

EXPLANATORY STATEMENT

TRADE SUPPORT LOANS ACT 2014

TRADE SUPPORT LOANS PRIORITY LIST 2014

Issued by authority of the Minister for Industry

Subject: *Trade Support Loans Act 2014*
Trade Support Loans Priority List 2014

AUTHORITY

Section 105 of the *Trade Support Loans Act 2014* (the Act) requires the Minister for Industry to establish and maintain a list to be known as the ***TSL Priority List*** (the List) which specifies either (or both) the occupations and the qualifications for which, in the opinion of the Minister, skilled persons are a priority.

The ***TSL Priority List*** is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA).

For the purposes of subsection 14(2) of the LIA, subsection 105(2) of the Act allows the List to incorporate material in another instrument (whether or not a legislative instrument) as that instrument exists from time to time. In accordance with subsection 105(2) of the Act, the lists known as the National Skills Needs List and the TSL Qualifications List are incorporated as they exist from time to time.

Copies of the National Skills Needs List can be obtained from www.industry.gov.au.

Copies of the TSL Qualifications List can be obtained from www.industry.gov.au.

CONSULTATION

This TSL Priority List will have strict criteria and will reflect occupations that are seen to be priority occupations determined through labour market evidence and in consultation with industry.

The Department of Industry has consulted with the Office of Best Practice Regulation and they have advised that a Regulation Impact Statement is not required for the List.

COMMENCEMENT

The List commences on the day after registration.

OVERVIEW OF THE TRADE SUPPORT LOANS PRIORITY LIST 2014

1. Name of List

Clause 1 establishes the names this legislative instrument as the TSL Priority List.

2. Commencement

Clause 2 provides that the List will commence on the day after registration.

3. Authority

Clause 3 provides that the List is made under the *Trade Support Loans Act 2014*.

4. Definitions

Clause 4 defines certain terms that are used in the List.

5. List of occupations for which skilled persons are a priority (the Act, ss 105(1)(a))

Clause 5 provides that, for paragraph 105(1)(a), the list of occupations for which skilled persons are a priority is specified.

In accordance with subsection 105(2) of the Act, the National Skills Needs List, which lists the occupations specified under clause 5, is incorporated as it exists from time to time.

Copies of the National Skills Needs List can be obtained from www.industry.gov.au.

6. List of qualifications leading to occupations for which skilled persons are a priority (the Act, ss 105(1)(b))

Clause 6 provides that, for paragraph 105(1)(b), the list of qualifications leading to occupations for which skilled persons are a priority is specified.

In accordance with subsection 105(2) of the Act, the TSL Qualifications List, which lists the qualification specified under clause 6, is incorporated as it exists from time to time.

Copies of the TSL Qualifications List can be obtained from the website of the Department of Industry (www.industry.gov.au).

7. Provision for matters of an application or transitional nature (the Act, ss 105(3))

Clause 7 provides that:

- (1) Where a qualification has been added to the List after the commencement date or recommencement date of a person's apprenticeship, a person can make an application for trade support loan.
- (2) Where a qualification has been removed from the List, but a person undertaking that qualification had lodged an application for trade support loan that was not determined before the removal of the qualification, the person will be taken to satisfy paragraph 8(2)(a)(ii) of the Act.
- (3) Where a qualification is removed from the List and the Secretary has:
 - (i) made determination granting a person's application for trade support loan that is in effect; or
 - (ii) previously made a determination granting the person's application for trade support loan

the person can continue to make subsequent applications for trade support loan for subsequent instalment periods for that qualification for the remainder of their apprenticeship (including any recommencement), and the person will be taken to have satisfied subparagraph 8(2)(a)(ii) of the Act.

- (4) Where a qualification is removed from the List, a person who commenced this qualification after the removal date will be taken not to satisfy paragraph 8(2)(a)(ii) of the Act if they make an application for trade support loan in respect of the qualification after the removal date.

Statement of Compatibility with Human Rights

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

Trade Support Loans Priority List 2014

Overview of the Legislative Instrument

The *Trade Support Loans Priority List 2014* (the List) is made by the Minister under section 105 of the *Trade Support Act 2014* (the Act). Trade Support Loans is an income-contingent loan program to assist eligible apprentices during the course of their apprenticeships.

The List provide for occupations or qualifications for which skilled persons are a priority. Furthermore, the List provides for matters of a transitional nature in relation to the addition, removal or modification of specified occupations or qualificaitons.

Human right implications

The List engages the following human rights:

Right to education

These Rules engage the right to education contained in Article 13 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*.

In particular, Article 13(2)(b) states that secondary education, 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.

The List will promote an individual's right to education by providing access to financial assistance, under the loans, during an apprenticeship. The loans are designed to help apprentices with the everyday living expenses associated with training (technical and vocational education). This will improve the accessibility of technical and vocational education, as individuals need not miss out on enrolment due to the prospect of financial difficulties in undertaking an apprenticeship.

The fact that the loans are repayable once the person reaches a particular income threshold will not limit a person's right to education.

Right to equality and non-discrimination

The right to equality and non-discrimination is protected in Articles 2 and 26 of the *International Covenant on Civil and Political Rights (ICCPR)*.

Article 2(1) of the ICCPR obligates each State party to respect and ensure to all persons within its territory and subject to its jurisdiction the rights recognised in the Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status¹.

¹ CCPR, General Comment No. 18.

Article 26 of the ICCPR not only entitles all persons to equality before the law as well as equal protection of the law, but also prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status².

While the Bill limits access to the loans based on an individual's status as an Australian resident and that they are engaged in an eligible apprenticeship, these requirements are compatible with the nature of the ICCPR rights and solely for the purpose of promoting general welfare, as permitted by the Committee on Economic, Social and Cultural Rights in its commentary on differential treatment.³ Therefore, the List does not restrict any person's right to equality and non-discrimination as contained in Articles 2 and 26 of the ICCPR.

Conclusion

The List is compatible with human rights. To the extent they may have limited impact on a person's access to education, an adequate standard of living or the right to equality and non-discrimination, the limitation is reasonable, proportionate to the policy objective and for legitimate reasons.

**Minister for Industry,
the Honourable Ian MacFarlane MP**

² CCPR, General Comment No. 18.

³ CESCR, General Comment No 20.