

2010-2011

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**Higher Education Support Amendment  
(VET FEE-HELP and Other Measures)  
Bill 2011**

**No.     , 2011**

*(Education, Employment and Workplace Relations)*

**A Bill for an Act to amend the law relating to  
higher education, and for related purposes**



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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
3. Schedule 1, Part 2	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
4. Schedule 1, Parts 3, 4 and 5	The day after this Act receives the Royal Assent.	
5. Schedule 2	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.  
5 Information may be inserted in this column, or information in it  
6 may be edited, in any published version of this Act.

### 7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.  
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2 **Part 2—VET compliance requirements**

3 *Higher Education Support Act 2003*

4 **4 Subclause 25(2) of Schedule 1A**

5 Repeal the subclause, substitute:

- 6 (2) A \*VET provider must, by writing, inform the Minister of any  
7 event that may significantly affect whether:  
8 (a) any of the conditions in subclause 6(1) are or could be met in  
9 relation to the provider after the event; or  
10 (b) there is or may be a ground for revoking under  
11 Subdivision 5-B the approval of the VET provider.
- 12 (3) A notice under subclause (1) or (2) must be given to the Minister  
13 as soon as practicable after the \*VET provider becomes aware of  
14 the event mentioned in the subclause.

15 **5 Application**

16 The amendment made by this Part applies to VET providers approved  
17 before, on or after the commencement of this Part.  
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2 **Part 3—Use and disclosure of information**

3 *Higher Education Support Act 2003*

4 **6 Subsection 5-1(2) (table item 9, column headed**  
5 **“Provision”)**

6 Omit “Protection of personal”, substitute “Management of”.

7 **7 Section 159-1**

8 Omit “protection of personal information gained in the administration  
9 of Chapters 3 and 4”, substitute “management of information”.

10 **8 Part 5-4 (heading)**

11 Repeal the heading, substitute:

12 **Part 5-4—Management of information**

13 **9 Section 179-1 (heading)**

14 Repeal the heading, substitute:

15 **179-1 What this Division is about**

16 **10 Subsection 179-30(1)**

17 Omit “Part”, substitute “Division”.

18 **11 At the end of Part 5-4**

19 Add:

20 **Division 180—Other rules about information**

21 **180-1 Authorisation of certain uses and disclosures of information**

22 *Information this section applies to*

23 (1) This section applies to information that:

**Schedule 1** General amendments  
**Part 3** Use and disclosure of information

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- 1 (a) is \*personal information obtained in connection with an  
2 application under section 16-40 (which is about applications  
3 for approval of bodies as higher education providers); or  
4 (b) is information that:  
5 (i) is obtained by a \*Commonwealth officer for the  
6 purposes of Chapter 2 or 3; and  
7 (ii) is not personal information.

8 *Use of information*

- 9 (2) A \*Commonwealth officer may use the information in the course  
10 of his or her \*official employment.

11 *Disclosure to TEQSA and National VET Regulator*

- 12 (3) The \*Secretary may:  
13 (a) disclose the information to \*TEQSA for the performance of  
14 duties or functions, or the exercise of powers, under, or for  
15 the purposes of, the \*TEQSA Act; and  
16 (b) disclose the information to the \*National VET Regulator for  
17 the performance of duties or functions, or the exercise of  
18 powers, under, or for the purposes of, the *National*  
19 *Vocational Education and Training Regulator Act 2011*.

20 *This section does not limit use or disclosure*

- 21 (4) This section does not limit the use or disclosure of the information.

22 **12 Clause 57 of Schedule 1A**

23 Omit “protection of VET personal information gained in the  
24 administration of Part 2 of this Schedule (see Division 14) and  
25 Chapter 4”, substitute “management of information (see Division 14)”.

26 **13 Division 14 of Schedule 1A (heading)**

27 Repeal the heading, substitute:

28 **Division 14—Management of information**

29 **Subdivision 14-A—Protection of VET personal information**

30 **14 Clause 71 of Schedule 1A (heading)**

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1 Repeal the heading, substitute:

2 **71 What this Subdivision is about**

3 **15 Subclause 77(1) of Schedule 1A**

4 Omit “Division”, substitute “Subdivision”.

5 **16 At the end of Division 14 of Schedule 1A**

6 Add:

7 **Subdivision 14-B—Other rules about information**

8 **78A Authorisation of certain uses and disclosures of information**

9 *Information this clause applies to*

- 10 (1) This clause applies to information that:
- 11 (a) is \*VET personal information obtained in connection with an
- 12 application under clause 9 (which is about applications for
- 13 approval of bodies as \*VET providers); or
- 14 (b) is information that:
- 15 (i) is obtained by a \*Commonwealth officer for the
- 16 purposes of this Schedule; and
- 17 (ii) is not VET personal information.

18 *Use of information*

- 19 (2) A \*Commonwealth officer may use the information in the course
- 20 of his or her \*official employment within the meaning of
- 21 section 179-15.

22 *Disclosure to TEQSA and National VET Regulator*

- 23 (3) The \*Secretary may:
- 24 (a) disclose the information to \*TEQSA for the performance of
- 25 duties or functions, or the exercise of powers, under, or for
- 26 the purposes of, the \*TEQSA Act; and
- 27 (b) disclose the information to the \*National VET Regulator for
- 28 the performance of duties or functions, or the exercise of

**Schedule 1** General amendments  
**Part 3** Use and disclosure of information

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1 powers, under, or for the purposes of, the *National*  
2 *Vocational Education and Training Regulator Act 2011*.

3 *This clause does not limit use or disclosure*

4 (4) This clause does not limit the use or disclosure of the information.

5 **17 Application**

6 The amendments made by this Part apply in relation to information  
7 whether it was obtained or created before, on or after the  
8 commencement of this Part.  
9

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2 **Part 4—Variation and revocation of determinations**  
3 **for advances**

4 ***Higher Education Support Act 2003***

5 **18 After subclause 61(1) of Schedule 1A**

6 Insert:

7 (1A) The \*Secretary may vary or revoke a determination that an advance  
8 is to be made to a \*VET provider if:

- 9 (a) the Secretary is satisfied that the provider has not complied  
10 with this Schedule and the regulations (if any) relating to this  
11 Schedule, and the Guidelines made under clause 99 that  
12 apply to the provider; or  
13 (b) the Secretary is aware of information that suggests that the  
14 provider may not comply with this Schedule and the  
15 regulations (if any) relating to this Schedule, and the  
16 Guidelines made under clause 99 that apply to the provider;  
17 or  
18 (c) the Secretary is aware of information that suggests that the  
19 provider may not remain financially viable.

20 (1B) In deciding whether to take action under subclause (1A), the  
21 \*Secretary may consider any or all of the following matters:

- 22 (a) in the case of non-compliance or possible non-compliance by  
23 the \*VET provider:  
24 (i) whether the non-compliance or possible  
25 non-compliance is of a minor or major nature; and  
26 (ii) the period for which the provider has been approved as  
27 a VET provider; and  
28 (iii) the provider's history of compliance with this Schedule  
29 and the regulations (if any) relating to this Schedule,  
30 and the Guidelines made under clause 99 that apply to  
31 the provider;  
32 (b) in any case, the impact of the VET provider's  
33 non-compliance, possible non-compliance or possible lack of  
34 financial viability, and of the proposed variation or  
35 revocation of the determination, on:

**Schedule 1** General amendments

**Part 4** Variation and revocation of determinations for advances

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- 1 (i) the VET provider's students; and  
2 (ii) vocational education and training provided by the VET  
3 provider; and  
4 (iii) the provision of vocational education and training  
5 generally;  
6 (c) in any case, the public interest;  
7 (d) in any case, any other matters specified in the \*VET  
8 Administration Guidelines.

9 **19 At the end of clause 61 of Schedule 1A**

10 Add:

- 11 (5) This clause does not affect determinations of advances under  
12 section 164-10.

13 **20 Application**

14 Subclauses 61(1A) and (1B) of Schedule 1A to the *Higher Education*  
15 *Support Act 2003* apply to the variation or revocation of determinations  
16 made before, on or after the commencement of those subclauses.  
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## Schedule 2—Debt-related amendments

### Part 1—General administration

#### *Higher Education Support Act 2003*

##### **1 After section 238-7**

Insert:

##### **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*.



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2 **Part 3—Time of application to amend assessment**

3 *Higher Education Support Act 2003*

4 **9 Paragraph 154-50(2)(a)**

5 Omit “no later than 2 years after the end of the \*income year to which  
6 the assessment relates”, substitute “within 2 years after the day on  
7 which the \*Commissioner gives notice of the assessment to the person”.