

EXPLANATORY STATEMENT

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

VET Guidelines

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

Subject

Higher Education Support Act 2003
VET Guidelines

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 Act provides that the Minister may make the VET Guidelines providing for matters required or permitted by Schedule 1A to the Act or necessary or convenient in order to carry out or give effect to Schedule 1A to the Act.

Purpose

This instrument revokes the previous VET Provider Guidelines, VET FEE-HELP Guidelines and VET Administration Guidelines (referred to collectively as the previous guidelines) and makes the VET Guidelines. The previous provisions have been revoked and the new VET Guidelines made as a consequence of the *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012* (Streamlining Act). This streamlining measure will improve the accessibility, clarity and transparency of the VET FEE-HELP scheme's administrative requirements and better support applicants, approved providers and other stakeholders to meet their obligations under the VET FEE-HELP scheme.

As a further consequence of the Streamlining Act, the requirements relating to specific kinds of bodies that can be approved under the new clause 6(1A) of Schedule 1A to the Act has been included. The kind of bodies that meet the requirements set out in the VET Guidelines present a low risk to the Government. The Streamlining Act facilitates the removal of a barrier for these bodies to participate in the VET FEE-HELP scheme and encourages an increase in the take-up of VET FEE-HELP by quality registered training organisations and thus, students.

The VET Guidelines also include the following changes to allow for the implementation of the *National Partnership Agreement on Skills Reform* entered into by the Commonwealth of Australia and the States and Territories on 13 April 2012:

- a) removal of the requirement relating to VET credit transfer arrangements for all diploma and advanced diploma courses; and
- b) inserting a new definition of "eligible State or Territory" and removing the previous term of "Reform State or Territory".

Consultation

Consultation was undertaken as part of the *Post Implementation Review of the VET FEE-HELP Assistance Scheme, Final Report 30 September 2011*, as a result of the *National Partnership Agreement on Skills Reform* agreed by all States and Territories and as part of the *Discussion Paper, VET FEE-HELP Redesign 2012*.

In addition to the feedback received from the consultation forums and teleconferences, the Department received 25 written submissions where the consolidation of the three existing guidelines into one set was received favourably.

Detailed explanation of the amendments made to the VET 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 has been updated to reflect the amendments made to the chapter titles and page numbers as a result of the consolidation.

Chapter 1 Interpretation

Chapter 1 provides interpretation of the terms within the Guidelines.

- 1.1 Specifies that unless the contrary intention appears, terms have the same meaning as in the Act.
- 1.2 Specifies that terms in italics are those defined in paragraph 1.3.
- 1.3 Defines terms used in the Guidelines.

The specific amendments to the previous guidelines are as follows:

Paragraphs 1.1.1, 1.1.2 and 1.1.3 of the previous guidelines have been renumbered to 1.1, 1.2 and 1.3, respectively, to provide for a logical, sequential order of items listed.

The terms defined in chapter 1 Interpretation have been amended to reflect terms used throughout the Guidelines for which a definition and clarity is required. The definitions also reflect the consolidation of the revoked previous guidelines. New terms have been added as a result of implementing the *National Partnership Agreement on Skills Reform*.

Chapter 2 Specified Kind of Bodies

Chapter 2 sets out the specified kind of bodies that the Minister may approve as VET providers for the purposes of subclause 6(1A)(a) of Schedule 1A to the Act. It also sets out the requirements that the specified kinds of bodies must comply with to be approved as VET providers under clause 6(1A) of Schedule 1A to the Act. This is a new provision as a result of the Streamlining and Other Measures Act.

- 2.1 Sets out the *Purpose* of the chapter.
- 2.1.1 Details the purpose of the chapter.

- 2.2 Sets out the specified kind of bodies the Minister may approve and limits the kind of bodies in paragraph 2.2.1 to those bodies that are established under legislation to provide vocational education and training.
- 2.3 Sets out the requirements of the Guidelines that the specified body under paragraph 2.2.1 must comply. Paragraph 2.3.1 provides clarity as an applicant or provider approved under subclause 6(1A) is taken to be a body corporate for specific provisions within the Guidelines.

Chapter 3 Tuition Assurance

Chapter 3 sets out the VET course assurance and VET tuition fee repayment arrangements, which together make up the VET tuition assurance requirements that a body corporate must fulfil to be approved as a VET provider and to maintain approval. VET providers must have these arrangements in place to ensure their students are guaranteed to be able to complete their VET course of study and, if necessary, to obtain a refund for any incomplete portion of their course, in the event that the VET provider is no longer able to deliver the course. Chapter 3 was an existing requirement and was previously provided for under chapter 3 of the VET Provider Guidelines.

- 3.1 Sets out the *Purpose* of the chapter.
 - 3.1.1 Details the purpose of the chapter.
- 3.2 Sets out the VET tuition assurance arrangements.
 - 3.2.1 Lists the four parts of the VET tuition assurance requirements.
 - 3.2.2 Requires a VET provider to comply with all four parts of the VET tuition assurance requirements.
 - 3.2.3 Describes a VET student's right to choose one of the two parts of the VET tuition assurance requirements (either Part 1: *VET course assurance* or Part 2: *VET tuition fee repayment*).
- 3.3 Sets out *Part 1: VET Course Assurance Requirements*.
 - 3.3.1 Describes the VET course assurance option component of the VET tuition assurance requirements and alternative ways in which VET providers can meet this part of the requirements.
 - 3.3.2 Requires the second provider under a legally-binding agreement referred to in subparagraph 3.3.1(b) to be a VET provider to obtain approval as a VET provider within 12 months of the first VET provider being approved.
 - 3.3.3 Describes the student entitlements if they choose the VET course assurance option and requires that students selecting this option must not be required:
 - a) to pay the second VET provider they then enrol with, any VET tuition fees for VET units of study not completed with the original VET provider; and
 - b) receive full credit for completed units. It also provides discretion for the Secretary to approve arrangements for specialised courses where full credit transfer cannot be arranged.
- 3.4 Sets out *Part 2: VET Tuition Fee Repayment Requirements*.

- 3.4.1 Describes the VET tuition fee repayment option component of the VET tuition assurance requirements and alternative ways in which VET providers can meet this part of the requirements.
- 3.4.2 – 3.4.3 Describes the process which VET providers must follow if a student chooses to access the VET tuition fee repayment option under the VET tuition assurance requirements.
- 3.5 Sets out *Part 3: General Requirements*.
- 3.5.1 Specifies the requirements about the degree of corporate separation required between VET providers and the entities which provide their VET tuition assurance arrangements.
- 3.5.2 Specifies the obligations on a VET provider where it fails to meet the requirements under paragraph 3.5.1. The Secretary is given discretion to approve arrangements which do not meet the corporate separation requirements for the purposes of the VET tuition assurance requirements.
- 3.5.3 Describes the situation in which a VET provider ceases to provide a VET course of study for the purposes of the VET tuition assurance requirements.
- 3.5.4 Describes other situations in which a VET provider ceases to provide a VET course of study for the purposes of the VET tuition assurance requirements.
- 3.5.5 Requires certain actions to be undertaken where the Secretary becomes aware that events described in paragraph 3.5.4 apply or may apply.
- 3.6 Sets out *Part 4: Administrative and Activation Requirements*.
- 3.6.1 Describes the nature of the statement which VET providers must publish about their VET tuition assurance arrangements.
- 3.6.2 Requires VET providers who have been granted an exemption from the VET tuition assurance requirements to also publish a statement detailing the exemption and consequences for ceasing to offer a VET course of study.
- 3.6.3 - 3.6.4 Describes the method by which VET providers (including exempt providers) can publish their statements for VET tuition assurance. VET providers are required to give all enrolling students information about where to find this information.
- 3.6.5 Describes the information that must be included in VET tuition assurance statements.
- 3.6.6 – 3.6.8 Details the enrolment information which must be kept by VET providers and parties to which this information must be made available to enable administration and implementation of the VET tuition assurance requirements.
- 3.6.9 Describes the process which must be followed to inform students of their options under the VET tuition assurance requirements. It describes the way in which written offers must be made to students when a VET provider ceases to provide a VET course of study. The offers must clearly outline the student's options, timeframes applicable, and the information which must be included.

- 3.7 Sets out *Exemption* from the VET tuition assurance requirements.
- 3.7.1 Describes the process which must be followed by a body corporate or VET provider seeking an exemption from the VET tuition assurance requirements.
- 3.8 Sets out the *requirement for second providers under legally binding VET course assurance agreements*.
- 3.8.1 Describes the obligations for those VET providers which enter into a legal agreement to act as second providers under the VET tuition assurance requirements.
- 3.9 Sets out the *compliance with the VET tuition assurance requirements for exempt providers*.
- 3.9.1 Requires that VET providers, which have been granted an exemption from meeting the VET tuition assurance requirements, keep up-to-date enrolment information on the students that are enrolled.
- 3.10 Sets out the requirements for *students withdrawing from replacement units under special circumstances*.
- 3.10.1 Details the requirements for second providers where they receive an application in relation to a withdrawing from a replacement unit by a student under special circumstances.
- 3.10.2 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 to carry out functions for the 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:

Chapter 3, VET Tuition Assurance Requirements from the VET Provider Guidelines and Chapter 4, VET Students Withdrawing from Replacement Units Under Special Circumstances from the VET FEE-HELP Guidelines have been consolidated into this one chapter.

Paragraph 3.1.1(d), previously paragraph 4.1.1, details the purpose of the chapter.

The number assigned to previous paragraph number 3.5.1 has been removed to improve readability.

Previous paragraphs 3.5.1.1 and 3.5.1.2 have been renumbered 3.5.1 and 3.5.2 respectively.

The number against previous paragraph number 3.5.2 has been removed to improve readability.

Previous paragraph 3.5.2.1 has been renumbered 3.5.2.

The number assigned to previous paragraph 3.5.3 has been removed to improve readability.

Previous paragraphs 3.5.3.1 and 3.5.3.2 have been renumbered 3.5.4 and 3.5.5 respectively.

The number assigned to previous paragraph 3.6.1 has been removed to improve readability.

Previous paragraphs 3.6.1.1, 3.6.1.2, 3.6.1.3, 3.6.1.4 and 3.6.1.5 have been renumbered 3.6.1, 3.6.2, 3.6.3, 3.6.4 and 3.6.5 respectively.

Paragraph 3.6.1, previously paragraph 3.6.1.1 has been amended to improve readability.

Paragraph 3.6.3, previously paragraph 3.6.1.3 has been reworded to improve clarity and readability.

Paragraph 3.6.5(c), previously paragraph 3.6.1.5(d) has been amended to provide clarity.

New paragraph 3.6.5(d) has been added to detail the information that must be included in a VET tuition assurance statement if a *VET student chooses the VET course assurance option and the Provider's tuition assurance administration is a VET course assurance TAS operator*.

The number assigned to previous paragraph 3.6.2 has been removed to improve readability.

Previous paragraphs 3.6.2.1, 3.6.2.2 and 3.6.2.3 have been renumbered 3.6.6, 3.6.7 and 3.6.8 respectively.

The number assigned to previous paragraph 3.6.3 has been removed to improve readability.

Previous paragraph 3.6.3.1 has been renumbered 3.6.9.

Previous chapter 4, Students Withdrawing from Replacement Units Under Special Circumstances from the VET FEE-HELP Guidelines has been renumbered 3.10.

Previous paragraph 4.1 has been repealed.

Previous paragraph 4.1.1 has been renumbered as paragraph 3.1.1(d).

Previous paragraph 4.1.2 has been renumbered as paragraph 3.10.1.

Previous paragraph 4.1.3 has been renumbered as paragraph 3.10.2.

Chapter 4 VET Quality and Accountability

Chapter 4 sets out the requirements for VET quality and accountability in particular the requirements for VET financial viability and to comply with the framework requirements for VET quality. These provisions were previously contained in chapter 4 of the VET Provider Guidelines.

4.1 Sets out the *Purpose* of the chapter.

4.1.1 Details the purpose of the chapter.

4.2 Sets out the *Requirements for VET financial viability*.

4.2.1 Details the requirement for a body specified in chapter 2 of the Guidelines to be approved the body must have in place a financial guarantee from the body's state or territory government. This is a new provision that is consequential to new subclause 6(1A) of Schedule 1A to the Act and chapter 2 of these Guidelines.

4.2.2 Details the requirement for a body corporate to be approved and for a VET provider to remain approved they must comply with the requirements of the Financial Viability Instructions as published on the Department's website.

4.3 Sets out the *Requirements for VET quality*.

4.3.1 Details the requirements for VET quality that a VET provider must be willing and able to meet and comply with to maintain approval.

The specific amendments to the previous guidelines are as follows:

Previous Chapter 4, VET Quality Requirements from the VET Provider Guidelines has been retitled VET Quality and Accountability.

Subparagraph 4.1.1(a), is a new provision.

Subparagraph 4.1.1(b) was previously paragraph 4.1.1 of the VET Provider Guidelines.

Paragraph 4.2 and subparagraphs 4.2.1 and 4.2.2 are new provisions.

Paragraph 4.3 was previously paragraph 4.2 in the VET Provider Guidelines.

Subparagraph 4.3.1 previously subparagraph 4.2.1 in the VET Provider Guidelines has been reworded to improve clarity.

Chapter 5 Student Fairness

Chapter 5 sets out the VET fairness requirements relating to equal benefits and opportunity requirements and student grievance and review requirements that bodies corporate must be willing and able to meet and with which VET providers must comply. These provisions were previously contained in chapter 5 of the VET Provider Guidelines.

5.1 Sets out the *Purpose* of the chapter.

5.1.1 Details the purpose of the chapter.

5.2 Sets out the *Equal Benefits and Opportunity Requirements*.

5.2.1 Describes the obligation for VET providers to treat equally and fairly all VET students and all individuals seeking to enrol in a VET unit of study.

5.2.2 Describes the requirements for the selection and treatment of students.

5.2.3 – 5.2.4 Allows a VET provider to take into account educational disadvantages and VET restricted access arrangements in the selection and treatment of students.

5.3 Sets out the *Student Grievance and Review Requirements*.

5.3.1 Requires a VET provider to have a procedure for dealing with complaints about academic and non-academic matters that contain elements specified in the chapter.

5.3.2 – 5.3.3 Requires VET providers to have arrangements to handle complaints from students, internal reviews for unresolved complaints and external review of decisions arising from internal reviews. The provision also specifies the requirements that a VET provider must adhere to in implementing its grievance procedures.

5.4 Sets out the *Publishing Requirements*.

5.4.1 Requires a VET provider to publish and make publicly available on its website its procedures that relate to the chapter.

The specific amendments to the previous Guidelines are as follows:

Paragraph 5.3.2 has been amended to clarify that a grievance procedure must include an arrangement for handling informal complaints, formal complaints, internal appeal of outcomes of complaints and external appeal of outcomes of complaints and appeals.

Subparagraph 5.3.2(e) clarifies the formal internal appeal requirements and provides clarity on provider obligations.

Subparagraph 5.3.2(g) clarifies the formal external appeal requirements and provides clarity on provider obligations.

Paragraph 5.3.2(j), previous subparagraph 5.3.2(g), has been amended to include a reference to subparagraph 5.3.2(i).

Paragraph 5.4.1 has been amended to include the words *on its website* to provide clarity of the publishing requirements.

Chapter 6 Student Entitlement

Chapter 6 sets out the other requirements relating to a student's entitlement to VET FEE-HELP assistance. These provisions were previously contained in chapters 2 and 5 of the VET FEE-HELP Guidelines.

6.1 Sets out the *Purpose* of the chapter.

6.1.1 Details the purpose of the chapter.

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

6.2.1 Defines a full fee-paying student.

6.2.2 Defines a subsidised student.

6.2.3 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:

Chapter 2 of the VET FEE-HELP Guidelines, Other Requirements Relating to Student Entitlement, and chapter 5 of the VET FEE-HELP Guidelines, VET FEE-HELP Debt, have been consolidated into this one chapter.

Paragraphs 6.1, 6.1.1, 6.2 and 6.2.1, previous paragraphs 2.1, 2.1.1, 2.2 and 2.2.1 of the VET FEE-HELP Guidelines have been renumbered.

Previous paragraph 2.2.2 of the VET FEE-HELP Guidelines has been repealed to remove the requirement for credit transfer arrangements for all diploma and advanced diploma courses.

Paragraph 6.2.2, previous paragraph 2.2.3 of the VET FEE-HELP Guidelines, has been renumbered and the definition of subsidised student reworded to provide clarity.

Paragraph 6.2.3, previous paragraph 2.2.4 of the VET FEE-HELP Guidelines, has been renumbered and reworded to clarify which subsidised students are entitled to VET FEE-HELP. The term *Reform State or Territory* has been repealed and replaced with the new term *eligible State or Territory* to clarify which subsidising States or Territories offer VET FEE-HELP assistance.

Chapter 7 VET Tuition Fees and Census Dates

Chapter 7 sets out the matters that a VET provider must not have regard when determining VET tuition fees, the date and manner in which VET tuition fees must be published the requirements regarding setting of census dates and the requirements regarding varying a VET tuition fee or a census date. These provisions were previously contained in chapter 6 of the VET Provider Guidelines and chapter 3 of the VET Administration Guidelines.

7.1 Sets out the *Purpose* of the chapter.

7.1.1 Details the purpose of the chapter.

7.2 Sets out the *Periods over which VET units of study are provided or proposed to be provided*.

7.2.1 Specifies the periods during which a VET provider provides or proposes to provide a VET unit of study.

7.2.2 Specifies that the periods defined in paragraph 7.2.1 are also relevant to paragraph 7.6.1.

7.3 Sets out the *matters to which a VET provider must not have regard when determining VET tuition fees*.

7.3.1 Requires that a VET provider must not have regard to the manner or timing of a student's payment of a VET tuition fee when determining a VET tuition fee for a VET unit of study. The provision also specifies the fees that must not be included in a VET tuition fee.

7.4 Sets out *Requirements for determining a census date*.

7.4.1 Specifies the requirement of when the date determined to be the census date must occur.

7.5 Sets out *Varying VET tuition fees and census dates*.

7.5.1 Specifies the circumstances which must exist for a VET provider to be allowed to vary a VET tuition fee or census date and the processes and timelines.

7.5.2 Specifies, without limiting the generality of subparagraph 7.5.1(d), that a VET student or person will be disadvantaged by a variation that increases the VET tuition fee or brings a published census date forward in time.

7.5.3 Specifies that the requirements of paragraph 7.5.1 do not apply to courses offered under a VET restricted access arrangement.

7.6 Sets out the *date by which a VET provider must publish a schedule of VET tuition fees*.

- 7.6.1 Specifies the dates by which a schedule of VET tuition fee and census dates must be published.
- 7.6.2 Specifies the date by which a VET provider must publish a replacement schedule after making a variation.
- 7.6.3 Specifies the date by which a VET provider must publish a replacement schedule when the Minister has approved a variation.
- 7.6.4 Specifies that if the published census date is only available through the internet or other electronic format, the VET provider must provide access to a system for a student to access the information.

The specific amendments to the previous guidelines are as follows:

Chapter 6, Determining and Publishing VET Tuition Fees from the VET Provider Guidelines and chapter 3, Census Date Publication Requirements from the VET Administration Guidelines have been consolidated into this one chapter.

Paragraph 7.1, consolidates previous paragraph 6.1 of the VET Provider Guidelines and paragraph 3.1 of the VET Administration Guidelines.

Paragraph 7.1.1, consolidates previous paragraph 6.1.1 of the VET Provider Guidelines and paragraph 3.1.1 of the VET Administration Guidelines.

Paragraph 7.1.1(a), consolidates previous paragraph 6.1.1(a) of the VET Provider Guidelines and paragraph 3.1.1(a) of the VET Administration Guidelines.

Paragraph 7.1.1(b), previous paragraphs 6.1.1(b) of the VET Administration Guidelines has been renumbered.

Paragraph 7.1.1(c) has been inserted to provide for the *requirement to determine a census date* to give effect to the Streamlining and Other Measures Act which relocated this requirement to the Guidelines.

Paragraphs 7.1.1(d) and 7.1.1(e), previous paragraph 6.1.1(c) of the VET Provider Guidelines and 3.1.1(c) of the VET Administration Guidelines have been renumbered.

Paragraph 7.1.1(f), consolidates previous paragraph 6.1.1(d) of the VET Provider Guidelines and paragraph 3.1.1(d) of the VET Administration Guidelines.

Paragraph 7.1.1(g), consolidates previous paragraph 6.1.1(e) of the VET Provider Guidelines and paragraph 3.1.1(b) of the VET Administration Guidelines.

Paragraph 7.2, consolidates previous paragraph 6.2 of the VET Provider Guidelines and paragraph 3.2 of the VET Administration Guidelines.

Paragraph 7.2.1, consolidates previous paragraph 6.2.1 of the VET Provider Guidelines and paragraph 3.2.1 of the VET Administration Guidelines.

Paragraphs 7.2.2, 7.3 and 7.3.1, previous paragraphs 6.2.2, 6.3 and 6.3.1 of the VET Administration Guidelines have been renumbered.

New paragraphs 7.4 and 7.4.1 have been inserted to provide the requirements for *determining a census date* to give effect to the Streamlining and Other Measures Act which relocated this requirement to the Guidelines.

Paragraph 7.5, consolidates previous paragraph 6.4 of the VET Provider Guidelines and paragraph 3.4 of the VET Administration Guidelines.

Paragraph 7.5.1, consolidates previous paragraph 6.4.1 of the VET Provider Guidelines and paragraph 3.4.1 of the VET Administration Guidelines.

Paragraph 7.5.1(a), consolidates previous paragraph 6.4.1(a) of the VET Provider Guidelines and paragraph 3.4.1(a) of the VET Administration Guidelines.

Paragraph 7.5.1(b), consolidates previous paragraph 6.4.1(b) of the VET Provider Guidelines and paragraph 3.4.1(b) of the VET Administration Guidelines.

Paragraph 7.5.1(c), consolidates previous paragraph 6.4.1(c) of the VET Provider Guidelines and paragraph 3.4.1(c) of the VET Administration Guidelines.

Paragraph 7.5.1(d), consolidates previous paragraph 6.4.1(d) of the VET Provider Guidelines and paragraph 3.4.1(d) of the VET Administration Guidelines.

Paragraph 7.5.2, consolidates previous paragraph 6.4.2 of the VET Provider Guidelines and paragraph 3.4.3 of the VET Administration Guidelines.

Paragraph 7.5.3, previous paragraph 6.4.3 of the VET Provider Guidelines has been renumbered.

Paragraph 7.6, consolidates previous paragraph 6.5 of the VET Provider Guidelines and paragraph 3.3 of the VET Administration Guidelines.

Paragraph 7.6.1, consolidates previous paragraph 6.5.1 of the VET Provider Guidelines and paragraph 3.3.1 of the VET Administration Guidelines.

Subparagraph 7.6.1(d), previous paragraph 3.3.3 of the VET Administration Guidelines, has been reworded to clarify that a VET provider must provide the *census date* to each VET student enrolled in a unit of study *within five business days after the date of commence of the unit*.

Previous subparagraph 3.4.1(e) of the VET Administration Guidelines and paragraph 6.5.2 of the VET Provider Guidelines have been repealed due to restricted access arrangement requirements being relocated to subparagraph 7.6.1(d).

Paragraph 7.6.2, consolidates previous paragraph 6.5.3 of the VET Provider Guidelines and paragraph 3.4.4 of the VET Administration Guidelines.

Previous paragraph 3.4.5 of the VET Administration Guidelines has been repealed.

Paragraph 7.6.3, consolidates previous paragraph 6.5.4 of the VET Provider Guidelines and paragraph 3.4.6 of the VET Administration Guidelines.

Paragraph 7.6.4, previous paragraph 3.3.2 of the VET Administration Guidelines, has been renumbered and reworded to simplify and make clear what a VET provider must do to enable students to access information regarding census dates.

Chapter 8 Fees

Chapter 8 sets out the requirements relating to the matters or things for which fees may be charged. These provisions were previously contained in chapter 7 of the VET Provider Guidelines.

- 8.1 Sets out the *Purpose* of the chapter.
 - 8.1.1 Details the purpose of the chapter.
- 8.2 Sets out the *matters or things for which fees may be charged*.
 - 8.2.1 Specifies the criteria for determining whether a VET fee is incidental to studies and if a VET provider may charge a fee for that good or service.
- 8.3 Sets out the *fees for VET courses of study*.
 - 8.3.1 Limits the total amount of a VET fees for a course of study to the sum of a person's VET tuition fees for all VET units of study required to complete the VET course of study.
- 8.4 Sets out the *repayment of VET tuition fees*.
 - 8.4.1 Requires that a VET provider repay VET tuition fees where a person is no longer enrolled in a VET unit of study at the end of the census date.
 - 8.4.2 Specifies that a person is entitled to a repayment of VET tuition fees immediately upon ceasing to be enrolled in the VET unit of study, a VET provider must not require a person to apply for the repayment.
 - 8.4.3 Describes certain circumstances where the repayment requirement does not apply.

The specific amendments to the previous guidelines are as follows:

Chapter 8 was previously chapter 7, VET Fees in the VET Provider Guidelines.

Paragraphs 8.1, 8.1.1, 8.2, 8.2.1, 8.3, 8.3.1, 8.4, 8.4.1, 8.4.2 and 8.4.3, previous paragraphs 7.1, 7.1.1, 7.2, 7.2.1, 7.3, 7.3.1, 7.4, 7.4.1, 7.4.2 and 7.4.3 of the VET Provider Guidelines have been renumbered.

Chapter 9 Commonwealth Assistance Notice to Students

Chapter 9 sets out the requirements for notices that a VET provider must give to a person that receives VET FEE-HELP assistance. These provisions were previously contained in chapter 2 of the VET Administration Guidelines.

- 9.1 Sets out the *Purpose* of the chapter.
 - 9.1.1 Details the purpose of the chapter.
- 9.2 Sets out the *Notices that a VET provider must give to a person*.
 - 9.2.1 Requires that a VET provider give a notice to a person enrolled with a VET provider for a VET unit of study and who is seeking Commonwealth assistance.

9.3 Sets out the *Information that a notice must contain*.

9.3.1 – 9.3.5 Specifies information that must or can be contained in a notice, including information on the person's right to request the correction of information contained in the notice.

9.4 Sets out the *Period within which a notice must be given*.

9.4.1 Requires that a VET provider give a notice within 28 days of the census date indicated in the notice.

The specific amendments to the previous Guidelines are as follows:

New Chapter 9 was previously Chapter 2, Notice to Students in the VET Administration Guidelines.

Paragraphs 9.1, 9.1.1, 9.2, 9.2.1, 9.3, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.4 and 9.4.1, previous paragraphs 2.1, 2.1.1, 2.2, 2.2.1, 2.3, 2.3.1, 2.3.2, 2.3.3, 2.4, 2.3.5, 2.4 and 2.4.1 of the VET Administration Guidelines have been renumbered.

Chapter 10 Electronic Communication

Chapter 10 sets out requirements relating to information systems used by students to give documents to their VET provider and for systems used by VET providers to give notices to students. This chapter also specifies the methods that may be used by students to identify themselves to their VET provider and indicate their approval of electronic documents. These provisions were previously contained in chapter 4 of the VET Administration Guidelines.

10.1 Sets out the *Purpose* of the chapter.

10.1.1 Details the purpose of the chapter.

10.2 Sets out the *Information technology requirements*.

10.2.1 Specifies requirements for the information system to communicate notices or documents electronically from students to VET providers. It includes details of the kinds of electronic communications and the requirements of the information system regarding accessibility, security, storage, identification where required and printable receipt verification.

10.2.2 Specifies requirements relating to the electronic communication of notices or other documents given by a VET provider to a student. It includes details of the kinds of electronic communications and provisions for students to be informed and given authority to use the system and for storage and accessibility of the notices or documents.

10.3 Sets out the *Electronic communication requirements*.

10.3.1 – 10.3.3 Requires VET providers ensure that where a student is enabled to provide a signed communication electronically, that it must be done by a method that includes the student being able to individually identify themselves.

The specific amendments to the previous Guidelines are as follows:

Chapter 10 was previously chapter 4, Electronic Communications in the VET Administration Guidelines.

Paragraphs 10.1, 10.2, 10.2.1, 10.2.2, 10.3, 10.3.1, 10.3.2 and 10.3.3 previous paragraphs 4.1, 4.1.1, 4.2, 4.2.1, 4.2.2, 4.3, 4.3.1, 4.3.2 and 4.3.3 of the VET Administration Guidelines, have been renumbered.

Statement of Compatibility with Human Rights

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

VET 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 Guidelines* (the Guidelines) are made under subsection 99(1) of Schedule 1A to the *Higher Education Support Act 2001* (the Act). This instrument revokes the previous VET Provider Guidelines, VET FEE-HELP Guidelines and VET Administration Guidelines and makes the VET Guidelines. The previous provisions have been revoked and the new VET Guideline made due to the *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012*.

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. This Instrument contains streamlining measures to improve the accessibility, clarity and transparency of the VET FEE-HELP Scheme's administrative requirements and better support applicants, approved providers and other stakeholders to meet their obligations under the VET FEE-HELP Scheme.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument will improve accessibility, clarity and transparency of the VET FEE-HELP Scheme's administrative requirements and better support applicants, approved providers and other stakeholders to meet their obligations under the VET FEE-HELP Scheme. This will lead to persons having more choice to further their educational opportunities.

Right to Privacy

This Legislative Instrument engages the right to privacy contained in Article 17 of the ICESCR. The Guidelines set out a range of information technology requirements for the electronic communication of information and documents between VET students and VET providers. The Guidelines also set out the requirements for electronic communications from a VET student to a VET provider, to enable unique identification of the VET student in an electronic form. Methods that may be used by VET students to identify themselves and indicate their approval of information which is communicated electronically are also included.

To the extent that any of the information exchanged contains personal information, it will be subject to protection under the Act. The Act is consistent with the *Privacy Act 1988* and includes the requirement that providers comply with the information privacy principles in the *Privacy Act 1988*. The Act also includes the use of penalties where an officer uses personal information acquired in the course of their official employment for purposes other than their official employment.

To the extent that the right to privacy is engaged, it is not limited by the Instrument as the protections in place are consistent with the way in which personal information is collected and protected under the *Privacy Act 1988*.

Conclusion

This Legislative Instrument is compatible with human rights because it advances the protection of human rights.