

Issued by the authority of the Minister for Tertiary Education, Skills, Science and Research

Disallowable instrument

made under the

Higher Education Support Act 2003

Subject: VET FEE-HELP Guidelines

EXPLANATORY STATEMENT

Authority

Schedule 1A to the *Higher Education Support Act 2003* (the Act) provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain vocational education and training (VET) courses.

Clause 99 of Schedule 1A to 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 of Schedule 1A specifies that the Minister may make *VET FEE-HELP Guidelines* to give effect to matters set out in section 137-18 and Part 2 of Schedule 1A to the Act.

Purpose

Section 137-18 deals with VET FEE-HELP debt and Part 2 of Schedule 1A to the Act deals with student entitlement and amounts of assistance provided under the VET FEE-HELP Assistance Scheme. These Guidelines set out additional requirements to those that appear in the Act to cover such matters as:

- a) requirements relating to VET credit transfer requirements;
- b) student entitlement to VET FEE-HELP assistance; and
- c) a lesser percentage of a loan for particular persons.

The application of these Guidelines is limited to students of VET providers who are entitled to VET FEE-HELP assistance under clause 43 of Schedule 1A to the Act and to VET units of study that meet the course requirements under clause 45 of Schedule 1A to the Act.

This instrument revokes and remakes the previous VET FEE-HELP Guidelines. The previous provisions have been revised to provide clarity, ease of reading and reflect changes due to the *Higher Education Support Amendments (No.1) Act 2011* and the *National Vocational Education and Training Regulator (Consequential Amendments) Act 2011*. The Instrument has been reformatted to reduce complexity and the numbering sequence has been amended from rising in multiples of five to rising sequentially by one unit. The amendments do not change existing obligations or responsibilities for VET providers.

Amendments have also been made in regard to terminology to reflect a change in the Administrative Arrangements Order.

Consultation

Consultation was not undertaken and was not considered necessary or appropriate as the instrument contains amendments that are technical in nature and do not alter existing arrangements for VET providers or policy intent, in accordance with section 18 of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

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

VET FEE-HELP Guidelines

This Legislative 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 *VET FEE-HELP Guidelines* (the Guidelines) are made under subsection 99(1) of Schedule 1A to the *Higher Education Support Act 2001* (the Act). This legislative instrument revokes the Guidelines registered on the Federal Register of Legislative Instruments on 3 June 2008, registration number F2008L01952 and as amended by F2009L0294 on 30 June 2009 and F2009L04665 on 21 December 2009 and makes the Guidelines pursuant to Item 2 of the table in subsection 99(1) of Schedule 1A to the Act to provide for matters under Section 137-18 and Part 2.

Part 2 of Schedule 1A of the Act sets out the requirements for students to be entitled to VET FEE-HELP assistance and sets out how amounts of assistance are calculated and paid. The Guidelines also set out additional requirements relating to student entitlement to VET FEE-HELP assistance.

Human Rights Implications

Right to Education

The Guidelines set out requirements relating to a student's entitlement to VET FEE-HELP assistance for a VET unit of study. They also set out the requirements relating to VET credit transfer arrangements, the requirements regarding VET students withdrawing from replacement units under special circumstances as well as establish certain requirements regarding VET FEE-HELP DEBT.

Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right of everyone to education. To the extent that Article 13 of the ICESCR is engaged by this instrument, it promotes the right to education. The Guidelines establish the eligibility requirements for a student to receive VET-FEE HELP assistance to assist students in paying for their studies. The Guidelines also set out the requirement of VET credit transfer arrangements to enable students enrolled in a VET course of study to receive credit for their VET studies where they transfer into a bachelor degree. This requirement promotes the right to education as it provides a mechanism by which a person may further their educational opportunities.

Conclusion

This Legislative Instrument is compatible with human rights. While the guidelines engage the right to education, it does not place a limitation on that right.

Detailed explanation of the VET FEE-HELP Guidelines

Table of contents

The table of contents lists the number, title and page number of the chapters contained within the Guidelines.

The table of contents in the new instrument has been updated to reflect amendments made to chapter titles and page numbers.

Chapter 1 Interpretation

Chapter 1 provides interpretation of the terms within the Guidelines.

1.1.1 Specifies that unless the contrary intention appears, terms have the same meaning as in the Act.

1.1.2 Specifies that terms in italics are those defined in paragraph 1.1.3.

1.1.3 Defines terms used in the Guidelines.

The specific amendments to the previous Guidelines are as follows:

Paragraph 1.1.1 has been amended to provide for consistent wording across all the Guidelines made for the purposes of the VET FEE-HELP Assistance Scheme.

New paragraphs 1.1.2 and 1.1.3, previously paragraphs 1.1.5 and 1.1.10 respectively, have been renumbered to provide for a logical, sequential order of items listed.

Definitions within new paragraph 1.1.3 have been amended to reflect changes in paragraph numbering.

Some of the new and existing definitions have already been defined in the *VET Provider Guidelines*. Rather than duplicating definitions for commonly used terms under the Act, the amendments refer the reader to the *VET Provider Guidelines*.

Chapter 2 Other requirements relating to student entitlement

Chapter 2 sets out the other requirements relating to a student's entitlement to VET FEE-HELP assistance.

2.1 Sets out the *Purpose* of the chapter.

2.1.1 Details the purpose of the chapter.

2.2 Sets out the *Students entitled to VET FEE-HELP Assistance*.

2.2.1 Defines a full fee-paying student.

2.2.2 Sets out the circumstances when a full fee-paying student is entitled to VET FEE-HELP assistance.

2.2.3 Defines a subsidised student.

2.2.4 Sets out the circumstances when a subsidised student is entitled to VET FEE-HELP assistance.

The specific amendments to the previous Guidelines are as follows:

Amendments have been made to this chapter to provide for the correct referencing style when referring to Schedule 1A to the Act.

Changes have been made to paragraph numbers throughout this chapter to provide for a logical, sequential order of items listed.

The content of this chapter has been separated and split between Chapters 2 and 3 appropriately in accordance with the relevant clauses in the Act to which the content relates. Subclause 43(i) of Schedule 1A to the Act sequentially appears before subclause 45(1)(a) of Schedule 1A to the Act. Chapters within the Guidelines should appear in the sequential order as they appear in the Act. Therefore, matters relating to subclause 43(i) of Schedule 1A (previously subparagraph 2.1.1(b) of these Guidelines) have been centralised in the new Chapter 2 and matters relating to subclause 45(1)(a) of Schedule 1A (previously subparagraph 2.1.1(a) of these Guidelines) have been moved to new Chapter 3 of these Guidelines. Paragraph 2.1.1 has been amended accordingly.

Previous paragraphs 2.5, 2.5.10 and subparagraph 2.5.1(b) have been deleted to reflect changes made to paragraph 2.1.1 of the Guidelines and to simplify the administrative burden placed on VET providers.

Previous subparagraphs 2.5.1(a) and paragraph 2.5.5 have been deleted from this chapter and relocated to Chapter 3.

The title of new paragraph 2.2, previously paragraph 2.10, has been amended for clarity and ease of reading purposes.

New paragraphs 2.2.1, 2.2.2, 2.2.3 and 2.2.4, previously paragraphs 2.10.1, 2.10.5, 2.10.10 and 2.10.15 respectively, have been amended for ease of reading purposes.

New paragraph 2.2.1, previously paragraph 2.10.1, has been amended to remove unnecessary wording.

New subparagraph 2.2.2(a), previously subparagraph 2.10.5(a) has been amended by removing unnecessary references to the Guidelines and providing clarity around when a student is eligible for VET FEE-HELP assistance as a full fee-paying student. It has been amended by the separation of VET diploma and VET advanced diplomas from VET graduate certificates and VET graduate diplomas (new subparagraph 2.2.2(b) for clarity and transparency reasons.

New subparagraph 2.2.2(c), previously subparagraph 2.10.5(b) has been amended for ease of reading purposes and to reflect changes made to paragraph numbering.

New paragraph 2.2.3, previously paragraph 2.10.10, has been amended to reflect changes made to paragraph number references and a slight amendment to subparagraph 2.2.3(b) to clarify that it is a VET provider who receives funding by a subsidising state or territory.

New paragraph 2.2.4 was previously paragraph 2.10.15.

Chapter 3 Other requirements relating to VET credit transfer arrangements

Chapter 3 sets out the other requirements relating to VET credit transfer arrangements for a VET course of study to meet the course requirements for entitlement to VET FEE-HELP assistance.

3.1 Sets out the *Purpose* of the chapter.

3.1.1 Details the purpose of the chapter.

3.2 Sets out the *basic requirements relating to VET credit transfer arrangements*.

- 3.2.1 Specifies that at least one VET credit transfer arrangement is required for each VET diploma or VET advanced diploma course to meet the course requirements for entitlement to VET FEE-HELP assistance.
- 3.2.2 Defines the circumstances with the requirements of 3.2.1 do not apply.
- 3.2.3 Lists the credit levels that will be used as a guide when approving VET credit transfer arrangements.
- 3.2.4 Details what must be contained in a VET credit transfer arrangement.
- 3.2.5 Specifies that all credit transfer arrangements must be approved by the General Manager.
- 3.3 Sets out the *Requirements relating to approvals, publication and variations of VET credit transfer arrangements*.
- 3.3.1 Specifies the publication requirements for VET credit transfer arrangements and requires that copies be provided to the Secretary and approval given by the Secretary before a VET provider can vary a VET credit transfer arrangement.
- 3.4 Sets out the *Expiration of a VET credit transfer arrangement*.
- 3.4.1 Specifies that the course requirements for access to VET FEE-HELP assistance are taken to be satisfied for students already enrolled in a VET course of study in which the VET credit transfer arrangement expires and the actions that a VET provider must undertake where a VET credit transfer arrangement has expired.

The specific amendments to the previous Guidelines are as follows:

Amendments have been made to this chapter to provide for the correct referencing style when referring to Schedule 1A to the Act.

Changes have been made to paragraph numbers throughout this chapter to provide for a logical, sequential order of items listed in the Chapter.

The title of Chapter 3 has been amended for the reasons mentioned above in Chapter 2. The title has been amended in a way that differentiates these credit transfer arrangements to those contained in the *VET Provider Guidelines* for approval purposes.

New paragraph 3.1.1, previously subparagraph 2.1.1(a), has been amended to reflect changes to chapter content.

New paragraph 3.2 replaces previous paragraph 2.5 and has been amended for clarity and ease of reading purposes.

New paragraph 3.2.1, previously subparagraph 2.5.1(a) has been amended for ease of reading purposes and to provide transparency and clarity around the ongoing requirements relating to VET credit transfer arrangements.

New paragraph 3.2.2 replaces previous paragraph 2.5.5 and has been amended to reflect changes made to the *VET Provider Guidelines*. New paragraph 3.2.2 now clearly reflects that the credit transfer

arrangements do not apply to a body corporate that is listed on the National Register and offers that course in a Reform State or Territory.

New paragraphs 3.2.3 and 3.2.4 replace previous paragraphs 3.5.1 and 3.5.5 respectively.

New paragraph 3.2.5, previously paragraph 3.5.10 has been amended to provide that the Secretary may approve credit transfer arrangements.

The title of new paragraph 3.3 which replaces previous paragraph 3.5, has been amended for clarity and ease of reading purposes.

New paragraph 3.3.1 was previously paragraph 3.5.15. Previous subparagraphs 3.5.15(a) and 3.5.15(b) have been rearranged as a VET provider must first provide the Secretary with a copy of all proposed VET credit transfer arrangements for approval before the VET provider can publish and make publically available the details of the credit transfer arrangement. Amendments have also been made to this paragraph to more appropriately reflect changes to delegation levels.

The title of new paragraph 3.4, previously paragraph 3.10, has been amended as part of the plain English style approach. New paragraph 3.4.1, previously paragraph 3.10.1, has been amended for ease of reading purposes, formatting reasons and to reflect changes to delegation levels.

Chapter 4 VET students withdrawing from replacement units under special circumstances

Chapter 4 sets out the requirements relating to VET students withdrawing from replacement units under special circumstances for the purposes of paragraph 46(2)(d) of Schedule 1A to the Act.

4.1 Sets out the *Purpose* of the chapter.

4.1.1 Details the purpose of the chapter.

4.1.2 Details the requirements for students who originally chose to access the VET course assurance option under the *VET Provider Guidelines* and subsequently must withdraw from that VET unit of study due to special circumstances as described under clause 48 of Schedule 1A to the Act.

4.1.3 Specifies the actions the VET provider must take if satisfied that the requirements of subclause 46(2) of Schedule 1A to the Act are met to effect re-crediting of the VET student's FEE-HELP balance. It also allows the Secretary of the Department of Industry, Innovation, Science, Research and Tertiary Education to carry out certain functions such as re-crediting of FEE-HELP balances if the VET provider is unable to do so.

The specific amendments to the previous Guidelines are as follows:

The requirements contained in chapter 4 of the Guidelines were previously located at paragraphs 3.4.15 and 3.4.20 of the *VET Provider Guidelines*. New paragraphs 4.1.2 and 4.1.3 set out the requirements relating to VET students withdrawing from replacement units under special circumstances for the purposes of paragraph 46(2)(d) of Schedule 1A to the Act. Paragraph 46(2)(d) of Schedule 1A to the Act is located in Part 2 of Schedule 1A to the Act therefore matters relating to that part must be located in these Guidelines.

Chapter 5 VET FEE-HELP debt

Chapter 5 sets out the requirements under paragraph 137-18(2)(b) of the Act.

- 5.1 Sets out the *Purpose* of the chapter.
- 5.1.1 Details the purpose of the chapter.
- 5.2 Sets out the *lesser percentage*.
- 5.2.1 Specifies the lesser percentage as 100%.
- 5.3 Sets out the *Persons for whom the lesser percentage is specified*.
- 5.3.1 Specifies that the lesser percentage applies to VET students who are subsidised students.

The specific amendments to the previous Guidelines are as follows:

New paragraph 5.1.1, previously 4.1.1, has been amended to provide that the ‘Purpose’ is consistent in style with the other chapters in these *Guidelines*.

New paragraph 4.1.1(b), previously 4.1.1(b), has been amended to make it consistent with the terminology used in the Act.

Previous paragraphs 4.5 and 4.5.1 have been renumbered to 5.2 and 5.2.1 respectively to provide for a logical, sequential order of items listed.

The title of new paragraph 5.3, previously paragraph 4.10, has been amended to reflect the changes made to new subparagraph 5.1.1(b).

New paragraph 5.3.1, previously 4.10.1, has been amended to reflect changes made to paragraph numbering and to make it clear that the lesser percentage applies to subsidised students entitled to access VET FEE-HELP assistance.