Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012

No.  , 2012

(Industry, Innovation, Science, Research and Tertiary Education)

A Bill for an Act to amend the law relating to higher education, vocational education and training and research funding, and for related purposes
Contents

1 Short title .............................................................. 1
2 Commencement .......................................................... 1
3 Schedule(s) .............................................................. 2

Schedule 1—Grants .............................................. 3
   Higher Education Support Act 2003 3

Schedule 2—Research funding .................................. 6
   Australian Research Council Act 2001 6

Schedule 3—Use and disclosure of information .............. 7
   Part 1—Amendments .................................................. 7
      Higher Education Support Act 2003 7
   Part 2—Application .................................................. 13
A Bill for an Act to amend the law relating to higher education, vocational education and training and research funding, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Act 2012.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.
3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
### Schedule 1—Grants

**Higher Education Support Act 2003**

1 **Subsection 41-45(1) (table items 8 to 11)**

Repeal the items, substitute:

<p>| | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>8</td>
<td>2012</td>
<td>$2,114,960,000</td>
</tr>
<tr>
<td>9</td>
<td>2013</td>
<td>(a) if paragraph (b) does not apply—$2,274,359,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2013—that amount</td>
</tr>
<tr>
<td>10</td>
<td>2014</td>
<td>(a) if paragraph (b) does not apply—$2,225,794,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2014—that amount</td>
</tr>
<tr>
<td>11</td>
<td>2015</td>
<td>(a) if paragraph (b) does not apply—$2,231,354,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2015—that amount</td>
</tr>
<tr>
<td>12</td>
<td>2016</td>
<td>(a) if paragraph (b) does not apply—$2,219,169,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2016—that amount</td>
</tr>
<tr>
<td>13</td>
<td>2017 and each later year</td>
<td>The amount determined by the Minister under subsection (1B) in respect of that year</td>
</tr>
</tbody>
</table>

2 **After subsection 41-45(1)**

Insert:
(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.

3 Section 41-50
Before “Before”, insert “(1)”.

4 At the end of section 41-50
Add:

(2) The Minister may, in writing, vary a list for a year at any time before the end of that year.

5 Section 46-40
Before “The total”, insert “(1)”.

6 Section 46-40 (table items 10 to 12)
Repeal the items, substitute:

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>10</td>
<td>2013</td>
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<tr>
<td>11</td>
<td>2014</td>
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<td>12</td>
<td>2015</td>
</tr>
<tr>
<td>13</td>
<td>2016</td>
</tr>
<tr>
<td>14</td>
<td>2017 and each later year</td>
</tr>
</tbody>
</table>

7 At the end of section 46-40

Add:

(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.

(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.

8 At the end of subsection 238-5(1)

Add “(other than under section 41-45 or section 46-40)”.
Schedule 2—Research funding

Australian Research Council Act 2001

1 At the end of subsection 48(2)

Add:

; (l) the financial year starting on 1 July 2015.

2 Paragraphs 49(m), (n) and (o)

Repeal the paragraphs, substitute:

(m) for the financial year starting on 1 July 2012—$879,107,000;
and

(n) for the financial year starting on 1 July 2013—$857,364,000;
and

(o) for the financial year starting on 1 July 2014—$798,653,000;
and

(p) for the financial year starting on 1 July 2015—$765,634,000.
Schedule 3—Use and disclosure of information

Part 1—Amendments

Higher Education Support Act 2003

1 At the end of Division 179

Add:

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.

2 Division 180

Repeal the Division, substitute:

Division 180—Other rules about 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

Higher Education Support Act information means:

(a) "personal information; and

(b) "VET personal information; and
Schedule 3 Use and disclosure of information

Part 1 Amendments

(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.

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).

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 member of the staff of the Regulator (within the meaning of the National Vocational Education and Training Regulator Act 2011);

for the performance of duties or functions, or the exercise of powers, under, or for the purposes of, that Act.

8 Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012 No. , 2012
Disclosure of information to other bodies

Disclosure

(1) The Secretary may disclose 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).

(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
Schedule 3  Use and disclosure of information

Part 1  Amendments

(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 2-3.

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 2-3.

Penalty:  Imprisonment for 2 years.

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:
Use and disclosure of information

Schedule 3

Amendments Part 1

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.

3 Subdivision 14-A of Schedule 1A (heading)

Repeal the heading.

4 Clause 71 of Schedule 1A (heading)

Repeal the heading, substitute:

What this Division is about

5 After paragraph 75(a) of Schedule 1A

Insert:

(aa) disclosure by a Commonwealth officer of VET personal information in accordance with Division 180;

6 Subclause 77(1) of Schedule 1A

Omit “Subdivision”, substitute “Division”.

7 Subdivision 14-B of Schedule 1A (heading)

Repeal the heading.

8 Clause 78A of Schedule 1A

Repeal the clause, substitute:

Officer may use information

A "VET officer may use "VET personal information in the course of the officer’s "official employment."
Schedule 3 Use and disclosure of information

Part 1 Amendments

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.

9 Subclause 1(1) of Schedule 1

Insert:

Higher Education Support Act information has the meaning given by section 180-5.
Part 2—Application

10 Application of Part 1

The amendments made by Part 1 of this Schedule apply to information obtained or created before, on or after the commencement of this item.