

EXPLANATORY STATEMENT

Issued by the authority of the Acting Minister for Education on behalf of the Minister for Employment Participation and the Acting Minister for Employment and Workplace Relations

Subject: *Higher Education Support Act 2003*
 Amendments to the VET FEE-HELP Guidelines

Authority

Clause 99 of Schedule 1A of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Guidelines for the purposes of the Act. In particular, Item 2 of the table in subclause 99(1) of Schedule 1A specifies that the Minister may make VET FEE-HELP Guidelines (the Guidelines) to give effect to matters set out in Part 2 of Schedule 1A of the Act.

Purpose

The purpose of this legislative instrument is to specify:

1. to include definitions for new terms under chapter 1 of the Guidelines in order to specify the meanings to be given to these terms for the purposes of the amendments made to chapter 2 of the Guidelines by this legislative instrument; and
2. to make amendments to chapter 2 of the Guidelines which provide for:
 - a. requirements for VET courses of study relating to VET credit transfer arrangements; and
 - b. requirements for students relating to entitlement to VET FEE-HELP assistance for a VET unit of study;
3. to make amendments to chapter 3 of the Guidelines which provide for:
 - a. requirements relating to level of credit, written agreements, approvals and publication; and
 - b. requirements applying on expiration of a VET credit transfer arrangement.

Commencement

This legislative instrument commences on the day after the day it is registered on the Federal Register of Legislative Instruments.

Consultation

The amendments contained in this legislative instrument were made available publicly to the vocational education and training sector for comment in June 2009. They were distributed to each state and territory education department, to the Australian Council of Private Education and Training, to TAFE Directors Australia and to Technical and Vocational Education Australia Limited. They were also distributed to the Department of Immigration and Citizenship and to the Australian Tax Office. The amendments were also placed on the Department of Education, Employment and Workplace Relations' website and comments were invited.

A very small number of submissions were received as a result of consultation. The majority of submissions concerned general policy issues rather than matters relevant to the content or structure of the Guidelines' amendments. Suggested changes were generally inconsistent with either the legislative framework or the Australian Government's policy intent for the Scheme,

and therefore no substantial changes were made to the Guidelines. Minor changes were made to the text of the legislative instrument to clarify the intent of the amendments.

Overview of amendments

Amendments are made to Chapters 1, 2 and 3 of the Guidelines. These amendments give effect to the Australian Government's decision in 2008 to extend VET FEE-HELP assistance to certain state government subsidised students and to remove the requirement to have in place a credit transfer arrangement for certain diploma and advanced diploma courses.

In particular, amendments to Chapter 2 specify new requirements in relation to entitlement to VET FEE-HELP assistance for full fee-paying and subsidised students, and specify which courses are not required to meet the VET credit transfer requirements.

Administrative requirements relating to VET credit transfer arrangements previously contained in Chapter 2 have been removed to new Chapter 3. No substantive changes have been made to these provisions.

Amendments to Chapter 1 introduce three new terms to support the operation of the new provisions at Chapter 2.

Detailed explanation of the amendments

Chapter 1

Chapter 1 *Interpretation* has been amended to include three new terms to support the operation of amendments at Chapter 2. In particular, new definitions of Reform State or Territory, Scope of Registration and Subsidised student have been included.

Chapter 2

The previous Chapter 2 *Entitlement to VET FEE-HELP Assistance* has been retitled and renumbered in view of the insertion of new section 2.5 setting out the requirements for VET courses of study relating to VET credit transfer arrangements. The following changes have been made to it:

- Subsection 2.1.1 has been amended to reflect the new purpose of the Chapter to deal with requirements for VET courses of study relating to VET credit transfer arrangements for the purposes of paragraph 45(1)(a) of Schedule 1 A of the Act, as well as requirements relating to student entitlement to VET FEE-HELP assistance under paragraph 43(i) of Schedule 1A of the Act.
- Replacement section 2.5 has been removed from the previous Chapter 3, and amended to include new subsection 2.5.5 which specifies the circumstances in which a VET provider is not required to meet the basic requirement to have a VET credit transfer arrangement in place for a VET course of study that leads to the award of VET diploma or VET advanced diploma.
- New subsection 2.5.10 sets out the requirement for a VET provider to meet the requirements of Chapter 3 for any VET credit transfer arrangement that the provider has in place.
- Replacement section 2.10 sets out the requirements for students relating to entitlement to VET FEE-HELP assistance for a VET unit of study.

- Replacement subsection 2.10.1 specifies the meaning of full fee-paying student for the purposes of subsection 2.10.5.
- New subsection 2.10.5 sets out the circumstances in which a full fee-paying student is entitled to assistance.
- New subsection 2.10.10 specifies the meaning of subsidised student for the purposes of subsection 2.10.15.
- New subsection 2.10.15 sets out the circumstances in which a subsidised student is entitled to assistance.

Chapter 3

Amendments have been made to the previous Chapter 3 *VET Credit Transfer Arrangements* to make technical and structural changes, and to renumber the paragraphs following the removal of the previous subsection 3.5.1 to the new Chapter 2. The following changes have been made to it:

- The heading of the previous Chapter 3 has been amended. The new heading is Chapter 3 *Certain Details Relating to VET Credit Transfer Arrangements*.
- Replacement subsection 3.1.1 identifies the purpose of the chapter.
- Replacement section 3.5 sets out the requirements relating to level of credit, written agreements, approvals and publication.
- Subsection 3.5.1 replaces the previous subsection 3.5.5 and details the level of credit a VET credit transfer arrangement must provide.
- New subsection 3.5.5 replaces the previous subsection 3.5.10 and details the requirements for setting out a VET credit transfer arrangement between a VET provider and a higher education provider.
- New subsection 3.5.10 replaces the previous 3.5.1(c) and specifies that a VET provider must seek approval from the *Group Manager* before it varies a VET credit transfer arrangement.
- New subsection 3.5.15 replaces the previous subsection 3.5.20 and specifies the publication requirements for VET credit transfer arrangements, and the requirement to provide the *Group Manager* with a copy of all VET credit transfer arrangements.
- New section 3.10 replaces the previous section 3.10 and details the requirements applying on the expiration of a VET credit transfer arrangement.