| | am. No. 114, 2004 |
| | rep. No. 121, 2006 |
| s. 19-90 | rs. No. 45, 2004 |
| | am. No. 83, 2005; No. 121, 2006 |
| s. 19-91 | ad. No. 45, 2004 |
| | am. No. 114, 2004 |
| | rep. No. 121, 2006 |
| s 19-92 | ad No 36, 2023 |
| s 19-95 | am No 45, 2004; No 83, 2005; No 121, 2006; No 83, 2017 |
| s 19-97 | ad No 45, 2004 |
| | rep No 121, 2006 |
| | ad No 36, 2023 |
| s. 19-100 | rs. No. 45, 2004 |
| | am. No. 157, 2004 |
| s. 19-101 | ad. No. 45, 2004 |
| | rep. No. 121, 2006 |
| s. 19-102 | ad. No. 45, 2004 |
| | am. No. 143, 2005; No. 74, 2011 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| s. 19-105 | rs. No. 45, 2004 |
| | am. No. 157, 2004 |
| | rs. No. 121, 2006 |
| **Subdivision 19-G** | |
| Subdivision 19-G | ad No 104, 2011 |
| s 19-110 | ad No 104, 2011 |
| | am No 93, 2020 |
| s 19-115 | ad No 104, 2011 |
| | am No 22, 2021 |
| **Division 22** | |
| **Subdivision 22-A** | |
| s 22-1 | am No 39, 2009; No 74, 2011; No 160, 2012; No 23, 2013; No 126, 2015 |
| **Subdivision 22-AA** | |
| Subdivision 22-AA | ad. No. 23, 2013 |
| s. 22-2 | ad. No. 23, 2013 |
| | am No 126, 2015 |
| s. 22-3 | ad. No. 23, 2013 |
| | am No 126, 2015 |
| **Subdivision 22-B** | |
| s. 22-7 | ad. No. 114, 2004 |
| | am. No. 72, 2007; No. 72, 2011 |
| s. 22-10 | am. No. 72, 2007; No. 89, 2008; Nos. 72 and 74, 2011; No. 23, 2013 |
| s. 22-15 | am. No. 72, 2011; No 74, 2016 |
| s. 22-17 | ad. No. 72, 2011 |
| **Subdivision 22-C** | |
| s 22-20 | am No 72, 2011; No 160, 2012; No 126, 2015 |
| s. 22-22 | ad. No. 74, 2011 |
| | rs. No. 160, 2012 |
| | rep. No. 23, 2013 |



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| Provision affected | How affected |
|---|---|
| s. 22-23 | ad. No. 160, 2012 |
| | rep. No. 23, 2013 |
| s. 22-25 | am. No. 160, 2012 |
| s. 22-30 | am. No. 72, 2007; No. 72, 2011 |
| s. 22-32 | ad. No. 170, 2007 |
| s. 22-35 | am. No. 158, 2005 |
| | rep. No. 160, 2012 |
| **Subdivision 22-D** | |
| s. 22-40 | am. No. 72, 2007 |
| **Subdivision 22-E** | |
| Subdivision 22-E heading | rs No 160, 2012; No 126, 2015 |
| Subdivision 22-E | ad. No. 39, 2009 |
| s. 22-45 | ad. No. 39, 2009 |
| | am No 126, 2015 |
| s. 22-50 | ad. No. 160, 2012 |
| | am No 126, 2015 |
| **Part 2-2** | |
| **Division 27** | |
| s 27-1 | am No 158, 2005; No 104, 2011 |
| s 27-5 | rs No 93, 2020 |
| **Division 30** | |
| **Subdivision 30-A** | |
| s 30-1 | am No 119, 2007; No 104, 2011; No 93, 2020 |
| s 30-5 | am No 45, 2004; No 114, 2004; No 157, 2004; No 56, 2005; No 156, 2005; No 121, 2006; No 119, 2007; No 43, 2008; No 86, 2009; No 129, 2010 |
| | rep No 104, 2011 |
| **Subdivision 30-B** | |
| s 30-10 | am No 43, 2008; No 104, 2011; No 93, 2020; No 39, 2021 |
| s 30-12 | ad No 104, 2011 |
| | rs No 93, 2020 |



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| Provision affected | How affected |
|---|---|
| s 30-15 | am No 119, 2007; No 86, 2009 |
| | rs No 93, 2020 |
| | am No 55, 2021; No 108, 2024 |
| **Subdivision 30-C** | |
| s 30-25 | am No 157, 2004; No 119, 2007; No 43, 2008; No 104, 2011; No 93, 2020; No 108, 2024 |
| s 30-27 | ad No 104, 2011 |
| | rs No 93, 2020 |
| s 30-28 | ad No 104, 2011 |
| **Division 33** | |
| **Subdivision 33-A** | |
| s 33-1 | am No 86, 2009; No 104, 2011; No 93, 2020 |
| **Subdivision 33-B** | |
| Subdivision 33-B heading | rs No 93, 2020 |
| s 33-5 | am No 43, 2008 |
| | rs No 104, 2011; No 93, 2020 |
| s 33-10 | am No 121, 2006; No 119, 2007; No 86, 2009 |
| | rs No 93, 2020 |
| | am No 55, 2021; No 108, 2024 |
| s 33-15 | am No 139, 2005 |
| | rep No 119, 2007 |
| s 33-17 | ad No 119, 2007 |
| | rep No 89, 2008 |
| s 33-20 | am No 159, 2005 |
| | rep No 119, 2007 |
| s 33-25 | am No 45, 2004; No 119, 2007; No 86, 2009 |
| | rep No 104, 2011 |
| s 33-30 | am No 104, 2011; No 93, 2020 |
| s 33-35 | rs No 93, 2020 |
| **Subdivision 33-C** | |
| Subdivision 33-C heading | rs No 104, 2011 |



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| Provision affected | How affected |
|---|---|
| s 33-37 | ad No 159, 2005 |
| | am No 104, 2011; No 93, 2020 |
| **Subdivision 33-D** | |
| s. 33-40 | am. No. 104, 2011 |
| **Division 36** | |
| **Subdivision 36-B** | |
| s 36-5 | am No 157, 2004; No 143, 2005; No 93, 2020 |
| s 36-10 | am No 157, 2004; No 143, 2005; No 121, 2006; No 72, 2007; No 104, 2011; No 127, 2012; No 62, 2020; No 93, 2020; No 64, 2022; No 108, 2024 |
| s 36-12 | ad No 93, 2020 |
| s 36-13 | ad No 93, 2020 |
| | rep No 89, 2023 |
| s 36-15 | am No 157, 2004; No 143, 2005; No 158, 2005; No 178, 2011; No 93, 2020 |
| s 36-20 | am No 45, 2004; No 158, 2005 |
| | rs No 104, 2011 |
| | am No 111, 2019; No 93, 2020 |
| s 36-21 | ad No 104, 2011 |
| | am No 76, 2018 |
| s 36-22 | ad No 45, 2004 |
| | am No 157, 2004; No 83, 2005; No 158, 2005; No 72, 2007 |
| | rs No 104, 2011 |
| s 36-22A | ad No 158, 2005 |
| | rep No 104, 2011 |
| s 36-23 | ad No 83, 2005 |
| | rs No 104, 2011 |
| s 36-24A | ad No 104, 2011 |
| | am No 111, 2019; No 101, 2020 |
| s 36-24B | ad No 104, 2011 |
| | am No 64, 2022 |



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| Provision affected | How affected |
|---|---|
| s 36-24BA | ad No 93, 2020 |
| s 36-24BB | ad No 55, 2021 |
| | am No 64, 2022 |
| s 36-24BC | ad No 55, 2021 |
| | am No 64, 2022 |
| s 36-24C | ad No 104, 2011 |
| | am No 93, 2020 |
| **Subdivision 36-C** | |
| s 36-25 | rs No 157, 2004 |
| | am No 143, 2005; No 93, 2020 |
| s 36-30 | am No 143, 2005; No 43, 2008; No 104, 2011; No 93, 2020 |
| s. 36-32 | ad. No. 72, 2007 |
| | rep. No. 104, 2011 |
| s. 36-35 | am. No. 157, 2004 |
| | rep. No. 119, 2007 |
| s. 36-40 | am. Nos. 45, 114 and 157, 2004; No. 143, 2005 |
| **Subdivision 36-D** | |
| s. 36-45 | am No 45, 2004 |
| s 36-50 | am No 45, 2004; No 178, 2011 |
| | rep No 169, 2015 |
| | ad No 93, 2020 |
| | rep No 64, 2022 |
| **Subdivision 36-E** | |
| s 36-55 | am No 45, 2004; No 93, 2020 |
| **Subdivision 36-F** | |
| s. 36-70 | am. No. 119, 2007 |
| **Part 2-2A** | |
| Part 2-2A | ad No 74, 2016 |
| **Division 38** | |
| s 38-1 | ad No 74, 2016 |
| | am No 14, 2021 |



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| Provision affected | How affected |
|---|---|
| s 38-5 | ad No 74, 2016 |
| s 38-10 | ad No 74, 2016 |
| | am No 14, 2021 |
| s 38-15 | ad No 74, 2016 |
| s 38-20 | ad No 74, 2016 |
| s 38-25 | ad No 74, 2016 |
| s 38-30 | ad No 74, 2016 |
| s 38-35 | ad No 74, 2016 |
| s 38-40 | ad No 74, 2016 |
| s 38-45 | ad No 74, 2016 |
| **Part 2-3** | |
| **Division 41** | |
| s. 41-1 | am. No. 158, 2005 |
| s 41-10 | am No 56, 2005; No 119, 2007; No 89, 2008; No 86, 2009; No 104, 2011; No 93, 2020; No 5, 2023; No 108, 2024 |
| s 41-25 | rs No 55, 2021 |
| s 41-40 | am No 55, 2021 |
| s. 41-45 | am. Nos. 45 and 114, 2004; Nos. 56 and 156, 2005; No. 121, 2006; Nos. 72 and 119, 2007; No. 43, 2008; No. 86, 2009; No. 129, 2010; Nos. 94 and 178, 2011; No. 156, 2012 |
| s 41-50 | am No 158, 2005; No 156, 2012 |
| | rep No 55, 2021 |
| s 41-95 | ad No 160, 2015 |
| **Division 42** | |
| Division 42 | ad No 5, 2023 |
| **Subdivision 42-A** | |
| s 42-1 | ad No 5, 2023 |
| s 42-5 | ad No 5, 2023 |
| **Subdivision 42-B** | |
| s 42-10 | ad No 5, 2023 |
| s 42-15 | ad No 5, 2023 |



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| Provision affected | How affected |
|---|---|
| s 42-20 | ad No 5, 2023 |
| s 42-25 | ad No 5, 2023 |
| s 42-30 | ad No 5, 2023 |
| s 42-35 | ad No 5, 2023 |
| s 42-40 | ad No 5, 2023 |
| s 42-45 | ad No 5, 2023 |
| s 42-50 | ad No 5, 2023 |
| s 42-55 | ad No 5, 2023 |
| s 42-60 | ad No 5, 2023 |
| s 42-65 | ad No 5, 2023 |
| s 42-70 | ad No 5, 2023 |
| **Subdivision 42-C** | |
| s 42-75 | ad No 5, 2023 |
| **Part 2-4** | |
| Part 2-4 heading | rs. No. 119, 2007 |
| **Division 46** | |
| Division 46 heading | rs. No. 119, 2007 |
| s. 46-1 | am. No. 158, 2005; No. 119, 2007 |
| s. 46-10 | am. No. 119, 2007 |
| s. 46-13 | ad. No. 119, 2007 |
| | am. No. 104, 2011 |
| s. 46-15 | am. No. 114, 2004; No. 119, 2007; No. 104, 2011 |
| s 46-20 | am No 114, 2004; No 119, 2007; No 17, 2010; No 32, 2011; No 17, 2025 |
| s. 46-25 | am. No. 119, 2007 |
| s. 46-30 | am. No. 114, 2004 |
| s 46-35 | am No 55, 2021 |
| s. 46-40 | am. No. 114, 2004; No. 156, 2005; No. 121, 2006; No. 119, 2007; No. 43, 2008; No. 86, 2009; No. 129, 2010; No. 178, 2011; No. 156, 2012 |



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| Provision affected | How affected |
|---|---|
| **Part 2-5** | |
| **Division 51** | |
| s 51-1 | am No 158, 2005; No 74, 2016 |
| s 51-5 | rep No 93, 2020 |
| **Division 54** | |
| s 54-1 | am No 74, 2016 |
| s 54-5 | am No 159, 2005; No 93, 2020 |
| | ed C74 |
| **Division 57** | |
| s 57-1 | am No 93, 2020 |
| s 57-5 | am No 93, 2020 |
| **Chapter 3** | |
| **Division 65** | |
| s 65-1 | am No 104, 2011; No 130, 2011; No 112, 2013; No 93, 2020; No 36, 2023 |
| **Part 3-1** | |
| Part 3-1 | rep No 104, 2011 |
| | ad No 93, 2020 |
| **Division 70** | |
| s 70-1 | rep No 104, 2011 |
| | ad No 93, 2020 |
| | am No 64, 2022; No 108, 2024 |
| s 70-5 | rep No 104, 2011 |
| | ad No 93, 2020 |
| **Division 73** | |
| s 73-1 | rep No 104, 2011 |
| | ad No 93, 2020 |
| | ed C83 |
| s 73-5 | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 73-10 | am No 45, 2004; No 143, 2005 |



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| Provision affected | How affected |
|---|---|
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 73-15 | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 73-20 | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 73-22 | rep No 104, 2011 |
| s 73-25 | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 73-30 | rep No 104, 2011 |
| **Division 76** | |
| s 76-1 | am No 157, 2004; No 158, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| | am No 64, 2022; No 108, 2024 |
| s 76-5 | rep No 104, 2011 |
| s 76-10 | rep No 104, 2011 |
| **Division 79** | |
| **Subdivision 79-A** | |
| Subdivision 79-A heading | ad No 56, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 79-1A | ad No 56, 2005 |
| | rep No 104, 2011 |
| s 79-1 | am No 157, 2004; No 56, 2005; No 83, 2005; No 158, 2005; No 72, 2007 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| | am No 64, 2022 |
| s 79-5 | am No 45, 2004; No 158, 2005 |
| | rep No 104, 2011 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| | ad No 93, 2020 |
| s 79-10 | am No 158, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 79-15 | rep No 104, 2011 |
| | ad No 93, 2020 |
| **Subdivision 79-B** | |
| Subdivision 79-B heading | rs No 158, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| Subdivision 79-B | ad No 56, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 79-20 | ad No. 56, 2005 |
| | am No 158, 2005 |
| | rep No 104, 2011 |
| | ad No 93, 2020 |
| Subdivision 79-C | ad No 83, 2005 |
| | rep No 104, 2011 |
| s 79-25 | ad No 83, 2005 |
| | am No 158, 2005 |
| | rep No 104, 2011 |
| **Division 82** | |
| s 82-1 | rep No 104, 2011 |
| | ad No 93, 2020 |
| s 82-5 | rep No 104, 2011 |
| | ad No 93, 2020 |
| | ed C83 |
| s 82-10 | rep No 104, 2011 |
| s 82-15 | rep No 104, 2011 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Part 3-2** | |
| **Division 87** | |
| s 87-1 | rs No 45, 2004 |
| | am No 158, 2005 |
| s 87-5 | am No 93, 2020 |
| **Division 90** | |
| s 90-1 | am No 45, 2004; No 157, 2004; No 74, 104; No 178, 2011; No 169, 2015; No 76, 2018; No 93, 2020; No 64, 2022 |
| s 90-5 | am No 114, 2004 |
| | rs No 72, 2007 |
| | am No 127, 2012; No 160, 2015; No 55, 2021; No 64, 2022; No 36, 2023; No 100, 2023 |
| s 90-10 | ad No 178, 2011 |
| | rep No 93, 2020 |
| **Division 93** | |
| s 93-1 | am No 45, 2004; No 76, 2018 |
| s 93-5 | am No 45, 2004; No 157, 2004; No 121, 2006; No 93, 2020; No 108, 2024 |
| s 93-10 | am No 45, 2004; No 119, 2007; No 43, 2008; No 86, 2009; No 127, 2012 |
| | rs No 93, 2020 |
| | am No 55, 2021 |
| s 93-15 | am No 45, 2004; No 178, 2011; No 169, 2015; No 93, 2020; No 64, 2022 |
| s 93-20 | ad No 76, 2018 |
| **Division 96** | |
| s 96-1 | am No 45, 2004 |
| | rs No 169, 2015 |
| | am No 93, 2020 |
| | ed C75 |
| | am No 64, 2022 |
| s 96-2 | ad No 93, 2020 |



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| Provision affected | How affected |
|---|---|
| | rep No 64, 2022 |
| s 96-3 | ad No 93, 2020 |
| | ed C75 |
| | rep No 64, 2022 |
| s 96-5 | am No 45, 2004; No 114, 2004; No 178, 2011 |
| | rep No 169, 2015 |
| | ad No 93, 2020 |
| | rep No 55, 2021 |
| s 96-10 | am No 45, 2004; No 178, 2011 |
| | rep No 169, 2015 |
| | ad No 93, 2020 |
| **Division 97** | |
| Division 97 | ad No 76, 2018 |
| s 97-23 | ad No 76, 2018 |
| s 97-25 | ad No 76, 2018 |
| s 97-27 | ad No 76, 2018 |
| s 97-30 | ad No 76, 2018 |
| s 97-35 | ad No 76, 2018 |
| s 97-40 | ad No 76, 2018 |
| s 97-42 | ad No 76, 2018 |
| | am No 111, 2019; No 101, 2020 |
| s 97-45 | ad No 93, 2020 |
| s 97-50 | ad No 93, 2020 |
| **Part 3-3** | |
| **Division 101** | |
| s. 101-1 | rs. No. 45, 2004 |
| | am. No. 114, 2004; No. 143, 2005 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Division 104** | |
| **Subdivision 104-A** | |
| s 104-1 | am No 114, 2004; No 157, 2004; No 143, 2005; No 178, 2011; No 83, 2017; No 76, 2018; No 62, 2020; No 93, 2020; No 64, 2022; No 89, 2023 |
| s 104-1AA | ad No 93, 2020 |
| s 104-1A | ad No 83, 2017 |
| | rep No 89, 2023 |
| s. 104-2 | ad. No. 114, 2004 |
| | am. No. 157, 2004; No. 143, 2005 |
| s. 104-3 | ad. No. 114, 2004 |
| | am. Nos. 143, 158 and 159, 2005 |
| s. 104-4 | ad. No. 114, 2004 |
| | am. Nos. 83 and 143, 2005; No. 121, 2006 |
| s 104-5 | am No 114, 2004 |
| | rs No 72, 2007 |
| | am No 127, 2012; No 160, 2015; No 55, 2021; No 64, 2022; No 36, 2023; No 100, 2023 |
| s 104-10 | am No 158, 2005; No 72, 2007; No 74, 2011; No 83, 2017; No 64, 2022 |
| s 104-12 | ad No 93, 2020 |
| **Subdivision 104-B** | |
| Subdivision 104-B heading | rs No 76, 2018 |
| s 104-15 | am No 121, 2006 |
| | rs No 170, 2007 |
| | am No 100, 2016 |
| | rep No 76, 2018 |
| s 104-20 | rs No 121, 2006 |
| | am No 76, 2018 |
| | rep No 76, 2018 |
| s 104-25 | am No 114, 2004; No 56, 2005; No 143, 2005; No 158, 2005; No 76, 2018 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| s 104-27 | ad No 83, 2005 |
| | am No 143, 2005; No 158, 2005; No 76, 2018 |
| s 104-30 | am No 114, 2004; No 143, 2005; No 104, 2011; No 83, 2017; No 89, 2023 |
| s 104-35 | am No 114, 2004; No 143, 2005; No 76, 2018 |
| s 104-40 | am No 114, 2004; No 143, 2005 |
| s 104-42 | ad No 56, 2005 |
| | am No 158, 2005; No 76, 2018; No 111, 2019; No 101, 2020; No 74, 2023 |
| s 104-43 | ad No 83, 2017 |
| | am No 76, 2018; No 93, 2020 |
| s 104-44 | ad No 83, 2017 |
| | am No 76, 2018 |
| **Subdivision 104-C** | |
| s. 104-45 | am. No. 143, 2005; No. 72, 2007 |
| s. 104-75 | rep. No. 143, 2005 |
| **Division 107** | |
| s. 107-1 | am. No. 45, 2004 |
| s. 107-5 | am. No. 45, 2004 |
| s 107-10 | am No 45, 2004; No 114, 2004; No 143, 2005 |
| | rs No 170, 2007 |
| | am No 76, 2018 |
| **Division 110** | |
| s 110-1 | am No 45, 2004; No 114, 2004; No 143, 2005 |
| s 110-5 | am No 114, 2004; No 56, 2005; No 83, 2005; No 143, 2005; No 158, 2005; No 121, 2006; No 83, 2017; No 76, 2018; No 111, 2019; No 64, 2022 |
| s 110-10 | ad No 93, 2020 |
| **Part 3-4** | |
| **Division 115** | |
| s. 115-1 | am. No. 157, 2004; No. 112, 2013 |



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| Provision affected | How affected |
|---|---|
| **Division 118** | |
| s 118-1 | am No 157, 2004; No 83, 2005; No 72, 2007; No 74, 2011; No 112, 2013; No 62, 2020; No 64, 2022 |
| s. 118-2 | ad. No. 112, 2013 |
| s 118-5 | am No 114, 2004; No 160, 2015; No 55, 2021; No 36, 2023; No 100, 2023 |
| s. 118-7 | ad. No. 157, 2004 |
| s. 118-10 | am. No. 157, 2004; No. 72, 2007; No. 112, 2013 |
| s 118-12 | ad No 64, 2022 |
| s. 118-15 | am. No. 157, 2004; No. 112, 2013 |
| **Division 121** | |
| s. 121-1 | rs. No. 112, 2013 |
| s. 121-5 | rs. No. 112, 2013 |
| s. 121-10 | am. No. 112, 2013 |
| s. 121-15 | ad. No. 112, 2013 |
| s. 121-20 | ad. No. 112, 2013 |
| **Division 124** | |
| s. 124-1 | am. No. 112, 2013 |
| **Part 3-5** | |
| Part 3-5 | ad. No. 130, 2011 |
| **Division 125** | |
| s. 125-1 | ad. No. 130, 2011 |
| **Division 126** | |
| s 126-1 | ad No 130, 2011 |
| | am No 62, 2020; No 64, 2022; No 36, 2023 |
| s 126-5 | ad No 130, 2011 |
| | am No 127, 2012; No 160, 2015; No 55, 2021; No 36, 2023; No 100, 2023 |
| s 126-10 | ad No 64, 2022 |
| **Division 127** | |
| s. 127-1 | ad. No. 130, 2011 |



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| Provision affected | How affected |
|---|---|
| **Division 128** | |
| s. 128-1 | ad. No. 130, 2011 |
| s. 128-5 | ad. No. 130, 2011 |
| **Part 3-6** | |
| Part 3-6 | ad No 76, 2018 |
| s 128-7 | ad No 76, 2018 |
| s 128-15 | ad No 76, 2018 |
| | am No 62, 2020 |
| s 128-20 | ad No 76, 2018 |
| | rs No 103, 2019 |
| | am No 62, 2020 |
| s 128-25 | ad No 76, 2018 |
| | am No 103, 2019; No 3, 2023 |
| **Part 3-7** | |
| Part 3-7 | ad No 36, 2023 |
| **Division 128A** | |
| s 128A-1 | ad No 36, 2023 |
| s 128A-5 | ad No 36, 2023 |
| **Division 128B** | |
| s 128B-1 | ad No 36, 2023 |
| s 128B-5 | ad No 36, 2023 |
| s 128B-10 | ad No 36, 2023 |
| s 128B-15 | ad No 36, 2023 |
| s 128B-20 | ad No 36, 2023 |
| s 128B-25 | ad No 36, 2023 |
| s 128B-30 | ad No 36, 2023 |
| | am No 36, 2023; No 100, 2023 |
| s 128B-35 | ad No 36, 2023 |
| s 128B-40 | ad No 36, 2023 |
| | ed C88 |



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| Provision affected | How affected |
|---|---|
| **Division 128C** | |
| s 128C-1 | ad No 36, 2023 |
| s 128C-5 | ad No 36, 2023 |
| s 128C-10 | ad No 36, 2023 |
| **Division 128D** | |
| s 128D-1 | ad No 36, 2023 |
| s 128D-5 | ad No 36, 2023 |
| s 128D-10 | ad No 36, 2023 |
| **Division 128E** | |
| **Subdivision 128E-A** | |
| s 128E-1 | ad No 36, 2023 |
| s 128E-5 | ad No 36, 2023 |
| s 128E-10 | ad No 36, 2023 |
| s 128E-15 | ad No 36, 2023 |
| **Subdivision 128E-B** | |
| s 128E-20 | ad No 36, 2023 |
| s 128E-25 | ad No 36, 2023 |
| s 128E-30 | ad No 36, 2023 |
| s 128E-35 | ad No 36, 2023 |
| s 128E-40 | ad No 36, 2023 |
| **Chapter 4** | |
| **Division 129** | |
| s 129-1 | rs No 170, 2007 |
| | am No 100, 2016; No 116, 2018; No 103, 2019; No 3, 2023 |
| **Part 4-1** | |
| **Division 134** | |
| s 134-1 | rs No 170, 2007 |
| | am No 130, 2011; No 100, 2016; No 116, 2018; No 36, 2023 |
| s 134-5 | ad No 103, 2019 |
| | rs No 3, 2023 |



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## Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Division 137** | |
| s 137-1 | am No 170, 2007; No 130, 2011; No 100, 2016; No 116, 2018; No 36, 2023 |
| s 137-5 | am No 45, 2004; No 83, 2005; No 158, 2005; No 104, 2011; No 169, 2015; No 76, 2018; No 93, 2020; No 55, 2021; No 64, 2022 |
| s 137-10 | am No 45, 2004; No 157, 2004; No 56, 2005; No 83, 2005; No 121, 2006; No 132, 2010; No 83, 2017; No 76, 2018; No 62, 2020; No 93, 2020; No 51, 2021; No 64, 2022 |
| s 137-15 | am No 86, 2009; No 112, 2013 |
| s 137-16 | ad No 130, 2011 |
| s 137-17 | ad No 36, 2023 |
| s 137-18 | ad No 170, 2007 |
| | am No 121, 2009; No 160, 2012; No 126, 2015; No 168, 2015; No 76, 2018; No 160, 2018 |
| s 137-19 | ad No 100, 2016 |
| | am No 76, 2018; No 116, 2018 |
| **Division 140** | |
| **Subdivision 140-A** | |
| s 140-1 | am No 43, 2008; No 55, 2016; No 103, 2019; No 3, 2023; No 108, 2024 |
| **Subdivision 140-B** | |
| s 140-5 | am No 121, 2006; No 170, 2007; No 43, 2008; No 130, 2011; No 178, 2011; No 112, 2013; No 55, 2016; No 100, 2016; No 103, 2019; No 36, 2023 |
| s 140-10 | am No 103, 2019; No 3, 2023; No 108, 2024 |
| s 140-15 | rep No 76, 2018 |
| s 140-20 | am No 103, 2019; No 108, 2024 |
| **Subdivision 140-C** | |
| s 140-25 | am No 83, 2005; No 121, 2006; No 170, 2007; No 130, 2011; No 112, 2013; No 100, 2016; No 103, 2019; No 3, 2023; No 36, 2023 |



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| Provision affected | How affected |
|---|---|
| **Division 142** | |
| Division 142 heading | am No 3, 2023 |
| Division 142 | ad No 103, 2019 |
| s 142-1 | ad No 103, 2019 |
| | am No 93, 2020; No 3, 2023 |
| s 142-5 | ad No 103, 2019 |
| | am No 3, 2023 |
| s 142-10 | ad No 103, 2019 |
| | am No 3, 2023 |
| s 142-15 | ad No 103, 2019 |
| | am No 3, 2023 |
| s 142-20 | ad No 103, 2019 |
| **Division 144** | |
| Division 144 | ad No 3, 2023 |
| s 144-1 | ad No 3, 2023 |
| s 144-5 | ad No 3, 2023 |
| s 144-10 | ad No 3, 2023 |
| s 144-15 | ad No 3, 2023 |
| s 144-20 | ad No 3, 2023 |
| **Part 4-2** | |
| **Division 148** | |
| s. 148-1 | am. No. 43, 2008; No. 178, 2011; No 55, 2016 |
| s 148-3 | ad No 154, 2015 |
| s. 148-5 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| **Division 151** | |
| s. 151-5 | am. No. 178, 2011; No. 38, 2012 |
| **Division 154** | |
| **Subdivision 154-A** | |
| s. 154-1 | am. No. 43, 2008; No 55, 2016 |
| s. 154-3 | ad. No. 43, 2008 |



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| Provision affected | How affected |
|---|---|
| | rep No 55, 2016 |
| s 154-5 | am No 27, 2009; No 132, 2017 |
| s 154-10 | am No 55, 2016; No 76, 2018 |
| **Subdivision 154-AA** | |
| Subdivision 154-AA | ad No 154, 2015 |
| s 154-16 | ad No 154, 2015 |
| s 154-17 | ad No 154, 2015 |
| s 154-18 | ad No 154, 2015 |
| **Subdivision 154-B** | |
| s 154-20 | am No 55, 2016; No 76, 2018 |
| s 154-25 | am No 23, 2013; No 55, 2016; No 76, 2018; No 108, 2024 |
| s 154-30 | am No 55, 2016; No 76, 2018 |
| s 154-32 | ad No 154, 2015 |
| **Subdivision 154-C** | |
| s 154-35 | am No 43, 2008; No 154, 2015; No 55, 2016 |
| s. 154-40 | am. No. 43, 2008 |
| | rs No 55, 2016 |
| s. 154-45 | am. No. 6, 2012 |
| s. 154-50 | am. No. 6, 2012 |
| s 154-55 | am No 143, 2005; No 130, 2011; No 36, 2023 |
| **Subdivision 154-D** | |
| s. 154-60 | am. No. 79, 2010 |
| s. 154-75 | rep. No. 101, 2006 |
| s. 154-85 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| s 154-90 | ad No 154, 2015 |
| Division 157 | ad. No 43, 2008 |
| | rep No 55, 2016 |
| s. 157-1 | ad. No. 43, 2008 |
| | am. No. 6, 2012 |
| | rep No 55, 2016 |



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| Provision affected | How affected |
|---|---|
| s. 157-5 | ad. No. 43, 2008 |
| | rep. No. 6, 2012 |
| s. 157-10 | ad. No. 43, 2008 |
| | am. No. 6, 2012 |
| | rep No 55, 2016 |
| s. 157-15 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| s. 157-20 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| s. 157-25 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| s. 157-30 | ad. No. 43, 2008 |
| | rep No 55, 2016 |
| **Chapter 5** | |
| **Division 159** | |
| s 159-1 | am No 6, 2012; No 83, 2017; No 111, 2019; No 101, 2020 |
| **Part 5-1** | |
| **Division 164** | |
| s. 164-1 | am. No. 119, 2007 |
| s 164-10 | am No 157, 2004; No 83, 2017 |
| s. 164-15 | am. No. 119, 2007; No 74, 2016 |
| s. 164-17 | ad. No. 119, 2007 |
| s. 164-18 | ad. No. 119, 2007 |
| s. 164-25 | rep. No. 170, 2007 |
| **Part 5-1A** | |
| Part 5-1A | ad No 111, 2019 |
| **Division 1** | |
| s 166-1 | ad No 111, 2019 |
| | rs No 101, 2020 |
| s 166-5 | ad No 111, 2019 |
| | am No 101, 2020 |



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| Provision affected | How affected |
|---|---|
| s 166-10 | ad No 111, 2019 |
| | am No 101, 2020 |
| **Division 2** | |
| s 166-15 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 166-20 | ad No 111, 2019 |
| | am No 62, 2020 |
| s 166-25 | ad No 111, 2019 |
| | rs No 101, 2020 |
| s 166-26 | ad No 101, 2020 |
| s 166-26A | ad No 101, 2020 |
| s 166-26B | ad No 101, 2020 |
| s 166-27 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 166-30 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 166-32 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 166-35 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 166-40 | ad No 101, 2020 |
| s 166-45 | ad No 101, 2020 |
| **Part 5-1B** | |
| Part 5-1B heading | rs No 101, 2020 |
| Part 5-1B | ad No 111, 2019 |
| **Division 1** | |
| Division 1 heading | rs No 101, 2020 |
| s 167-1 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 167-5 | ad No 111, 2019 |
| | ed C72 |



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| Provision affected | How affected |
|---|---|
| | am No 101, 2020 |
| s 167-10 | ad No 111, 2019 |
| | am No 101, 2020 |
| **Division 2** | |
| Division 2 heading | rs No 101, 2020 |
| s 167-15 | ad No 111, 2019 |
| | rs No 101, 2020 |
| s 167-20 | ad No 111, 2019 |
| | ed C72 |
| | am No 101, 2020 |
| s 167-25 | ad No 111, 2019 |
| | am No 101, 2020 |
| **Division 3** | |
| Division 3 heading | rs No 101, 2020 |
| s 167-30 | ad No 111, 2019 |
| | am No 101, 2020 |
| s 167-35 | ad No 111, 2019 |
| | ed C72 |
| | rs No 101, 2020 |
| s 167-40 | ad No 111, 2019 |
| | ed C72 |
| | am No 101, 2020 |
| **Part 5-2** | |
| **Division 169** | |
| s 169-5 | am No 104, 2011; No 130, 2011; No 93, 2020; No 36, 2023 |
| s 169-10 | am No 104, 2011; No 93, 2020 |
| s 169-15 | am No 45, 2004; No 158, 2005; No 111, 2019; No 101, 2020 |
| s 169-16 | ad No 36, 2023 |
| s 169-17 | ad No 83, 2017 |
| s 169-18 | ad No 36, 2023 |
| s 169-20 | am No 45, 2004; No 157, 2004 |



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| Provision affected | How affected |
|---|---|
| s 169-25 | am No 114, 2004; No 83, 2005; No 160, 2012; No 83, 2017; No 36, 2023 |
| s 169-27 | ad No 104, 2011 |
| | am No 36, 2023 |
| s 169-28 | ad No 104, 2011 |
| | am No 36, 2023 |
| s 169-30 | am No 130, 2011; No 36, 2023 |
| s 169-35 | ad No 72, 2007 |
| | am No 130, 2011; No 36, 2023 |
| **Part 5-3** | |
| **Division 174** | |
| s 174-5 | rs No 121, 2006 |
| | am No 83, 2017 |
| s. 174-10 | rep. No. 121, 2006 |
| s. 174-15 | rep. No. 121, 2006 |
| s. 174-20 | rep. No. 121, 2006 |
| s. 174-25 | rep. No. 121, 2006 |
| **Part 5-4** | |
| Part 5-4 heading | rs. No. 6, 2012 |
| **Division 179** | |
| s 179-1 | am No 6, 2012; No 103, 2019 |
| s 179-5 | am No 121, 2009; No 197, 2012; No 101, 2020; No 5, 2023 |
| s 179-10 | am No 73, 2008; No 103, 2019 |
| s 179-15 | am No 114, 2004; No 143, 2005; No 121, 2009; No 103, 2019; No 101, 2020 |
| s 179-20 | am No 114, 2004; No 143, 2005; No 121, 2009; No 101, 2020; No 39, 2024 |
| s. 179-25 | am. No. 114, 2004; No. 143, 2005; No. 121, 2009 |
| s. 179-30 | am. No. 6, 2012 |
| s. 179-35 | am. No. 114, 2004; No. 143, 2005; No. 121, 2009 |
| s. 179-40 | ad. No. 156, 2012 |



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| Provision affected | How affected |
|---|---|
| s. 179-45 | ad. No. 156, 2012 |
| **Division 180** | |
| Division 180 heading | rs. No. 23, 2013 |
| Division 180 | ad. No. 6, 2012 |
| | rs. No. 156, 2012 |
| s. 180-1 | ad. No. 6, 2012 |
| | rs. No. 156, 2012 |
| s 180-5 | ad No 156, 2012 |
| | am No 74, 2016; No 5, 2023 |
| s. 180-10 | ad. No. 156, 2012 |
| s. 180-15 | ad. No. 156, 2012 |
| s. 180-20 | ad. No. 156, 2012 |
| | am No 168, 2015 |
| s 180-23 | ad No 103, 2019 |
| s. 180-25 | ad. No. 156, 2012 |
| | am No 74, 2016 |
| s 180-28 | ad No 74, 2016 |
| | am No 100, 2016; No 116, 2018 |
| s. 180-30 | ad. No. 156, 2012 |
| s. 180-35 | ad. No. 156, 2012 |
| **Division 181** | |
| Division 181 | ad No 5, 2023 |
| s 181-1 | ad No 5, 2023 |
| s 181-5 | ad No 5, 2023 |
| s 181-10 | ad No 5, 2023 |
| s 181-15 | ad No 5, 2023 |
| s 181-20 | ad No 5, 2023 |
| | am No 71, 2023 |
| s 181-25 | ad No 5, 2023 |
| **Division 182** | |
| Division 182 | ad. No. 23, 2013 |



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| Provision affected | How affected |
|---|---|
| s. 182-1 | ad. No. 23, 2013 |
| **Part 5-5** | |
| **Division 184** | |
| s. 184-1 | rs. No. 114, 2004 |
| | am. No. 143, 2005; No 74, 2016 |
| **Division 187** | |
| s 187-1 | am No 114, 2004; No 83, 2005; No 143, 2005; No 130, 2011; No 6, 2012; No 126, 2015; No 154, 2015; No 36, 2023 |
| s. 187-2 | ad. No. 114, 2004 |
| | am. No. 143, 2005 |
| s. 187-5 | ad. No. 45, 2004 |
| | am. No. 114, 2004; No. 143, 2005; No 154, 2015; No 74, 2016 |
| **Division 190** | |
| Division 190 heading | rs. No. 114, 2004; No. 143, 2005; No 154, 2015 |
| s 190-1 | am No 114, 2004; No 143, 2005; No 154, 2015; No 36, 2023 |
| s 190-5 | am No 114, 2004; No 143, 2005; No 154, 2015; No 36, 2023 |
| s. 190-10 | am. No. 114, 2004; No. 143, 2005; No 154, 2015 |
| s. 190-15 | am. No. 114, 2004; No. 157, 2004; No. 143, 2005; No 154, 2015 |
| s 190-20 | am No 114, 2004; No 157, 2004; No 143, 2005; No 154, 2015; No 36, 2023 |
| **Division 193** | |
| Division 193 heading | rs No 114, 2004; No 83, 2005; No 143, 2005 |
| s 193-1 | am No 45, 2004; No 114, 2004; No 157, 2004; No 143, 2005; No 130, 2011; No 178, 2011; No 169, 2015; No 93, 2020; No 64, 2022; No 36, 2023 |
| s 193-5 | am No 83, 2005; No 104, 2011; No 178, 2011; No 126, 2015; No 169, 2015; No 76, 2018; No 93, 2020; No 64, 2022 |
| s 193-10 | ad No 83, 2005 |
| | am No 143, 2005; No 126, 2015; No 76, 2018 |
| s 193-15 | ad No 130, 2011 |
| s 193-20 | ad No 36, 2023 |



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| Provision affected | How affected |
|---|---|
| **Part 5-6** | |
| **Division 198** | |
| s 198-1 | am No. 83, 2005; No 76, 2018 |
| s 198-5 | am No 45, 2004; No 159, 2005 |
| | rs No 111, 2010 |
| | am No 130, 2011; No 38, 2012; No 112, 2013; No 76, 2018; No 93, 2020 |
| s 198-10 | am No 83, 2005; No 111, 2010; No 55, 2016 |
| s 198-15 | am No 55, 2016 |
| s 198-20 | am No 86, 2009 |
| | rs No 111, 2010; No 55, 2016 |
| s 198-25 | rep No 111, 2010 |
| **Part 5-7** | |
| **Division 203** | |
| s 203-1 | am No 39, 2024 |
| **Division 206** | |
| s 206-1 | am No 45, 2004; No 114, 2004; No 83, 2005; No 143, 2005; No 158, 2005; No 72, 2007; No 43, 2008; No 72, 2011; No 74, 2011; No 104, 2011; No 55, 2016; No 76, 2018; No 103, 2019; No 111, 2019; No 93, 2020; No 101, 2020; No 3, 2023; No 5, 2023; No 36, 2023; No 89, 2023; No 108, 2024 |
| **Division 209** | |
| s 209-1 | am No 114, 2004; No 83, 2005; No 143, 2005; No 104, 2011; No 93, 2020; No 89, 2023 |
| s 209-5 | am No 39, 2024; No 14, 2025 |
| s 209-10 | am No 83, 2005; No 111, 2019; No 101, 2020; No 39, 2024 |
| **Division 212** | |
| Division 212 heading | am No 39, 2024 |
| s 212-1 | am No 111, 2019; No 101, 2020; No 39, 2024 |
| **Part 5-8** | |
| Part 5-8 | ad No 83, 2017 |
| s 215-1 | ad No 83, 2017 |



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| Provision affected | How affected |
|---|---|
| s 215-5 | ad No 83, 2017 |
| s 215-10 | ad No 83, 2017 |
| s 215-15 | ad No 83, 2017 |
| | am No 111, 2019; No 101, 2020 |
| s 215-20 | ad No 83, 2017 |
| | am No 111, 2019; No 101, 2020 |
| s 215-25 | ad No 83, 2017 |
| s 215-30 | ad No 83, 2017 |
| s 215-35 | ad No 83, 2017 |
| s 215-40 | ad No 83, 2017 |
| | am No 111, 2019; No 101, 2020 |
| s 215-45 | ad No 83, 2017 |
| s 215-50 | ad No 83, 2017 |
| s 215-55 | ad No 83, 2017 |
| Chapter 6 | rep. No. 74, 2011 |
| s. 217-1 | rs. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 217-5 | ad. No. 121, 2006 |
| | rep. No. 74, 2011 |
| s. 222-1 | rs. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-1 | am. No. 121, 2006; No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-3 | ad. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-5 | am. No. 114, 2004; No. 121, 2006 |
| | rs. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-7 | ad. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-10 | am. No. 114, 2004; No. 121, 2006; No. 72, 2007 |



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| Provision affected | How affected |
|---|---|
| | rep. No. 74, 2011 |
| s. 225-15 | rs. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-20 | am. No. 114, 2004; No. 121, 2006 |
| | rs. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 225-25 | am. No. 121, 2006 |
| | rep. No. 74, 2011 |
| s. 228-1 | am. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 228-5 | am. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 228-10 | am. No. 72, 2007 |
| | rep. No. 74, 2011 |
| s. 228-15 | am. No. 72, 2007; No. 8, 2010 |
| | rep. No. 74, 2011 |
| s. 233-1 | rep. No. 74, 2011 |
| **Chapter 7** | |
| s 238-1A | ad No 83, 2017 |
| s 238-1 | am No 114, 2004; No 83, 2005; No 143, 2005; No 104, 2011; No 160, 2012; No 93, 2020; No 89, 2023 |
| s 238-5 | am No 156, 2012; No 160, 2012; No 74, 2016; No 111, 2019; No 101, 2020 |
| s 238-6 | ad No 111, 2019 |
| | ed C72 |
| | rs No 101, 2020 |
| | ed C75 |
| s 238-7 | rs No 111, 2019 |
| | am No 101, 2020 |
| s 238-8 | ad No 6, 2012 |



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| Provision affected | How affected |
|---|---|
| s 238-10 | am No 83, 2005; No 158, 2005; No 121, 2006; No 43, 2008; No 74, 2011; No 104, 2011; No 130, 2011; No 136, 2012; No 154, 2015; No 55, 2016; No 74, 2016; No 83, 2017; No 103, 2019; No 111, 2019 |
| | ed C72 |
| | am No 93, 2020; No 55, 2021; No 3, 2023; No 36, 2023; No 89, 2023; No 108, 2024 |
| s 238-12 | ad No 170, 2007 |
| | am No 5, 2023 |
| **Schedule 1A** | |
| Schedule 1A | ad No 170, 2007 |
| c 1 | am No 14, 2011; No 100, 2016; No 93, 2017 |
| **Part 1** | |
| **Division 1** | |
| c 2 | am No 100, 2016; No 17, 2021 |
| c 3 | am No 160, 2012 |
| **Division 3** | |
| **Subdivision 3-A** | |
| c 4 | am No 160, 2012 |
| c 5 | am No 39, 2009; No 160, 2012; No 126, 2015; No 17, 2021 |
| **Subdivision 3-B** | |
| c. 6 | am. No. 11, 2008; Nos. 39 and 121, 2009; No. 6, 2010; Nos. 14 and 72, 2011; Nos. 136 and 160, 2012; No 168, 2015; No 100, 2016 |
| c. 7 | am. No. 160, 2012 |
| c. 8 | am. No. 160, 2012 |
| c. 9 | am. No. 14, 2011; No. 160, 2012; No 168, 2015 |
| c. 9A | ad. No. 14, 2011 |
| | am. No. 160, 2012 |
| | rep. No. 23, 2013 |
| c. 9B | ad. No. 160, 2012 |
| | rep. No. 23, 2013 |



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| Provision affected | How affected |
|---|---|
| c. 11 | am. No. 6, 2010; No. 72, 2011; Nos. 6 and 160, 2012; No. 23, 2013; No 100, 2016 |
| c. 12 | am. No. 39, 2009; No. 160, 2012; No 126, 2015 |
| c. 12A | ad. No. 72, 2011 |
| | am. Nos. 136 and 160, 2012 |
| c. 12B | ad. No. 72, 2011 |
| c. 12C | ad. No. 23, 2013 |
| | am No 126, 2015 |
| | ed C60 |
| **Division 4** | |
| **Subdivision 4-A** | |
| c. 13 | am. No. 160, 2012; No. 23, 2013 |
| **Subdivision 4-B** | |
| c 15 | am No 168, 2015 |
| c. 16 | am. No. 160, 2012 |
| **Subdivision 4-C** | |
| c. 17 | am. No. 14, 2011; No. 160, 2012; No. 23, 2013; No 126, 2015 |
| **Subdivision 4-D** | |
| c. 18 | am. No. 160, 2012 |
| c. 19 | am. No. 160, 2012 |
| c 23 | am No 160 and 197, 2012 |
| **Subdivision 4-E** | |
| c. 23A | ad. No. 23, 2013 |
| c 23B | ad No 168, 2015 |
| c 23C | ad No 168, 2015 |
| c. 24 | am. No. 6, 2012 |
| c 25 | am No 14, 2011; No 6, 2012; No 160, 2012; No 17, 2021 |
| | ed C81 |
| c. 25A | ad. No. 14, 2011 |
| c. 26 | am. No. 14, 2011; No. 160, 2012; No 168, 2015 |
| c 26A | ad No 23, 2013 |



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| Provision affected | How affected |
|---|---|
| | am No 17, 2021 |
| **Subdivision 4-F** | |
| c. 27 | am. No. 160, 2012; No 168, 2015 |
| c. 27A | ad. No. 11, 2008 |
| | am. No. 160, 2012 |
| c. 28 | am. No. 11, 2008; No. 160, 2012 |
| **Division 5** | |
| Division 5 | rs No 17, 2021 |
| c 29 | am No 39, 2009; No 160, 2012; No 23, 2013; No 126, 2015 |
| | rs No 17, 2021 |
| c 29A | ad No 14, 2011 |
| | rep No 17, 2021 |
| Subdivision 5-AA | ad No 23, 2013 |
| | rep No 17, 2021 |
| c 29B | ad No 23, 2013 |
| | am No 126, 2015 |
| | rep No 17, 2021 |
| c 29C | ad No 23, 2013 |
| | am No 126, 2015 |
| | rep No 17, 2021 |
| c 30A | ad No 39, 2009 |
| | am No 72, 2011; No 160, 2012 |
| | rep No 17, 2021 |
| c 31 | am No 72, 2011 |
| | rep No 17, 2021 |
| c 32 | rs No 14, 2011 |
| | rep No 23, 2013 |
| c 32A | ad No 39, 2009 |
| | rep No 17, 2021 |
| c 33 | am No 14, 2011; No 72, 2011; No 160, 2012 |
| | rep No 17, 2021 |



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| Provision affected | How affected |
|---|---|
| c 33A | ad No 72, 2011 |
| | rep No 17, 2021 |
| c 34A | ad No 14, 2011 |
| | rs No 160, 2012 |
| | rep No 23, 2013 |
| c 34B | ad No 160, 2012 |
| | rep No 23, 2013 |
| c 34 | am No 72, 2011; No 160, 2012; No 126, 2015 |
| | rep No 17, 2021 |
| c 35 | am No 160, 2012 |
| | rep No 17, 2021 |
| c 36 | am No 72, 2011; No 168, 2015 |
| | rep No 17, 2021 |
| c 37 | am No 168, 2015 |
| | rep No 17, 2021 |
| c 38 | rep No 160, 2012 |
| c 39 | am No 168, 2015 |
| | rep No 17, 2021 |
| Subdivision 5-E heading | rs No 160, 2012; No 126, 2015 |
| | rep No 17, 2021 |
| Subdivision 5-E | ad No 39, 2009 |
| | rep No 17, 2021 |
| c 39A | ad No 39, 2009 |
| | am No 160, 2012; No 126, 2015 |
| | rep No 17, 2021 |
| c 39B | ad No 160, 2012 |
| | am No 126, 2015 |
| | rep No 17, 2021 |
| **Division 5A** | |
| Division 5A | ad No 168, 2015 |



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| Provision affected | How affected |
|---|---|
| **Subdivision 5A-A** | |
| c 39DA | ad No 168, 2015 |
| c 39DB | ad No 168, 2015 |
| c 39DC | ad No 168, 2015 |
| c 39DD | ad No 168, 2015 |
| c 39DE | ad No 168, 2015 |
| c 39DF | ad No 168, 2015 |
| c 39DG | ad No 168, 2015 |
| c 39DH | ad No 168, 2015 |
| c 39DI | ad No 168, 2015 |
| c 39DJ | ad No 168, 2015 |
| c 39DK | ad No 168, 2015 |
| c 39DL | ad No 168, 2015 |
| **Subdivision 5A-B** | |
| c 39EA | ad No 168, 2015 |
| c 39EB | ad No 168, 2015 |
| c 39EC | ad No 168, 2015 |
| | am No 77, 2020 |
| **Subdivision 5A-C** | |
| c 39FA | ad No 168, 2015 |
| c 39FB | ad No 168, 2015 |
| | am No 77, 2020 |
| c 39FC | ad No 168, 2015 |
| c 39FD | ad No 168, 2015 |
| | am No 77, 2020 |
| **Subdivision 5A-D** | |
| c 39GA | ad No 168, 2015 |
| | am No 77, 2020 |
| c 39GB | ad No 168, 2015 |
| c 39GC | ad No 168, 2015 |
| | am No 77, 2020 |



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| Provision affected | How affected |
|---|---|
| c 39GD | ad No 168, 2015 |
| | am No 76, 2018; No 17, 2021 |
| **Part 2** | |
| **Division 6** | |
| c 40 | am No 100, 2016; No 93, 2017 |
| c. 41 | rs. No. 160, 2012 |
| c. 42 | rep. No. 160, 2012 |
| **Division 7** | |
| **Subdivision 7-A** | |
| c 43 | am No 11, 2008; No 39, 2009; No 178, 2011; No 160, 2012; No 168, 2015; No 100, 2016; No 76, 2018 |
| c 44 | am No 160, 2015 |
| c. 45 | am. No. 11, 2008; No. 39, 2009; No. 121, 2009; No. 160, 2012 |
| c. 45A | ad. No. 39, 2009 |
| | am. No. 160, 2012 |
| c 45B | ad No 168, 2015 |
| c 45C | ad No 168, 2015 |
| c 45D | ad No 168, 2015 |
| c 45E | ad No 168, 2015 |
| **Subdivision 7-B** | |
| Subdivision 7-B heading | rs No 76, 2018 |
| c 46 | am No 168, 2015; No 76, 2018; No 160, 2018 |
| c 46A | ad No 168, 2015 |
| | am No 76, 2018 |
| c 46AA | ad No 160, 2018 |
| | am No 160, 2018 |
| c 46B | ad No 168, 2015 |
| | am No 76, 2018 |
| c 47 | am No 76, 2018 |
| c 49 | am No 76, 2018 |
| c 51 | am No 76, 2018 |



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| Provision affected | How affected |
|---|---|
| c 51A | ad No 168, 2015 |
| | am No 76, 2018 |
| **Division 8** | |
| c 54 | am No 76, 2018 |
| **Division 9** | |
| c 55 | am No 17, 2021 |
| c 56 | am No 160, 2012; No 168, 2015; No 76, 2018; No 160, 2018 |
| **Part 3** | |
| **Division 10** | |
| c. 57 | am. No. 6, 2012 |
| c. 58 | am. No. 160, 2012 |
| **Division 11** | |
| c 60 | rs No 168, 2015 |
| c 61 | am No 6, 2012; No 160, 2012; No 17, 2021 |
| c 61A | ad No 17, 2021 |
| **Division 12** | |
| c. 64 | am. No. 160, 2012; No 168, 2015 |
| c. 67 | am. No. 160, 2012 |
| **Division 13** | |
| c. 70 | am. No. 160, 2012 |
| **Division 14** | |
| Division 14 heading | rs. No. 6, 2012 |
| Subdivision 14-A heading | ad. No. 6, 2012 |
| | rep. No. 156, 2012 |
| c 71 | am No 6, 2012; No 156, 2012; No 103, 2019 |
| c 72 | am No 197, 2012; No 168, 2015 |
| c 73 | am No 103, 2019 |
| c. 74 | am. No. 121, 2009; No 168, 2015 |
| c 75 | am No 121, 2009; No 156, 2012; No 168, 2015; No 39, 2024 |
| c. 76 | am. No. 121, 2009 |
| c. 77 | am. Nos. 6 and 156, 2012 |



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| Provision affected | How affected |
|---|---|
| c. 78 | am. No. 121, 2009 |
| Subdivision 14-B | ad. No. 6, 2012 |
| | rep. No. 156, 2012 |
| c. 78A | ad. No. 6, 2012 |
| | rs. No. 156, 2012 |
| c. 78B | ad. No. 156, 2012 |
| **Division 15** | |
| **Subdivision 15-A** | |
| c 79 | am No 74, 2016 |
| **Subdivision 15-B** | |
| c. 80 | am. No. 6, 2012; No 74, 2016 |
| c 82 | am No 74, 2016 |
| **Subdivision 15-C** | |
| Subdivision 15-C heading | rs No 74, 2016 |
| c 83 | am No 74, 2016 |
| c 84 | am No 74, 2016 |
| c 85 | am No 74, 2016 |
| c 86 | am No 74, 2016 |
| c 87 | am No 74, 2016 |
| **Subdivision 15-D** | |
| c 88 | am No 168, 2015 |
| c 89 | am No 76, 2018 |
| **Division 16** | |
| **Subdivision 16-A** | |
| c 90 | am No 39, 2024 |
| **Subdivision 16-B** | |
| c 91 | am No 72, 2011; No 168, 2015; No 76, 2018; No 160, 2018; No 17, 2021 |
| **Subdivision 16-C** | |
| c 95 | am No 39, 2024; No 14, 2025 |
| c 96 | am No 39, 2024 |



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| Provision affected | How affected |
|---|---|
| **Subdivision 16-D** | |
| Subdivision 16-D heading ..... | am No 39, 2024 |
| c 97 ..... | am No 39, 2024 |
| **Part 4** | |
| c 97A..... | ad No 168, 2015 |
| c 98 ..... | am No 5, 2011; No 160, 2012 |
| c 99 ..... | am No 121, 2009; No 160, 2012 |
| **Schedule 1** | |
| Schedule 1..... | am No 45, 2004; No 114, 2004; No 157, 2004; No 56, 2005; No 83, 2005; No 143, 2005; No 158, 2005; No 161, 2005; No 121, 2006; No 72, 2007; No 119, 2007; No 170, 2007; No 11, 2008; No 43, 2008; No 89, 2008; No 144, 2008; No 27, 2009; No 121, 2009; No 17, 2010; No 111, 2010; No 14, 2011; No 32, 2011; No 74, 2011; No 104, 2011; No 130, 2011; No 6, 2012; No 38, 2012; No 156, 2012; No 160, 2012; No 23, 2013; No 112, 2013; No 126, 2015; No 154, 2015; No 160, 2015; No 168, 2015; No 169, 2015; No 55, 2016; No 74, 2016; No 100, 2016; No 83, 2017; No 76, 2018; No 116, 2018; No 86, 2019; No 103, 2019; No 111, 2019; No 62, 2020<br>ed C72<br>am No 62, 2020; No 77, 2020; No 93, 2020; No 101, 2020; No 13, 2021; No 22, 2021; No 55, 2021; No 64, 2022; No 3, 2023; No 5, 2023; No 36, 2023; No 89, 2023; No 100, 2023; No 108, 2024<br>ed C96<br>am No 14, 2025<br>ed C97<br>am No 17, 2025 |



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