EXPLANATORY STATEMENT

Guidelines issued under clause 99 of Schedule 1A to the Higher Education Support Act 2003

Amendment No. 1 to the VET Guidelines 2013

Issued by the authority of the
Minister for Higher Education

Subject:
Higher Education Support Act 2003
VET Guidelines

Authority

Clause 99 of Schedule 1A to the Higher Education Support Act 2003 (the Act) provides that the Minister may make VET Guidelines (the VET Guidelines) to provide for matters required or permitted by that Schedule to be provided or necessary or convenient to be provided in order to carry out or give effect to that Schedule.

Purpose

The purpose of the Amendment No. 1 to the VET Guidelines 2013 is to amend the VET Guidelines to specify additional bodies established under State law that may be approved as VET Providers under clause 6(1A) of Schedule 1A to the Act, and to specify the qualifications that are taken to be VET qualifications for the duration of the Trial to Extend VET FEE-HELP to Specified Certificate IV Qualifications (the Trial).

The Trial is to give effect to the agreement of the Council of Australian Governments under Schedule 4 of the National Partnership Agreement on Skills Reform for the development and management of a limited trial of extending the eligibility for income contingent loans in certain circumstances to specified Certificate IV qualifications.

The Trial will commence progressively in each jurisdiction from July 2013 and will continue until 31 December 2016. The Trial will enable the extension of access to VET FEE-HELP to students of VET Providers approved under the Higher Education Support Act 2003. To participate, these VET providers must offer specified nominated Certificate IV qualifications to which the relevant State or Territory government is providing subsidised places for eligible students in their jurisdictions.

Consultation

Consultation was undertaken with state and territory governments and these amendments are a direct result of that consultation.

Commencement

These amendments take effect on the day after registration on the Federal Register of Legislative Instruments.
Detailed explanation of the amendments
Schedule 1 Amendments

Items 1 and 2

These items substitute new subparagraph 2.2.1(c) and insert new subparagraph 2.2.1(g) in the VET Guidelines to nominate legislation relevant to kinds of bodies under clause 6(1A) of Schedule 1A to the Act. These items correct the reference to the Vocational Education, Training and Employment Act 2000, insert a reference to the ‘Queensland: TAFE Queensland Act 2013’, which establishes TAFE Queensland, and insert the recently enacted legislation that establishes the Tasmanian public provider respectively.

Item 3

This item inserts new paragraph 6.2.1A to provide that a full fee-paying student is only entitled to VET FEE-HELP assistance for a VET unit of study if the unit forms part of a VET course of study that leads to a qualification as listed in paragraphs 6.2.1Aa) to 6.2.1Ad). This is a general amendment to the student entitlement provisions in the VET Guidelines and, to avoid doubt, is not made solely for the purposes of the Trial.

Item 4

This item inserts a new Chapter 11 – Specified VET qualifications for the trial to extend VET FEE-HELP to specified certificate IV qualifications – to provide for the Trial.

Purpose

New paragraph 11.1.1 specifies the purpose of Chapter 11 is to set out specified qualifications that meet the definition of VET qualification, the requirements regarding VET courses of study by bodies applying to be approved as VET providers, the entitlement requirements for VET students and the expiration of Chapter 11.

Specified Qualifications

New paragraph 11.2.1 provides that a qualification set out in Schedule 1 to Chapter 11 is specifically a VET qualification for the purposes of Schedule 1A to the Act if it is delivered by a body that is an approved VET provider that receives funding from a subsidising State or Territory for subsidised students completing the qualification and also offers at all times at least one VET course of study that leads to a qualification outlined in subparagraph 11.2.1(c)(i) to 11.2.1(c)(iv).

New paragraph 11.2.2 clarifies that if a qualification specified in paragraph 11.2.1 is superseded by another qualification, then both qualifications are taken to be specified in accordance with paragraph 11.2.1. This paragraph ensures that if a qualification is changed in an unsubstantial way, such as having its name changed, and otherwise is the same course in substance, then it will still be taken to be specified for the purposes of paragraph 11.2.1. Stakeholders will be able to determine whether or not a qualification has been superseded by referring to the training.gov.au website.

Student Entitled

New paragraph 11.3.1 provides that a VET student is eligible for VET FEE-HELP assistance in respect of a VET unit of study for a VET qualification if the student is a subsidised student and is entitled to that assistance under paragraph 6.2.2 and subparagraphs 6.2.3(b) and (c) of these VET Guidelines.
Expiration

New paragraph 11.4.1 provides for the expiry of Chapter 11 so that clauses 11.1 to 11.4 no longer have effect after 31 December 2016. This paragraph also provides that a VET unit of study that is not completed by 31 December 2016 is not a qualification specified in paragraph 11.2.1. This will mean that a student will not be eligible for VET FEE-HELP assistance under the Trial if the VET unit of study they are undertaking as a basis for eligibility is not completed before the end of the Trial. This accords with the planned duration of the trial and will allow a range of student cohorts to enrol and complete study as the majority of jurisdictions will not be involved until 2014 when their student entitlement plans are enacted. Conclusion in 2016 will allow the trial to be effectively evaluated, and provides students and providers with a level of certainty in forward planning.

Please note that the day on which a VET unit of study ends is necessarily determined by the VET provider when the VET provider calculates the census date in accordance with paragraph 7.4.1 of the VET Guidelines. For the purposes of new paragraph 11.4.1, this is taken to be the end date.

Item 5

This item inserts Schedule 1 for the purposes of specifying qualifications under new paragraph 11.2.1. Column 1 provides for the specified qualifications for the bodies and students in the States and Territories listed in Column 2. It is intended that as the States and Territories progressively become part of the Trial, further qualifications will be specified in Schedule 1.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendment No. 1 to the VET Guidelines 2013

This Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

The purpose of the Instrument is to amend the VET Guidelines to enable a Trial to Extend VET FEE-HELP to Specified Certificate IV Qualifications (the Trial) for selected Certificate IV qualifications as agreed to by the Commonwealth and State and Territory jurisdictions as part of the National Partnership Agreement on Skills Reform. The Instrument amends the VET Guidelines to set out the requirements for the trial and provider and student eligibility. The Instrument also provides that the Trial will continue until 31 December 2016.

Human Rights Implications

Right to Education
The Instrument engages the right to education contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights.

In particular, article 13(2)(b) states that secondary education, in all its different forms, including technical and vocational secondary education shall be made generally available and accessible to all by every appropriate means and in particular by the progressive introduction of free education.

This Instrument effects the provision of vocational education and training by broadening access to the VET FEE-HELP Assistance Scheme to select Certificate IV qualifications in certain jurisdictions.

This right to education is promoted by the Instrument as the Instrument will enable continued and extended access to VET FEE-HELP assistance which will in turn expand the availability of education to eligible students.

Conclusion
This Instrument is compatible with human rights because it promotes the right to education.