Higher Education Support (VET) Guideline 2015

made under the *Higher Education Support Act 2003*.

Compilation No. 2

Compilation date:	1 January 2020
Includes amendments up to:	F2018L01827

Prepared by Department of Education and Training

About this compilation

This compilation

This is a compilation of the *Higher Education Support (VET) Guideline 2015* that shows the text of the law as amended and in force on 1 January 2020 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This is the *Higher Education Support (VET) Guideline 2015*.

3 Authority

This instrument is made under the *Higher Education Support Act 2003*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act.

In this instrument:

academic matters includes matters relating to student progress, assessment, curriculum and awards in a VET course of study.

Act means the *Higher Education Support Act 2003*.

ADI means an authorised deposit-taking institution within the meaning of the *Banking Act 1959*.

affected unit has the meaning given by paragraph 16(2)(b).

agent or associate has the meaning given by section 27.

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* as applied under Subdivision A of Division 2 of Part XI of that Act.

Australian Core Skills Framework means the document that:

(a) is made by the Department; and

(b) sets out the national framework for foundation skills that assists specialist and non-specialist English language literacy and numeracy practitioners describe an individual's performance in the 5 core skills of learning, reading, writing, oral communication and numeracy;

as the document exists on 1 January 2016.

Note: The document could in 2015 be viewed on the Department's website (www.education.gov.au).

ceases to provide an eligible VET course of study has the meaning given by section 13.

cold-calling has a meaning affected by subsection 25(4).

Commonwealth assistance notice has the meaning given by section 80.

eligible VET course of study: a VET course of study is an ***eligible VET course of study*** if each of the VET units of study forming part of the course meet the course requirements for VET FEE-HELP assistance under clause 45 of Schedule 1A to the Act.

exempt body means a body that, under subclause 8(1) or 20(2) of Schedule 1A to the Act, is exempt from complying with the VET tuition assurance requirements.

full fee-paying student has the meaning given by subsection 45(2).

National Partnership Agreement on Skills Reform means the National Partnership Agreement on Skills Reform signed by the Council of Australian Governments on 13 April 2012, as in force on 1 January 2016.

non-academic matters includes:

(a) matters relating to a VET provider that do not relate to student progress, assessment, curriculum or awards in a VET course of study; and

(b) complaints relating to personal information that a VET provider holds in relation to a student enrolled as a VET student in a VET unit of study with the VET provider.

NVETR Act means the *National Vocational Education and Training Regulator Act 2011*.

registered business name means a business name registered on the Business Names Register under the *Business Names Registration Act 2011*.

replaced unit means a VET unit of study:

(a) in which a student was enrolled as a VET student with a VET provider; and

(b) that has been replaced by a replacement unit.

replacement unit means a VET unit of study:

(a) in which a student is enrolled as a VET student with a second provider; and

(b) that replaces a VET unit of study in which the student was enrolled as a VET student with a VET provider.

second provider has the meaning given by paragraph 9(5)(a).

special admissions test means:

(a) a test to determine the suitability of a person seeking admission into a specialist VET course of study that is necessary to establish the suitability of the person for admission into that course, and includes specialist auditions, tests and interviews that are different from the normal requirements for admission; but

(b) does not include a test used for the purposes of Division 5 of Part 4 (about the student entry procedure).

Standards for NVR Registered Training Organisations has the same meaning as in the NVETR Act.

statement of VET tuition assurance has the meaning given by section 16.

statement of VET tuition assurance exemption has the meaning given by subsection 20(1).

subsidised student has the meaning given by subsection 46(3).

subsidising State or Territory has the meaning given by paragraph 46(3)(a).

VET course assurance guarantor has the meaning given by paragraph 9(2)(c).

VET course assurance option has the meaning given by subsections 9(3) to (5).

VET course assurance TAS operator means a body mentioned in subparagraph 9(2)(a)(i).

VET FEE-HELP invoice notice has the meaning given by section 79.

VET FEE-HELP loan fee, for a VET unit of study, means an amount equal to so much of the VET FEE-HELP debt worked out (or that could be worked out) under subsection 137-18(2) of the Act for the unit as exceeds the loan (or possible loan) referred to in that subsection.

VET repayment guarantor has the meaning given by paragraph 10(2)(c).

VET repayment TAS operator means a body mentioned in subparagraph 10(2)(a)(i).

VET student: a student is enrolled as a ***VET student*** in a VET unit of study with a VET provider if the student is entitled to VET FEE-HELP assistance under clause 43 of Schedule 1A to the Act for the unit.

VET tuition assurance administrator means a body mentioned in subsection 9(2) or paragraph 10(2)(a) or (c) (other than students or the first body).

VET tuition assurance arrangement means an arrangement covered by subsection 9(2) or 10(2).

VET tuition assurance scheme means a scheme covered by both paragraphs 9(2)(a) and 10(2)(a).

VET tuition fee repayment option has the meaning given by subsections 10(3) to (7).

Note: This is the option referred to in paragraph 51(1)(d) of Schedule 1A to the Act.

written VET tuition assurance offer has the meaning given by section 19.

vulnerable person includes:

(a) a person with a physical or intellectual disability or a physical or mental illness; and

(b) a person who suffers social or financial hardship; and

(c) a person who cannot communicate, or has difficulty communicating, in English; and

(d) a person who is otherwise disadvantaged.

Part 2—Approval as a VET provider

6 Specified kinds of bodies

For the purposes of paragraph 6(1A)(a) of Schedule 1A to the Act, the kinds of bodies are those established to provide vocational education or vocational training under any of the following laws (as in force on 1 January 2016):

(a) the *Technical and Further Education Commission Act 1990* (NSW);
(b) the *Education and Training Reform Act 2006* (Vic.);
(c) the *TAFE Queensland Act 2013* (Qld);
(d) the *Vocational Education and Training Act 1996* (WA);
(e) the *TAFE SA Act 2012* (SA);
(f) the *Training and Workforce Development Act 2013* (Tas.);
(g) the *Canberra Institute of Technology Act 1987* (ACT).

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Part 3—Tuition assurance

Division 1—Preliminary

7 Purpose

This Part sets out the requirements for VET tuition assurance for the purposes of clause 7 of Schedule 1A to the Act.

Note 1: These requirements are relevant as:

(a) requirements a body must fulfil to be approved under clause 6 of that Schedule as a VET provider; and

(b) requirements a VET provider must continue to comply with under subclause 20(1) of that Schedule.

Note 2: Some related matters in Division 6:

(a) impose obligations on an exempt body, such as collecting information about students enrolled in VET units of study with the exempt body; and

(b) impose obligations on a VET provider in its capacity as a second provider; and

(c) set out matters relevant to re-crediting a student's HELP balance under subclause 46(2) of Schedule 1A to the Act.

8 Requirements for VET tuition assurance

(1) These requirements have 4 parts:

(a) the VET course assurance requirements (see Division 2); and

(b) the VET tuition fee repayment requirements (see Division 3); and

(c) the general requirements (see Division 4); and

(d) the administrative and activation requirements (see Division 5).

Note: Exempt bodies do not need to comply with these requirements.

(2) Some related matters are in Division 6.

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Division 2—VET course assurance requirements

9 VET course assurance requirements

(1) To meet the VET course assurance requirements, a body (the ***first body***) must demonstrate to the Secretary's satisfaction that:

(a) it has in place one or more arrangements of a kind described in subsection (2); and

(b) those arrangements are sufficient to cover all students enrolled as VET students in VET units of study with the first body at any time.

(2) The kinds of arrangements are as follows:

(a) membership of a VET tuition assurance scheme that:

(i) is operated by the Australian Council for Private Education and Training or TAFE Directors Australia; and

(ii) is capable of ensuring that the VET course assurance option can be successfully implemented for students enrolled as VET students in VET units of study with the first body;

(b) a legally-binding agreement with one or more bodies that:

(i) are VET providers, or become VET providers within 12 months after the first body is approved as a VET provider; and

(ii) are capable of making all necessary arrangements to ensure that the VET course assurance option can be successfully implemented for students enrolled as VET students in VET units of study with the first body; and

(iii) have the necessary financial and administrative resources to fulfil all such arrangements;

(c) a legally-binding guarantee provided by a body corporate (a ***VET course assurance guarantor***) that it:

(i) is capable of making all necessary arrangements to ensure that the VET course assurance option can be successfully implemented for students enrolled as VET students in VET units of study with the first body; and

(ii) has the necessary financial and administrative resources to fulfil all such arrangements.

This subsection has effect subject to subsection 12(1) (about corporate separation).

VET course assurance option

(3) Subsections (4) and (5) provide for the ***VET course assurance option***.

(4) Subsection (5) applies for a student if:

(a) the first body ceases to provide an eligible VET course of study (the ***first course***) at a particular time, and as a result ceases to provide a VET unit of study that forms part of the course; and

(b) the student is enrolled as a VET student in the unit at that time with the first body; and

(c) the student chooses the option described in subsection (5) for the unit.

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Section 9

(5) The student:

(a) must be able to enrol in a similar eligible VET course of study that leads to the same or a comparable VET qualification with another VET provider (the ***second provider***); and

(b) must receive from the second provider for any successfully completed VET units of study undertaken with the first body as part of the first course:

(i) full credit towards the same or comparable VET qualification; or

(ii) as much credit as possible towards the same or comparable VET qualification if the Secretary agrees with the second provider that the first course was of such a specialised nature that full credit transfer cannot be arranged; and

(c) must not be required to:

(i) pay the second provider a VET tuition fee for any replacement unit; nor

(ii) give the second provider a request for Commonwealth assistance in relation to any replacement unit.

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Division 3—VET tuition fee repayment requirements

10 VET tuition fee repayment requirements

(1) To meet the VET tuition fee repayment requirements, a body (the ***first body***) must demonstrate to the Secretary's satisfaction that:

(a) it has in place one or more arrangements of a kind described in subsection (2); and

(b) those arrangements are sufficient to cover all students enrolled as VET students in VET units of study with the first body at any time.

(2) The kinds of arrangements are as follows:

(a) membership of a VET tuition assurance scheme that:

(i) is operated by the Australian Council for Private Education and Training or TAFE Directors Australia; and

(ii) is capable of ensuring that payments can be made under the VET tuition fee repayment option for students enrolled as VET students in VET units of study with the first body;

(b) an agreement, offered by the first body to a student enrolled as a VET student in a VET unit of study with the first body, under which the student pays in arrears the VET tuition fees for the unit;

(c) a legally-binding guarantee provided by a body corporate (a ***VET repayment guarantor***) that it:

(i) is capable of making all necessary arrangements to ensure that all payments can be made under the VET tuition fee repayment option for students enrolled as VET students in VET units of study with the first body; and

(ii) has the necessary financial and administrative resources to fulfil all such arrangements.

This subsection has effect subject to subsection 12(1) (about corporate separation).

VET tuition fee repayment option

(3) Subsections (4) to (7) provide for the ***VET tuition fee repayment option***.

(4) Subsections (5) to (7) apply for a student if:

(a) the first body ceases to provide an eligible VET course of study at a particular time, and as a result ceases to provide a VET unit of study that forms part of the course; and

(b) the student is enrolled as a VET student in the unit at that time with the first body; and

(c) the student does not have an agreement to pay in arrears the VET tuition fees for the unit; and

(d) the student chooses the option described in subsections (5) to (7) for the unit.

(5) Within 20 business days (or within such longer period as the Secretary allows) the first body must:

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(a) re-credit the student's HELP balance in respect of the unit as required under subclause 51(1) of Schedule 1A to the Act; and

(b) notify its VET repayment TAS operator or VET repayment guarantor (as applicable) of this as soon as possible.

Note: If the first body is unable to re-credit the student's HELP balance, the Secretary may re-credit it under subclause 51(2) of Schedule 1A to the Act, and will notify the VET repayment TAS operator or VET repayment guarantor (as applicable) of this.

(6) The VET repayment TAS operator or VET repayment guarantor (as applicable) must (under the arrangements described in subsection (2)):

(a) pay to the student the total of any VET tuition fee payments already paid to the first body for that unit (other than any payments received from the Commonwealth); and

(b) pay to the Commonwealth an amount equal to the sum of any amounts paid for that unit by the Commonwealth to the first body in discharge of the student's VET tuition fees for that unit.

(7) That operator or guarantor (as applicable) must (under those arrangements) make these payments within 10 business days of being notified of the re-crediting of the student's HELP balance in respect of the unit.

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Division 4—General requirements

11 General requirements

To meet the general requirements, a body (the ***first body***) must meet the requirements in this Division.

12 Requirement for corporate separation

Requirement for corporate separation

(1) The relationship between the first body and each of its VET tuition assurance administrators must be such that at all times:
  (a) each is a separate legal person from the others; and
  (b) none is related to any of the others within the meaning of section 50 of the *Corporations Act 2001*; and
  (c) none is an associated entity of any of the others within the meaning of section 50AAA of that Act; and
  (d) none is in a position to control any of the others within the meaning of section 50AA of that Act; and
  (e) none has half or more of the same directors or officers as any of the others, where ***director*** and ***officer*** have the meanings given to them by section 9 of that Act.

If that requirement is breached

(2) If at any time the relationship between the first body and any of its VET tuition assurance administrators ceases to comply with subsection (1), the first body must:
  (a) notify the Secretary to that effect in writing as soon as possible; and
  (b) include with that notification either a proposal for changed VET tuition assurance arrangements that comply with subsection (1), or a proposal that is additional to the existing VET tuition assurance arrangements, for the Secretary's approval.

Secretary can approve a proposal to fix the breach

(3) The Secretary may, in writing, approve a proposal included with that notification. If (and while) so approved, that relationship between the first body and the VET tuition assurance administrator is taken to comply with subsection (1).

Matters relevant to proposals

(4) For the purposes of paragraph (2)(b), if an additional proposal is included, this additional proposal must include:
  (a) detailed reasons for the non-compliance with subsection (1); and
  (b) detailed reasons explaining why the first body and the VET tuition assurance administrators are prevented from changing the relationship between them so as to comply with subsection (1); and

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(c) details of any proposed alternative arrangements between the first body and the VET tuition assurance administrators that, while not complying with subsection (1), are arrangements that the first body reasonably believes meet the remainder of the VET tuition assurance requirements.

(5) Without limiting subsection (4), the proposed alternative arrangements may include any or all of the following:

(a) a separate unconditional financial guarantee from a third person;

(b) a trust arrangement with an independent trustee;

(c) a trust account, with an ADI, specifically established for that purpose.

13 Meaning of *ceases to provide an eligible VET course of study*

The first body ***ceases to provide an eligible VET course of study*** to a student who is enrolled as a VET student in one or more VET units of study forming part of an eligible VET course of study with the first body if:

(a) all of the following apply:

(i) the course does not start on the day the course was scheduled to start, or on a later day agreed between the first body and the student;

(ii) the student has not withdrawn from the course before the day applying under subparagraph (i);

(iii) an arrangement has not previously been made between the first body and the student to undertake a suitable alternative VET course of study; or

(b) the first body commences providing the course to the student but, before the student completes the course, ceases to provide the course for any reason (other than that the student has withdrawn from the course); or

(c) the first body's approval as a VET provider has been suspended or revoked under the Act, and a determination under subclause 35(1) or 37(1) of Schedule 1A to the Act has not been made in respect of the course; or

(d) notice is served on the first body, or proceedings are taken, to:

(i) cancel the first body's incorporation, or registration, under the *Corporations Act 2001* or similar legislation; or

(ii) dissolve the first body as a legal entity; or

(e) the first body comes under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* or corresponding provisions in similar legislation, or an order has been made to place the first body under such external administration; or

(f) the first body ceases to be a registered training organisation listed on the National Register; or

(g) the Secretary declares under paragraph 14(2)(b) that the first body has ceased to provide the course.

14 Requirements that may amount to ceasing to provide a VET course of study

(1) The first body must, as soon as possible, give written notice of any of the following events (should they arise) to the first body's VET tuition assurance administrators and to the Secretary:

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(a) the first body fails to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*;
(b) the first body is unable to pay all of its debts when they become due;
(c) proceedings are initiated for an order for the first body's winding up;
(d) a shareholder, member or director of the first body convenes a meeting to consider a resolution for the first body's winding up.

(2) If the Secretary becomes aware (whether under subsection (1) or otherwise) that any of the events described in that subsection have arisen, or may arise, in relation to the first body, then:
(a) the first body must, within the period specified in writing by the Secretary, provide the Secretary with such information about the event that the Secretary reasonably requests in writing; and
(b) the Secretary may, after considering any information provided by the first body under paragraph (a), declare in writing that, for the purposes of this Part, the first body has ceased to provide one or more specified VET courses of study; and
(c) the Secretary must give a copy of the declaration to the first body and to the first body's VET tuition assurance administrators.

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Division 5—Administrative and activation requirements

15 Administrative and activation requirements

To meet the administrative and activation requirements, a body (the ***first body***) must meet the requirements in this Division.

16 Statement of VET tuition assurance—content

(1) The first body must make a ***statement of VET tuition assurance*** that clearly explains the VET tuition assurance requirements that the first body has in place for a student enrolled in each of its eligible VET courses of study if:
  (a) the first body ceases to provide the course; and
  (b) at that time, the student was enrolled as a VET student in a VET unit of study forming part of the course.

(2) Without limiting subsection (1), the statement must:
  (a) describe the nature of the VET tuition assurance arrangements that the first body has in place if the first body ceases to provide the course at a particular time; and
  (b) explain that, if that happens, the student will have the choice of the VET course assurance option, or the VET tuition fee repayment option, for each VET unit of study (each ***affected unit***) forming part of the course that the student is enrolled in at that time; and
  (c) explain that the VET course assurance option is an offer of a place in a similar VET course of study that:
    (i) comprises VET units of study that meet the requirements of subclause 45(1) of Schedule 1A to the Act; and
    (ii) is undertaken with a second provider without any requirement to pay the second provider any VET tuition fees for any replacement units; and
  (d) explain that the VET tuition fee repayment option involves:
    (i) refunding the student's up-front VET payments (if any) for any affected units; and
    (ii) re-crediting the student's HELP balance in respect of any affected units; and
  (e) if the student chooses the VET course assurance option and the first body's tuition assurance administrator is a second provider or a VET course assurance guarantor:
    (i) describe the nature of the similar VET course of study that would be offered to the student; and
    (ii) specify the name of the second provider that would be providing this similar course; and
    (iii) specify the VET qualification to which this similar course would lead and how much credit towards this similar course the student would receive for the VET units of study they have completed with the first body; and

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Note: This will be full credit unless the Secretary agrees otherwise (see paragraph 9(5)(b)).

(iv) explain that the VET tuition fees for the VET units of study for the similar course may be different from the VET tuition fees that were to be payable for the course the first body ceased to provide; and

(v) explain that the student is not obliged to enrol in the similar course under the VET course assurance option; and

(vi) explain that if the student elects to enrol with another VET provider that is not the second provider, the other VET provider is neither obliged to offer the full amount of credit for the VET units of study the student completed with the first body nor obliged to offer replacement units free of charge; and

(f) if the student chooses the VET course assurance option and the first body's tuition assurance administrator is a VET course assurance TAS operator:

(i) specify the name of the VET course assurance TAS operator; and

(ii) explain that the VET tuition fees for VET units of study with the second provider may be different from the VET tuition fees students would have paid for VET units of study that were part of the course the first body ceased to provide; and

(iii) explain that the student is not obliged to enrol in the similar course under the VET course assurance option; and

(iv) explain that if the student elects to enrol with another VET provider that is not the second provider, the other VET provider is neither obliged to offer the full amount of credit for the VET units of study the student completed with the first body nor obliged to offer replacement units free of charge.

17 Statement of VET tuition assurance—publishing and access

(1) The first body must clearly and prominently publish its statement of VET tuition assurance on its website.

(2) The first body must ensure that, when enrolling a student, the student is provided with clear information about how to access (on the first body's website) the statement of VET tuition assurance.

18 Keeping information for VET tuition assurance administrators and the Commonwealth

(1) The first body must keep up-to-date enrolment information on students enrolled as VET students in VET units of study with the first body. This information must include the information described in paragraphs 21(2)(a) to (f).

(2) The first body must ensure that, if one of its VET tuition assurance arrangements is activated, the information described in subsection (1) can be given to the Secretary and to the first body's VET tuition assurance administrators.

(3) The first body must ensure that each of its VET tuition assurance arrangements provides that, if it is activated, each VET tuition assurance administrator must:

(a) as soon as possible, seek to obtain the information described in subsection (1) from the first body; and

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(b) if such information is not readily available, make all reasonable efforts to fulfil the obligations that the VET tuition assurance administrator has assumed under the VET tuition assurance arrangement.

19 Written VET tuition assurance offer for VET students

The first body must ensure that each of its VET tuition assurance arrangements provides that:

(a) if:

(i) the first body ceases to provide an eligible VET course of study covered by the VET tuition assurance arrangement; and

(ii) at that time, a student is enrolled as a VET student in a VET unit of study forming part of the course;

the VET tuition assurance administrator for the course must provide the student with written advice (the ***written VET tuition assurance offer***) that the student may choose either the VET course assurance option or the VET tuition fee repayment option; and

(b) if the VET tuition assurance administrator is a second provider, the written VET tuition assurance offer must clearly make a direct offer of enrolment as described in paragraph 16(2)(e); and

(c) if the VET tuition assurance administrator is a VET course assurance guarantor, the written VET tuition assurance offer must clearly name the second provider and the similar VET course of study that the student may choose to enrol in as described in paragraph 16(2)(e); and

(d) if the VET tuition assurance administrator is a VET course assurance TAS operator, the written VET tuition assurance offer must clearly specify and explain the matters described in paragraph 16(2)(f); and

(e) if the VET tuition assurance administrator is a VET repayment TAS operator or VET repayment guarantor, the written VET tuition assurance offer must clearly make a direct offer of repayment as described in paragraph 16(2)(d); and

(f) the written VET tuition assurance offer must clearly:

(i) explain, and enclose, a copy of the first body's statement of VET tuition assurance; and

(ii) describe how to obtain an electronic copy of this written VET tuition assurance offer, including specifying how such a copy can be obtained from the first body; and

(iii) include directions that the student must follow in order to notify the first body, the VET tuition assurance administrator and the Secretary of the student's choice of the VET course assurance option or the VET tuition fee repayment option for each affected unit; and

(g) the VET tuition assurance administrator must provide the written VET tuition assurance offers within 20 business days after the day it knows, or should know by reasonable enquiries (including enquiries of the first body and of the Department), that the first body has ceased to provide the course.

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Division 6—Related matters

20 Related requirements for exempt bodies

Requirements for exempt bodies

(1) An exempt body must make a ***statement of VET tuition assurance exemption*** that clearly explains:
  (a) the exemption the body has been granted from fulfilling or complying with the VET tuition assurance requirements; and
  (b) what this means in the event that the body ceases to provide an eligible VET course of study.

(2) The exempt body must clearly and prominently publish its statement of VET tuition assurance exemption on its website.

(3) The exempt body must ensure that, when enrolling a student as a VET student in a VET unit of study with the exempt body, the student is provided with clear information about how to access (on the VET provider's website) the statement of VET tuition assurance exemption.

(4) The exempt body must keep up-to-date enrolment information on students enrolled as VET students in VET units of study with the exempt body.

Seeking to be an exempt body etc.

(5) A body may seek an exemption under subclause 8(1) of Schedule 1A to the Act, or a VET provider may seek a declaration under subclause 20(2) of that Schedule, by applying to the Minister in writing setting out the grounds why the exemption or declaration should be made.

21 Related requirements for second providers

(1) A VET provider in its capacity as a second provider must meet:
  (a) its obligations as a second provider under any legally-binding agreement referred to in paragraph 9(2)(b) that it is a party to; and
  (b) the requirements placed on a second provider under this Part.

Note: The requirements in this section apply to all second providers, including VET providers that are exempt bodies.

(2) A VET provider in its capacity as a second provider must keep up-to-date enrolment information on students enrolled as VET students in replacement units with the second provider. This information must include the following:
  (a) each student's full name and contact details;
  (b) the name of the VET course of study and the VET units of study in which each student is currently enrolled;
  (c) the amount of the VET tuition fees for each VET unit of study in which each student is currently enrolled;
  (d) details about the payment of those fees, including if they are to be paid upfront or involve amounts of VET FEE-HELP assistance;

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(e) details of any VET units of study successfully completed by each student with the VET provider;

(f) details of credits granted under paragraph 9(5)(b) by the VET provider as a second provider.

Students withdrawing from replacement units under special circumstances

(3) If a VET provider receives an application from a student under paragraph 46(2)(d) of Schedule 1A to the Act in relation to a replacement unit:

(a) that meets the course requirements under subclause 45(1) of that Schedule; and

(b) that is a unit in which the student is enrolled as a VET student with the VET provider in its capacity as a second provider; and

(c) that replaces a VET unit of study in which the student was enrolled with another VET provider (the ***first body***);

the second provider must:

(d) notify the first body and the Secretary of the application as soon as possible; and

(e) ensure that the up-to-date information kept by it under subsection (3) can be accessed by:

(i) the Commonwealth; and

(ii) the first body's VET tuition assurance administrators (for those administrators to meet their obligations under the relevant VET tuition assurance arrangements and this Part); and

(f) deal with the application in accordance with subclause 50(1) of that Schedule; and

(g) as soon as possible after having dealt with the application, notify the first body and the Secretary as to whether, in respect of the replacement unit, the second provider is satisfied that the requirements of subclause 46(2) of that Schedule are met.

Note: Under subclause 46(3) of Schedule 1A to the Act, the Secretary may act for certain purposes where the relevant VET provider is unable to do so, in which case the Secretary may give the notice referred to in paragraph (g) of this subsection.

(4) If a notice given under paragraph (3)(g) states that the second provider is satisfied that the requirements of subclause 46(2) of Schedule 1A to the Act are met:

(a) the second provider, the first body and the Secretary must liaise and do all things reasonably necessary to enable the re-crediting of the student's HELP balance in respect of the replaced unit within 20 business days after the second provider gives the notice; and

(b) the first body must as soon as possible after the re-crediting has been effected, notify its VET repayment TAS operator or VET repayment guarantor (as applicable) to that effect.

Note: Under subclause 46(3) of Schedule 1A to the Act, the Secretary may re-credit the student's HELP balance if the second provider is unable to do so, in which case the Secretary may give the notice referred to in paragraph (b).

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Part 4—Quality and accountability requirements

Division 1—Financial viability and quality

22 Financial viability requirements

(1) This section applies to a body (the ***first body***) unless it is:
  (a) a body covered by section 6 of this instrument; or
  (b) a Table A provider, Table B provider or Table C provider.

(2) For the purposes of paragraph 13(f) of Schedule 1A to the Act, other requirements for VET quality and accountability are that:
  (a) the first body must maintain a positive equity position while it is approved as a VET provider; and
  (b) the first body must not provide any new guarantees, or loans, that:
    (i) are made to any person or body; and
    (ii) could have a material effect on the first body's finances while it is approved as a VET provider; and
  (c) the first body must not offer its assets as security for the benefit of any other person or body while the first body is approved as a VET provider, except for a commercial loan arrangement with an ADI; and
  (d) if the first body had a total of at least 100 enrolments for:
    (i) its courses leading to awards of qualifications in the Australian Qualifications Framework; and
    (ii) its most recently completed annual financial reporting period;
  at least 20% of the first body's total revenue for that period must have been from sources other than payments of Commonwealth assistance that give rise to HELP debts.

Note: Conditions about financial matters could be imposed on a body's approval as a VET provider (see clause 12A of Schedule 1A to the Act). For example, a condition could be imposed requiring the body to maintain cash (or cash-equivalent assets) to a value equal to at least 25% of its total expenses in the previous annual financial reporting period.

23 Quality requirements

(1) This section is made for the purposes of subclause 17(2) of Schedule 1A to the Act.

Quality requirements for NVR registered training organisations

(2) The requirements relating to quality, for a VET provider that is an NVR registered training organisation (within the meaning of the NVETR Act), are as follows:
  (a) the Standards for NVR Registered Training Organisations, and the Quality Standards, within the meaning of the NVETR Act;
  (b) the Australian Qualifications Framework, to the extent that it relates to vocational education or vocational training.

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Quality requirements for other VET providers

(3) The requirements relating to quality, for a VET provider that is registered by an agency or authority of Western Australia or Victoria as a provider of vocational education or vocational training, are so much of the following as the conditions of that registration require the VET provider to meet:

(a) the standards referred to in paragraph (2)(a);

(b) the Australian Quality Training Framework;

(c) the Australian Qualifications Framework, to the extent that it relates to vocational education or vocational training.

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Division 2—Civil penalty provisions and inappropriate marketing etc.

24 Civil penalty provisions

A VET provider must not contravene a civil penalty provision.

Note: The VET provider must also take reasonable steps to ensure that none of its agents or associates contravenes provisions that are similar to some of the civil penalty provisions (see subsection 28(1)).

25 Inappropriate marketing etc.

(1) A VET provider must not contravene subsection (2) or (3).

Marketing etc. that suggests the availability of tablets or other things

(2) A person contravenes this subsection if:

(a) the person does any marketing, advertising or promoting that suggests that, if a person (the ***student***) enrols in a VET unit of study or a VET course of study, a thing will:

(i) be provided to the student or another person; or

(ii) be otherwise available for the student to use; and

(b) this suggestion would be reasonably likely to induce the student to:

(i) enrol in the unit or course; and

(ii) complete, sign and give an appropriate officer of a VET provider a request for Commonwealth assistance relating to the unit or course; and

(c) the student's use of the thing is required or necessary for the student to externally complete all or part of the unit or course (having regard to the learning objectives and outcomes of the unit or course).

Note: A VET provider must also take reasonable steps to ensure that none of its agents or associates contravenes this subsection (see subsection 28(1)).

Cold-calling etc.

(3) A person contravenes this subsection if:

(a) the person cold-calls another person when marketing, advertising or promoting a VET unit of study or VET course of study; and

(b) when doing so, or as a result of doing so, the first-mentioned person mentions the possible availability of VET FEE-HELP assistance (however described) for students undertaking the unit or course.

Note: A VET provider must also take reasonable steps to ensure that none of its agents or associates contravenes this subsection (see subsection 28(1)).

(4) ***Cold-calling*** includes making unsolicited contact with a prospective student:

(a) in person; or

(b) by telephone, email or other form of electronic communication.

Note: Some examples include making unsolicited contact with a prospective student:

(a) in person when the prospective student is leaving a Centrelink office; or

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(b) in person at the prospective student's residence when marketing from door-to-door; or
(c) by telemarketing.

Other requirements for marketing etc.

(5) A VET provider must ensure that all marketing, advertising or promoting of any of its VET units of study or VET courses of study clearly and prominently mentions:
(a) the VET provider's name, registered business name (if any), any other business name it uses; and
(b) the maximum VET tuition fees payable for the units or courses.

Note: This requirement extends to any marketing, advertising or promotion done by another person or body for the VET provider.

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Division 3—Agents or associates

26 VET providers must take reasonable steps to ensure their agents and associates act responsibly

The purpose of this Division is to ensure that VET providers take reasonable steps to ensure their agents and associates act responsibly.

27 Meaning of *agent or associate*

(1) A VET provider's ***agent or associate*** is any person who acts as agent for the VET provider.

(2) Without limiting subsection (1), the VET provider's ***agent or associate*** is also any person who acts, for financial gain or other benefit, on behalf of the VET provider to:

(a) market or promote the VET provider's VET courses of study; or

(b) recruit persons to apply to enrol in the VET provider's VET courses of study; or

(c) provide information or advice on the VET provider's VET courses of study; or

(d) provide information or advice on the VET FEE-HELP scheme; or

(e) accept an application to enrol from any person on the VET provider's behalf; or

(f) enrol any person on the VET provider's behalf; or

(g) refer a person to a VET provider for the purposes of enrolling the person in a VET course of study or VET unit of study; or

(h) provide career counselling to a person on the VET provider's behalf.

28 Actions of agents or associates

(1) A VET provider must take reasonable steps to ensure that none of its agents or associates contravenes any of the following provisions:

(a) subsection 25(2) or (3) (about inappropriate marketing etc.);

(b) subsection (3) or (4) of this section.

(2) Reasonable steps must include more than merely having an agreement with the agent or associate that complies with section 29.

Example: The VET provider could conduct regular audits of the agent's or associate's activities, and regularly ask questions of new students signed up by the agent or associate.

Agent or associate must not publish information suggesting that VET FEE-HELP assistance is not a loan etc.

(3) A person contravenes this subsection if:

(a) the person publishes information, or causes information to be published; and

(b) the information suggests:

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(i) that VET FEE-HELP assistance for a VET unit of study or VET course of study is not in the nature of a loan, or does not need to be repaid; or

(ii) if a student receives VET FEE-HELP assistance for such a unit or course, that the unit or course is free from any fees or charges.

Agent or associate must not directly or indirectly offer or provide inappropriate inducements

(4) A person contravenes this subsection if:

(a) the person:

(i) offers another person a benefit; or

(ii) provides another person with a benefit; or

(iii) causes another person to be offered or provided with a benefit; and

(b) the benefit would be reasonably likely to induce a person (the ***student***) to:

(i) enrol in a VET unit of study or VET course of study; and

(ii) complete, sign and give an appropriate officer of a VET provider a request for Commonwealth assistance relating to the unit or course; and

(c) the student receives VET FEE-HELP assistance for that unit or course.

(5) To avoid doubt, the person in paragraph (4)(a) who is offered, or provided with, the benefit need not be the student.

(6) Clause 39DD of Schedule 1A to the Act applies in relation to subsection (4) of this section in a corresponding way to the way that clause applies in relation to subclauses 39DC(1) and (2) of that Schedule.

29 Agreement with each agent or associate

(1) The VET provider must ensure that it has a written agreement, with another person, that is in force at all times while that person is the VET provider's agent or associate.

(2) A VET provider must ensure that the agreement with the agent or associate (the ***agent***) specifies:

(a) the responsibilities and requirements the agent must meet and comply with when acting on behalf of the VET provider; and

(b) the processes the VET provider is to use for monitoring how the agent acts on behalf of the VET provider; and

(c) termination conditions; and

(d) the remuneration or fees to be paid to the agent by the VET provider.

(3) Without limiting paragraph (2)(a), the agent's responsibilities and requirements must include the following:

(a) the agent must not contravene any provision mentioned in subsection 28(1);

(b) the agent must act in a manner consistent with the VET provider's obligations under the Act, this instrument and any other applicable law, and that the agent gives an undertaking to that effect;

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(c) the agent must not subcontract the agent's role described in the agreement;
(d) the agent must identify themselves as the VET provider's agent to each person the agent approaches on behalf of the VET provider;
(e) for each prospective student of the VET provider that the agent approaches in a way that does not involve cold-calling—the agent must disclose to the prospective student:
(i) the name of the VET provider that the prospective student's name would be referred to; and
(ii) the VET course of study to which the referral relates; and
(iii) that the agent will receive a fee or commission if the prospective student were to enrol with the VET provider; and
(iv) full, accurate and up-to-date information about VET FEE-HELP assistance.

(4) A VET provider must clearly and prominently publish on its website a list of all of its current and past agents or associates. The list must include, for each agent or associate, the period the agreement under subsection (1) with the agent or associate is in force.

30 Keeping material and making it available to the Minister

(1) A VET provider must keep a copy of the following material:
(a) each of its agreements under section 29 with one of its agents or associates;
(b) the name and contact details of that agent or associate;
until at least 5 years after the agreement ends.

(2) The VET provider must make this material available to the Minister at the time, and in the form and manner, requested by the Minister.

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Division 4—Providing information to prospective students etc.

31 Providing information to prospective students

(1) The purpose of this section is to ensure that persons seeking to enrol in a VET course of study:
  (a) are fully informed of the VET tuition fees that apply to the course; and
  (b) are clear about their responsibilities, obligations and rights if they request VET FEE-HELP assistance.

(2) Before enrolling a prospective student in a VET course of study, a VET provider must give the prospective student the following information:
  (a) all information required to be provided under any provision of the Standards for NVR Registered Training Organisations that relates to ensuring that each learner is properly informed and protected;

    Note: In 2015, the provision was Standard 5 of the *Standards for Registered Training Organisations (RTOs) 2015*.

  (b) the prospective student's options for paying their VET tuition fees, including the following payment options:
    (i) up-front payment;
    (ii) government loan through the provision of VET FEE-HELP assistance;
  (c) details of the eligibility criteria for VET FEE-HELP assistance;
  (d) the course's VET tuition fees for which VET FEE-HELP assistance may be available, and any other fees for which VET FEE-HELP is not available;
  (e) whether a VET FEE-HELP loan fee will apply for each VET unit of study forming part of the course, and if so the total of those loan fees, if the prospective student requests VET FEE-HELP assistance;
  (f) how to access (on the VET provider's website):
    (i) the VET tuition fees for the VET units of study forming part of the course; and
    (ii) the census dates for those units; and
    (iii) the VET provider's withdrawal procedure;
  (g) information about VET-FEE HELP assistance, including that:
    (i) VET FEE-HELP assistance is a loan from the Commonwealth; and
    (ii) this loan will remain as a personal debt obligation until it is repaid to the Commonwealth; and
    (iii) this loan may reduce a student's take-home (after-tax) wage or salary until the debt is repaid, and may reduce the student's borrowing capacity until the debt is so repaid; and
    (iv) giving a request for Commonwealth assistance can trigger this loan for the entire VET course of study, charged on a unit by unit basis, unless the student pays some of the VET tuition fees; and
    (v) a census date will apply to each of the VET units of study forming part of the course, and in which the student enrols, with this loan covering any VET tuition fees that remain unpaid at the end of each census date; and

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(vi) a student may cancel the student's enrolment by withdrawing from each VET unit of study forming part of the course on or before the census dates for those units, and in accordance with the VET provider's withdrawal procedure; and

(vii) such a withdrawal will result in the student not incurring a VET FEE-HELP debt and receiving a refund for any up-front VET payments made on or before those census dates; and

(viii) a student may wish to seek independent financial advice before requesting VET FEE-HELP assistance.

(3) A VET provider must:

(a) retain, for at least 5 years, a record of all information given to each prospective student under subsection (2); and

(b) must make these records available to the Minister at the time, and in the form and manner, requested by the Minister.

32 Withdrawing from a VET unit of study etc.

(1) A VET provider must clearly and prominently publish on its website its procedure for:

(a) a student to withdraw from a VET unit of study undertaken with the VET provider; and

(b) a student to enrol in a VET unit of study with the VET provider, in a case where the student had earlier withdrawn from a VET unit of study undertaken with the VET provider.

(2) A VET provider must not have financial, administrative or other barriers to a student withdrawing from the unit before the unit's census date.

Note: A consequence of this subsection is that the VET provider's withdrawal procedure published under subsection (1) must not contain any of these barriers.

(3) If:

(a) a student is enrolled in a VET unit of study forming part of a VET course of study with a VET provider; and

(b) the student withdraws from the unit;

the VET provider:

(c) must not, after the withdrawal, enrol the student in a further VET unit of study without the student's written permission given after the withdrawal; and

(d) must confirm with the student whether the student wishes to continue any enrolment in any other VET unit of study forming part of the course.

Note: A VET provider contravenes a civil penalty provision if it refuses certain withdrawal requests, or charges a fee etc. for doing so (see clauses 39DF and 39DG of Schedule 1A to the Act). Contravening a civil penalty provision is also a contravention of the requirement in section 24 of this instrument.

33 Requests for Commonwealth assistance

(1) The purpose of this section is to ensure that students are allowed time to fully consider the implications and responsibilities associated with requesting VET FEE-HELP assistance.

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(2) A VET provider must document and keep accurate records of enrolments and requests for Commonwealth assistance, including:

(a) the day and time a person enrols in a VET course of study or a VET unit of study; and

(b) the day and time the person gives an appropriate officer of the VET provider a request for Commonwealth assistance in relation to the course or a VET unit that forms a part of the course.

(3) A VET provider must:

(a) retain, for at least 5 years, all records required to be kept under subsection (2); and

(b) must make these records available to the Minister at the time, and in the form and manner, requested by the Minister.

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Division 5—Student entry procedure

34 Purpose

This Division is made for the purposes of clause 23B of Schedule 1A to the Act.

35 VET courses of study to which student entry procedures must set out requirements etc.

(1) A VET provider must make a student entry procedure setting out requirements and matters relating to qualifying VET courses undertaken with the VET provider.

(2) The student entry procedure need not set out any requirements or matters relating to other kinds of VET courses of study.

36 Publication requirements

A VET provider's student entry procedure must be published on the provider's website in such a way that:

(a) the procedure can be accessed by clicking:
  (i) no more than 2 links from the VET provider's home page; and
  (ii) a single link from the home page for each qualifying VET course; and

(b) each link to the procedure is short, clearly visible and includes the words "student entry procedure".

37 When a student is academically suited

(1) A VET provider's student entry procedure must specify that a student is academically suited to undertake a particular VET course of study if:

(a) the student satisfies one of the requirements in subsection (2); and

(b) the student satisfies any other specified entry requirements for the VET course of study; and

(c) the VET provider reasonably believes that the student is academically suited to undertake the VET course of study.

Note 1: The other specified entry requirements could include any prior education qualifications the provider considers are needed for a student to be academically suited to undertake the course.

Note 2: A VET provider must comply with its student entry procedure (see subclause 23B(2) of Schedule 1A to the Act).

(2) For the purposes of paragraph (1)(a), the requirements are that:

(a) the VET provider obtains a copy of a Senior Secondary Certificate of Education that has been awarded to the student by an agency or authority of a State or Territory for the student's completion of year 12; or

(b) both:
  (i) the student is assessed as displaying competence at or above Exit Level 3 in the Australian Core Skills Framework in both reading and numeracy; and

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(ii) the VET provider reasonably believes that the student displays that competence.

38 How to assess whether a student is academically suited

(1) For the purposes of subparagraph 37(2)(b)(i), a VET provider's student entry procedure must:

(a) describe the process (including the tools) for validly and reliably assessing a student's competence in reading and numeracy against the Australian Core Skills Framework; and

(b) specify one of the following as a tool to be used as part of that process:

(i) the software platform titled *Core Skills Profile for Adults*, published by the Australian Council for Educational Research Limited in July 2013, as the platform exists on 1 January 2016;

(ii) the title of a tool approved under subsection (2) for the VET provider; and

(c) require that process to be conducted with honesty and integrity.

Note: The platform mentioned in subparagraph (b)(i) was in 2015 available on that Council's website (www.acer.edu.au).

(2) The Minister may, on application by a VET provider in a form approved by the Minister, approve a tool for assessing a student's competence in reading and numeracy if the Minister is satisfied:

(a) that the tool is a valid, reliable, fair and well-constructed way of assessing whether that competence is at or above Exit Level 3 in the Australian Core Skills Framework; and

(b) that the VET provider has had the tool appropriately, and independently, verified and evaluated using evidence-based assessment.

Note: A decision refusing to approve a tool is reviewable under Part 11.

(3) In approving a tool under subsection (2), the Minister must have regard to the document titled *Assessment of LLN testing instruments and processes for VET FEE-HELP providers*, published by the Department in December 2015, as the document exists on 1 January 2016.

Note 1: A consequence of this subsection is that the person or body verifying and evaluating a tool as described in paragraph (2)(b) will also need to have regard to this document.

Note 2: This document could in 2015 be viewed on the Department's website (www.education.gov.au).

(4) A fee may be charged by a person or body for the use of a tool referred to in paragraph (1)(b).

Note: A person or body verifying and evaluating a tool as described in paragraph (2)(b) could also decide to charge the VET provider a fee for doing so.

39 Results of assessments

(1) A VET provider's student entry procedure must specify that the results of assessing a student's competence in reading and numeracy under the procedure are to be reported:

(a) to the student as soon as practicable after the assessment; and

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(b) to the Secretary in the form, manner and by the time requested by the Secretary.

(2) A VET provider's student entry procedure must specify that the VET provider must retain these results for at least 5 years.

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Division 6—Compliance with plans for resolving audit concerns

40 Compliance with plans for resolving audit concerns

If the suspension of a body's approval as a VET provider under subclause 36(5) of Schedule 1A to the Act is partly of no effect (see subclause 37(6) of that Schedule), the body must comply with any plan that:

(a) is agreed between the provider and the Commonwealth; and

(b) is about resolving the concerns identified by the audit that led to that suspension.

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Part 5—Student fairness

41 Equal benefits and opportunity requirements

(1) This section is made for the purposes of clause 18 of Schedule 1A to the Act.

(2) A VET provider must treat equally and fairly all students seeking to enrol as VET students in VET units of study with the VET provider.

(3) A VET provider must have open, fair and transparent procedures that the VET provider reasonably believes are based on merit for making decisions about:
  (a) the selection of students seeking to enrol as VET students in VET units of study with the VET provider; and
  (b) the treatment of such students.

(4) Subsection (2) does not prevent a VET provider from taking into account:
  (a) any education disadvantages a particular student has experienced, provided that the student meets the entry procedure requirements under clause 45B of Schedule 1A to the Act for the VET unit of study; or
  (b) that a student may be enrolled in the VET unit of study in accordance with a VET restricted access arrangement applying to the VET course of study of which the unit forms part.

(5) To avoid doubt, if it is necessary to provide a particular benefit to a student in order for the student to receive equal and fair treatment, then this Part does not prevent a VET provider from providing the student with that benefit.

Example: The VET provider provides the student with a scholarship as a way for the student to receive equal and fair treatment.

(6) Subsection (5) does not limit section 24 (about not contravening civil penalty provisions).

Note: One of those civil penalty provisions (clause 39DC of Schedule 1A to the Act) deals with inappropriate inducements.

42 Student grievance requirements—grievance procedure

(1) This section is made for the purposes of clause 19 of Schedule 1A to the Act.

(2) A VET provider must have a grievance procedure to deal with:
  (a) complaints from its students about academic matters and non-academic matters; and
  (b) complaints from prospective students about non-academic matters.

(3) The grievance procedure must:
  (a) be clearly and prominently published on the VET provider's website; and
  (b) clearly set out the stages of the procedure; and
  (c) encourage the timely resolution of complaints, including by specifying reasonable periods for dealing with each stage of the procedure; and
  (d) contain the internal and external stages referred to in subsections (4) and (5); and

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(e) clearly provide that there is no charge for the internal stage, and that any charges for the external stage will be reasonable.

(4) The internal stage of the grievance procedure must include:

(a) a process for the lodging and hearing of a formal complaint; and

(b) a requirement for written notice of a decision on the formal complaint to be given to the complainant, with the notice to include:

(i) the reasons for the decision; and

(ii) advice about how to appeal the decision; and

(c) a process for appealing the decision to an independent senior officer of the VET provider, or to an internal committee or unit with appropriate expertise; and

(d) a requirement for written notice of the decision on appeal to be given to the appellant, with the notice to include:

(i) the reasons for the decision; and

(ii) advice about how to have the decision reviewed; and

(e) a provision enabling each party to this stage of the procedure to be accompanied or assisted by another person, at that party's cost.

(5) The external stage of the grievance procedure must include:

(a) a process for having a decision on appeal reviewed by an external and independent person or body with appropriate expertise; and

(b) a provision enabling each party to the review to be accompanied or assisted by another person at the review, at that party's cost; and

(c) a requirement for written notice of the decision on review to be given to each party, with the notice to include the reasons for the decision.

(6) The VET provider must comply with its grievance procedure, and have mechanisms in place:

(a) to implement decisions from the grievance procedure; and

(b) to give due consideration to any recommendations arising from the external stage of the grievance procedure; and

(c) to ensure that a student or prospective student is not victimised or discriminated against for using the grievance procedure; and

(d) to train the VET provider's staff about the grievance procedure.

(7) The VET provider must keep appropriate records, for at least 5 years, for each use of the grievance procedure.

(8) The VET provider must allow the parties to a particular use of the grievance procedure to access the VET provider's records relating to that use, but otherwise keep those records confidential.

43 Student grievance and review procedure requirements—re-crediting HELP balances

(1) This section is made for the purposes of clause 19 of Schedule 1A to the Act.

(2) A VET provider must have a procedure describing how the VET provider will clearly explain to each of its students:

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(a) that the student may apply under subclause 46(2) of Schedule 1A to the Act for the student's HELP balance to be re-credited because of special circumstances; and

(b) that the student may apply under clause 46A of that Schedule for the student's HELP balance to be re-credited because of circumstances involving unacceptable conduct; and

(c) how the review process in Division 16 of that Schedule works for decisions of the VET provider under subclause 46(2) of that Schedule; and

(d) that there is no charge relating to applications referred to in paragraph (a) or (b), or for the review process referred to in paragraph (c).

(3) The VET provider must comply with this procedure, and have mechanisms in place:

(a) to ensure that a student is not victimised or discriminated against for:

(i) making an application under subclause 46(2) or clause 46A of Schedule 1A to the Act; or

(ii) seeking review under Division 16 of that Schedule; and

(b) to train the VET provider's staff about this procedure.

(4) This procedure must be clearly and prominently published on the VET provider's website.

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Part 6—Student entitlements and HELP balances

Division 1—Entitlement to VET FEE-HELP assistance

44 Purpose

(1) Sections 45 and 46 set out other requirements for the purposes of paragraph 43(1)(i) of Schedule 1A to the Act.

Note: Clause 43 of that Schedule sets out the requirements for a student to be entitled to VET FEE-HELP assistance for a VET unit of study.

(2) Section 47 sets out a lesser percentage for the purposes of working out the amount of a subsidised student's VET FEE-HELP debt.

45 Full-fee paying students—other requirement for entitlement

(1) A person who is a full fee-paying student for a VET unit of study is only entitled to VET FEE-HELP assistance for the unit if the unit forms part of a qualifying VET course.

(2) A ***full fee-paying student***, for a VET unit of study, is a person who is enrolled in the unit with a VET provider if the VET provider does not receive any funding from the Commonwealth, a State or a Territory for that enrolment.

(3) In subsection (2), the reference to funding does not include VET FEE-HELP assistance.

46 Subsidised students—other requirement for entitlement

(1) A person who is a subsidised student for a VET unit of study is only entitled to VET FEE-HELP assistance for the unit if:
  (a) the unit forms part of a VET course of study that leads to the award of a VET diploma or a VET advanced diploma; and
  (b) the unit is being offered from the State or Territory that is the subsidising State or Territory for the person's enrolment in the unit; and
  (c) this State or Territory is one of those referred to in subsection (2).

(2) The States and Territories are as follows:
  (a) a State or Territory that has implemented, under an implementation plan agreed under the National Partnership Agreement on Skills Reform, subsidised training requirements that:
    (i) relate to VET FEE-HELP assistance; and
    (ii) are of a kind described in Schedule 4 to that Agreement;
  (b) South Australia;
  (c) Victoria.

(3) A ***subsidised student***, for a VET unit of study, is a person who is enrolled in the unit with a VET provider if:
  (a) the VET provider receives funding from a State or Territory (the ***subsidising State or Territory***) for the enrolment; and

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(b) the student incurs a VET FEE-HELP debt for the enrolment.

47 Subsidised students—amount of VET FEE-HELP debt

For the purposes of paragraph 137-18(2)(b) of the Act, a lesser percentage of 100% is specified for a person's VET FEE-HELP debt to the extent that this debt relates to the person's enrolment as a subsidised student for a VET unit of study.

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Division 2—Re-crediting HELP balance if unacceptable conduct

48 Purpose

This Division specifies when circumstances exist for the purposes of paragraph 46A(1)(c) of Schedule 1A to the Act in relation to:

(a) a request for Commonwealth assistance by a person (the ***student***) relating to a VET unit of study, or VET course of study, undertaken with a VET provider; or

(b) a form that would have been such a request relating to a VET unit of study, or VET course of study, undertaken with a VET provider if it had been signed by a responsible parent of a person (the ***student***).

49 Publishing information suggesting VET FEE-HELP assistance not a loan etc.

The circumstances exist if the VET provider published, or caused to be published, information that suggested to the student that:

(a) VET FEE-HELP assistance (however described) for the unit or course is not in the nature of a loan, or does not need to be repaid; or

(b) the unit or course is free from any fees or charges.

50 Inappropriate marketing etc.

(1) The circumstances exist if:

(a) the VET provider did, or caused to be done, any marketing, advertising or promoting that suggested that, if the student enrolled in the unit or course, a thing will:

(i) be provided to the student or another person; or

(ii) be otherwise available for the student to use; and

(b) it is reasonably likely that this suggestion induced the student to:

(i) enrol in the unit or course; and

(ii) make the request for Commonwealth assistance (or give the form referred to in paragraph 48(b)); and

(c) the student's use of the thing was required or necessary for the student to externally complete all or part of the unit or course (having regard to the learning objectives and outcomes of the unit or course).

(2) The circumstances exist if:

(a) the VET provider cold-called a person, or caused a person to be cold-called, when marketing, advertising or promoting the unit or course; and

(b) in doing so, or as a result of doing so, the VET provider suggested, or caused to be suggested, that VET FEE-HELP assistance (however described) could be available if the student were to enrol in the unit or course; and

(c) it is reasonably likely that this suggestion induced the student to:

(i) enrol in the unit or course; and

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(ii) make the request for Commonwealth assistance (or give the form referred to in paragraph 48(b)).

51 Provision of information

The circumstances exist if the VET provider did not provide the student with the information specified in paragraphs 31(2)(b) to (e).

52 Inappropriate inducements

(1) The circumstances exist if:
  (a) the VET provider either:
    (i) offered a person a benefit, or provided a person with a benefit; or
    (ii) caused a person to be offered or provided with a benefit; and
  (b) it is reasonably likely that this benefit induced the student to:
    (i) enrol in the unit or course; and
    (ii) make the request for Commonwealth assistance (or give the form referred to in paragraph 48(b)).

(2) To avoid doubt, the person in paragraph (1)(a) who was offered, or provided with, the benefit need not have been the student.

(3) Clause 39DD of Schedule 1A to the Act applies in relation to subsection (1) in a corresponding way to the way that clause applies in relation to subclauses 39DC(1) and (2) of that Schedule.

53 Failure to provide VET FEE-HELP notices

The circumstances exist if the VET provider failed to comply with subclause 64(1), (2), (2A) or (3) of Schedule 1A to the Act in relation to the student.

54 Failure to comply with student requests

(1) The circumstances exist if:
  (a) before the end of the census date for the unit, the student requested, in writing, the VET provider to:
    (i) cancel the student's enrolment in the unit or course; or
    (ii) withdraw the student's request for Commonwealth assistance relating to the unit or the course; and
  (b) the VET provider:
    (i) failed to comply with the request before the end of the census date; or
    (ii) charged the student a fee, or imposed a penalty, (however described) in order for the VET provider to comply with the request.

(2) The circumstances exist if, after the student withdrew from the unit or course, the VET provider:
  (a) enrolled the student in a further VET unit of study without the student's written permission given after the withdrawal; or

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(b) failed to confirm with the student whether the student wished to continue any enrolment in any other VET unit of study forming part of the course.

55 Accepting requests for Commonwealth assistance etc. when student not entitled

The circumstances exist if the student is not entitled to VET FEE-HELP assistance for the unit, but the VET provider treated the student as being so entitled.

56 Failure to advise about requests

(1) The circumstances exist if:
  (a) the VET provider enrolled the student in the unit less than 2 business days before the census date for the unit; and
  (b) before enrolling the student in the unit:
    (i) the student's request for Commonwealth assistance relating to the course had not already been given to an appropriate officer of the VET provider; and
    (ii) the VET provider failed to advise the student that the student would not be able to receive VET FEE-HELP assistance for the unit.

(2) The circumstances exist if:
  (a) the student's request for Commonwealth assistance relating to the unit or course was given to an appropriate officer of the VET provider less than 2 business days after the student enrolled in the unit; and
  (b) before enrolling the student in the unit:
    (i) the VET provider failed to advise the student that VET FEE-HELP assistance for the unit could only be received if the request was given at least 2 business days after enrolling; or
    (ii) the VET provider encouraged the student to give the request so that it would be given less than 2 business days after enrolling.

57 Failure to apportion fees appropriately

The circumstances exist if:
  (a) the VET provider charged the student VET tuition fees for the unit; and
  (b) the VET tuition fees were not charged in accordance with Part 7.

58 Failure to publish fees

The circumstances exist if:
  (a) the VET provider charged the student VET tuition fees for the unit; and
  (b) on the day before the student enrolled in the unit, the VET tuition fees were not available on the VET provider's website in a way that was readily accessible by the public.

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Division 3–Re-crediting HELP balance if inappropriate conduct

58A When a person is taken not to have completed the requirements for a VET unit of study

For the purposes of subparagraph 46AA(1)(a)(ii) of Schedule 1A to the Act, a person (the ***student***) is taken not to have completed the requirements for a VET unit of study with a VET provider if it is reasonably likely that the student did not complete the requirements for the unit, regardless of whether the student is recorded as having completed the unit.

58AB Prescribed matters for inappropriate conduct

(1) For the purposes of paragraph 46AA(1)(b) of Schedule 1A to the Act, in determining whether it is reasonably likely that a VET provider (or an agent of the VET provider) engaged in inappropriate conduct towards a person (the ***student***) in relation to a VET unit of study, or a VET course of study of which the unit forms a part, the matters that the Secretary must have regard to are the following:

(a) whether the provider engaged in conduct towards the student that involved treating the student as being entitled to VET FEE-HELP assistance under clause 43 of Schedule 1A to the Act, when the student was not entitled to that assistance;

(b) whether the provider or agent engaged in any of the following conduct:

(i) unconscionable conduct;

(ii) systemic conduct, or a pattern of behaviour, that is unconscionable;

(iii) misleading or deceptive conduct;

(iv) making a representation about a future matter (for example, doing, or refusing to do, any act) where there were no reasonable grounds for making the representation;

(v) advertising tuition fees for the course where there were reasonable grounds for believing that the provider would not be able to provide the course for those fees;

(vi) the use of physical force, harassment or coercion;

(c) whether any of the circumstances involving unacceptable conduct specified in Division 2 of this Part (other than sections 53, 57 and 58) exist;

(d) whether any of the circumstances involving unacceptable conduct specified in section 53, 57 or 58 exist on or after 1 January 2016;

(e) whether the provider or agent failed to comply with a requirement under Division 2 of Part 3-2 of Chapter 3 of the Australian Consumer Law (unsolicited consumer agreements);

(f) whether the provider has financial, administrative or other barriers that prevented the student from fulfilling an expressed intention to withdraw from the VET unit of study before the census date;

(g) whether the student was a vulnerable person;

(h) any recommendation made by the VET Student Loans Ombudsman under paragraph 20ZM(1)(ca) of the *Ombudsman Act 1976* regarding the student or any other student of the provider;

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(i) the provider's (or the agent's) history of compliance with:
  (i) the Act and the regulations; and
  (ii) this Guideline; and
  (iii) any conditions imposed on the provider's approval as a VET provider; and
  (iv) the *National Vocational Education and Training Regulator Act 2011*;
in relation to the provider's (or the agent's) conduct towards any student;
(j) any other matter that the Secretary considers relevant.

(2) In considering whether the conduct was unconscionable for the purposes of subparagraph (1)(b)(i), the Secretary may have regard to the following:
(a) the relative strengths of the bargaining positions of the persons concerned;
(b) whether the student was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of another person;
(c) whether the student was able to understand any documents related to the application for the VET student loan;
(d) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the student or a person acting on behalf of the student;
(e) whether the provider, or person acting on the provider's behalf, failed to disclose anything to the student;
(f) the extent to which the provider, or person acting on the provider's behalf, acted in good faith.

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Part 7—VET tuition fees and census dates

Division 1—General matters

59 Periods during which VET units of study are provided or proposed to be provided

For the purposes of subclauses 27(1), 28(1), 28(2A) and 67(1) of Schedule 1A to the Act, the period for a VET unit of study a VET provider provides or proposes to provide is the period:

(a) starting on the earliest possible enrolment date for that provision of the unit; and

(b) ending on the day a student would reasonably be expected to complete that provision of the unit.

60 Matters to which a VET provider must not have regard in determining VET tuition fees

For the purposes of subclause 27(3) of Schedule 1A to the Act, in determining the VET tuition fees payable for a VET unit of study by a student enrolled as a VET student in the unit with a VET provider, the VET provider:

(a) must not have regard to any matter related to the manner or timing of:

(i) the VET student's payment of the VET tuition fees; or

(ii) the Commonwealth's payment to the VET provider of any amount lent to the VET student in discharge of the VET student's liability to pay the VET tuition fees; and

(b) must not have regard to any fees covered by section 66; and

(c) without limiting paragraph (b), must not have regard to any fees payable for:

(i) an organisation of students, or of students and other persons; or

(ii) the provision to students of amenities or services that are not of an academic nature; or

(iii) residential accommodation; or

(iv) anything else other than enrolment in the unit, tuition for the unit, examination for the unit or the award of a VET qualification relating to the completion of the VET course of study of which the unit forms part.

61 Determining the census date for a VET unit of study

For the purposes of subclause 67(2) of Schedule 1A to the Act, the date determined to be the census date for a VET unit of study that a VET provider provides or proposes to provide must be at least 20% of the way through the period:

(a) starting at the commencement of that provision of the unit; and

(b) ending on the day a student would reasonably be expected to complete that provision of the unit.

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62 Varying VET tuition fees and census dates

(1) For the purposes of paragraphs 27(4)(a) and 67(4)(a) of Schedule 1A to the Act in relation to a variation of the VET tuition fees, or the census date, for a VET unit of study:
  (a) the date is the first day of the period worked out under section 59 for the unit; and
  (b) the circumstances are that the variation:
    (i) does not disadvantage a person enrolled, or seeking to enrol, as a VET student in the unit with a VET provider; and
    (ii) is necessary to correct an administrative error or to deal with a change in circumstances.

(2) Without limiting subparagraph (1)(b)(i), a person will be disadvantaged by:
  (a) a variation that increases the VET tuition fees; or
  (b) a variation that changes the census date to an earlier date.

(3) Subsection (1) does not apply to VET units of study forming part of VET courses of study offered under a VET restricted access arrangement.

(4) For the purposes of clause 27A of Schedule 1A to the Act, if a VET provider varies the VET tuition fees for a VET unit of study, the VET provider must publish on its website as soon as practicable the replacement schedule:
  (a) that it gives the Minister under paragraph 28(3)(d) of that Schedule; and
  (b) that incorporates the variation.

(5) For the purposes of subclause 67(5) of Schedule 1A to the Act, if a VET provider varies the census date for a VET unit of study, the VET provider must publish the variation:
  (a) by the date that is as soon as practicable after making the variation; and
  (b) on the VET provider's website.

63 Date by, and manner in, which a VET provider must publish schedules of VET tuition fees and census dates

For the purposes of paragraph 28(2)(b) and subclause 67(3) of Schedule 1A to the Act in relation to a VET unit of study and a VET provider:
  (a) the date is the first day of the period worked out under section 59 for the unit; and
  (b) the manner is publishing clearly and prominently on the VET provider's website, in such a way that access does not require the provision of log-in information.

64 Fees for VET courses not to exceed VET tuition fees and fees covered by section 66

For the purposes of clause 27A of Schedule 1A to the Act, the amount of the fees payable for a VET course of study must not exceed the sum of:
  (a) the total amount of the VET tuition fees payable for each of the VET units of study forming part of the course; and

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(b) the total amount of any fees covered by section 66 for the course or for any of those units.

65 Repayment of VET tuition fees

(1) A VET provider must repay to a person any VET tuition fees paid by the person for an enrolment in a VET unit of study if the person:
  (a) made the payment on or before the census date for the unit; and
  (b) the enrolment is withdrawn before the end of the census date.

(2) This obligation on the VET provider to repay the person arises immediately after the withdrawal of the enrolment. The VET provider must not require the person to apply for the repayment.

(3) Subsection (1) does not apply if:
  (a) the unit forms part of an eligible VET course of study; and
  (b) the enrolment was withdrawn because the VET provider ceased to provide the unit as a result of ceasing to provide the eligible VET course of study; and
  (c) the VET tuition assurance requirements applied to the VET provider at the time the VET provider ceased to provide the unit; and
  (d) the person who was enrolled in the unit chose the VET course assurance option in relation to the unit.

66 Fees that are not tuition fees

(1) For the purposes of paragraph 60(b), and section 64, a fee payable for a VET unit of study or a VET course of study undertaken with a VET provider is covered by this section if the fee:
  (a) is charged for a good or service provided to a student who is enrolled as a VET student in the unit or course, and the good or service is not essential for the unit or course; or
  (b) is charged for an alternative form of access to a good or service that is essential for the unit or course and that is otherwise made readily accessible by the VET provider at no additional cost; or
  (c) is charged for a special admissions test in relation to the unit or course; or
  (d) is a fee to which subsection (2) applies; or
  (e) is a fine, or a penalty, provided it is imposed by the VET provider:
    (i) mainly as a disincentive for something other than withdrawing from the unit or course; and
    (ii) not in order to raise revenue or cover administrative costs.

Note: None of these fees can be VET tuition fees (see section 60).

(2) This subsection applies to a fee for a good or service that is essential for the unit or course if:
  (a) the fee is paid directly to the VET provider:
    (i) for the supply of the good or service; and
    (ii) by a student who is enrolled as a VET student in the unit or course; and

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(b) the student was able to, but chose not to, acquire the good or service from another supplier; and

(c) the good or service is:

(i) equipment or items that become the student's physical property and are not consumed during the unit or course; or

(ii) food, transport or accommodation associated with the provision of field trips that form part of the unit or course.

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Division 2—Table A providers: charging VET tuition fees and invoice notices

67 Purpose

This Division is made for the purposes of clauses 27A and 64 of Schedule 1A to the Act.

68 VET providers to which this Division applies

This Division applies to VET providers that are Table A providers.

69 Charging VET tuition fees

A VET provider must charge a student's VET tuition fees for a VET course of study in a way that is consistent with:

(a) the delivery of the course; and

(b) the student's participation in the course;

if the student is enrolled as a VET student, in the VET units of study forming part of the course, with the VET provider.

70 Invoice notices

(1) The VET provider must charge those VET tuition fees by giving the student an invoice notice in each of the study periods in which the student is undertaking the VET units of study forming part of the course.

Note 1: A study period is a period chosen by the VET provider, such as a semester or term.

Note 2: The invoice notice for a study period can cover all of the units undertaken in that study period.

(2) Each invoice notice for a study period must:

(a) be given at least 14 days before the earliest census date in the study period for the units to be undertaken in the study period; and

(b) include at least the information referred to in paragraphs 79(3)(a) to (l).

(3) The VET provider must notify the student, either in an invoice notice or before an invoice notice is given, of the information referred to in paragraphs 79(3)(m) to (q).

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Division 3—Other VET providers: charging VET tuition fees

71 Purpose

This Division is made for the purposes of clause 27A of Schedule 1A to the Act.

72 VET providers to which this Division applies

This Division applies in relation to a VET course of study a student undertakes with a VET provider if:

(a) the VET provider is not a Table A provider; and

(b) the student is enrolled as a VET student, in the VET units of study forming part of the course, with the VET provider.

73 Object of this Division

The object of this Division is to ensure that the student's VET tuition fees for those units are spread over the duration of the course in proportion to when those units are completed.

Note: This also means the student's VET FEE-HELP assistance debt will be incurred over the duration of the course, and not all upfront.

74 Fee periods

(1) The VET provider must choose 3 or more fee periods for the course. The number and length of the fee periods may be different from those for other students who undertake the course.

Example: The fee periods may be longer for a student undertaking the course part-time.

(2) The fee periods for the course must:

(a) be sequential and together equal the duration of the course; and

(b) be of equal length; and

(c) each contain at least one census date for a unit forming part of the course.

Note: The precise length of the fee periods need not be known when they are chosen.

Example: When starting the course the VET provider is still deciding whether the student should get some recognition for prior learning (which would reduce the duration of the course). The VET provider could choose for the course to have 3 fee periods of equal length, with the actual length to be worked out when the course duration is worked out.

(3) However, the length of any fee periods that are yet to start at a particular time may be changed in proportion to a change at that time to the duration of the course. The changed fee periods must be of equal length.

Example: If the student changes from studying full-time to part-time during the course, the duration of the course may increase. The length of the remaining fee periods could be similarly increased.

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75 Proportionately spreading VET tuition fees over the fee periods

(1) The VET provider must ensure that the student's VET tuition fees for the course are spread over the duration of the course so that the same portion of the VET tuition fees becomes payable in each of the fee periods of the course.

(2) None of the VET tuition fees may become payable outside of a fee period.

76 Estimating VET tuition fees

(1) For the purposes of section 75, the VET provider may estimate the student's VET tuition fees for the course if, when the student starts the course, the VET provider does not know:
  (a) the amount of the VET tuition fees for all of the VET units of study forming part of the course; or
  (b) the duration of the course; or
  (c) whether the student will need to pay all of the VET tuition fees usually payable for the course.

(2) The estimate must not exceed the maximum VET tuition fees payable (by any student) that were mentioned by the VET provider as required by subsection 25(5) before the student started the course.

(3) If the actual VET tuition fees payable by the student for the course exceed the estimate, the VET provider may only charge the student the excess during the final fee period for the course.

77 If compliance is affected by State or Territory subsidy funding arrangements

A VET provider need not comply with this Division, to the extent that compliance would be inconsistent with an arrangement the VET provider made with an agency or authority of a State or Territory, if:
  (a) the VET provider is fully complying with the arrangement; and
  (b) the VET provider has given a written notice to the Secretary describing:
    (i) the arrangement; and
    (ii) the VET provider's full compliance with the arrangement; and
    (iii) how the arrangement prevents the VET provider from fully complying with this Division; and
    (iv) the extent of the VET provider's non-compliance with this Division.

Note: Compliance with this Division is still required to the extent that this is consistent with the arrangement.

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Part 8—Notices to students

78 Purpose

(1) The notices required for the purposes of subclause 64(1) of Schedule 1A to the Act are:

(a) the invoice notice described in section 79; and

(b) the assistance notice described in section 80.

Note 1: The invoice notice is to be provided to students before census dates, and includes information about the VET tuition fees payable.

Note 2: The assistance notice acts like a receipt provided to students after census dates, and includes information about the VET FEE-HELP debts incurred.

(2) This Part does not limit section 70 (about Table A providers).

79 VET FEE-HELP invoice notices

(1) A ***VET FEE-HELP invoice notice***, for a VET unit of study in which a student is enrolled with a VET provider that is not a Table A provider, is a notice that:

(a) for the purposes of subclause 64(2) of Schedule 1A to the Act, contains the information required by subsections (2) to (4) of this section; and

(b) for the purposes of subclause 64(2A) of that Schedule, is given to the student in the manner set out in subsection (6) of this section; and

(c) for the purposes of subclause 64(3) and paragraph 64(4)(b) of that Schedule, is given within the period set out in subsection (7) of this section.

Information to be contained in invoice notices

(2) The notice must include these words:
"This Invoice Notice meets the *VET FEE-HELP Invoice Notice* requirements prescribed by the *Higher Education Support (VET) Guideline 2015*.".

(3) The notice must include the following information:

(a) the student's name;

(b) the VET provider's name;

(c) the VET provider's registered training organisation registration code as referred to on the National Register;

(d) the date the notice is made;

(e) the student's student identification number as issued by the VET provider;

(f) the student's Commonwealth Higher Education Student Support Number (or CHESSN), if available;

(g) the name of the VET unit of study, and the name of the VET course of study of which it forms part;

(h) the unit's study identification code;

(i) the unit's census date;

(j) the unit's VET tuition fees;

(k) the amounts of any up-front VET payments for the unit;

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(l) the amounts of any VET FEE-HELP assistance payable at the end of the census date, and a statement that this amount is subject to any VET tuition fees paid upfront before the census date;

(m) the amount of any VET FEE-HELP loan fee applicable to the unit;

(n) a statement that a withdrawal of the student's enrolment in the unit before the end of the unit's census date must be in accordance with the VET provider's withdrawal procedure, and that withdrawal will result in the student:

(i) not incurring a VET FEE-HELP debt for the unit; and

(ii) receiving a refund for any up-front VET payments made for the unit before its census date;

(o) information about the method for withdrawing from the unit, including how to access the VET provider's withdrawal procedure;

(p) information advising about the matters set out in subsection (4);

(q) information on the student's right, under subclauses 65(2) to (4) of Schedule 1A to the Act, to request the correction of information contained in this notice.

(4) For the purposes of paragraph (3)(p), the matters are as follows:

(a) by giving a request for Commonwealth assistance, a loan is requested for the whole VET course of study of which the unit forms part, unless the student cancels that request with the VET provider on or before the unit's census date;

(b) the VET FEE-HELP debt for the course will be incurred on a unit-by-unit basis;

(c) by giving a request for Commonwealth assistance, the student accepts that the VET provider will automatically use VET FEE-HELP assistance as the student's method for paying the VET tuition fees for:

(i) the unit specified in this notice; and

(ii) other VET units of study forming part of the course that are specified in later notices given under this section;

unless the student advises the VET provider in writing that the student does not wish VET FEE-HELP assistance to be used as the student's method for paying the VET tuition fees for any VET unit of study forming part of the course;

(d) on the unit's census date, the student will incur a VET FEE-HELP debt unless before that census date:

(i) the student has withdrawn from the unit; or

(ii) the student has paid the VET tuition fees for the unit;

(e) any VET FEE-HELP debts will remain with the student until they have been discharged;

(f) it is the student's responsibility to ensure that the student has a sufficient HELP balance to cover the VET FEE-HELP assistance amounts specified in this notice.

(5) For the purposes of this section, multiple VET units of study can only be included in the notice if their census dates are the same.

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Manner of giving invoice notices

(6) The VET provider must give the notice to the student's:
  (a) personal email address as advised by the student to the VET provider at the time of enrolling in the unit; or
  (b) personal mail address as advised by the student to the VET provider at the time of enrolling in the unit.

The VET provider may also give the notice to the student in other ways.

Period for giving invoice notices

(7) The VET provider must give the notice within the period:
  (a) starting 42 days before unit's commencement date; and
  (b) ending 14 days before the unit's census date.

80 Commonwealth assistance notices

(1) A ***Commonwealth assistance notice***, for a VET unit of study in which a student is enrolled with a VET provider, is a notice that:
  (a) for the purposes of subclause 64(2) of Schedule 1A to the Act, contains the information required by subsections (2) to (4) of this section; and
  (b) for the purposes of subclause 64(2A) of that Schedule, is given to the student in the manner set out in subsection (6) of this section; and
  (c) for the purposes of subclause 64(3) and paragraph 64(4)(b) of that Schedule, is given within the period set out in subsection (7) of this section.

Information to be contained in assistance notices

(2) The notice must include the title "Commonwealth Assistance Notice".

(3) The notice must include the following information:
  (a) the student's name;
  (b) the VET provider's name;
  (c) the student's student identification number as issued by the VET provider;
  (d) the student's Commonwealth Higher Education Student Support Number (or CHESSN);
  (e) the name of the VET unit of study, and the name of the VET course of study of which it forms part;
  (f) the unit's study identification code;
  (g) the unit's census date;
  (h) the unit's VET tuition fees;
  (i) the amounts of any up-front VET payments for the unit;
  (j) the amounts of VET FEE-HELP assistance payable for the unit;
  (k) the amount of any VET FEE-HELP loan fee applicable to the unit;
  (l) the amounts of VET FEE-HELP debt applicable to the unit;
  (m) information on the student's right, under subclauses 65(2) to (4) of Schedule 1A to the Act, to request the correction of information contained in this notice.

(4) The notice must prominently display the following statements:

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"It is your responsibility to ensure that you have a sufficient HELP balance to cover the VET FEE-HELP amounts indicated in this notice. You are eligible for the amounts of VET FEE-HELP assistance contained in this notice only if you have a sufficient HELP balance to cover those amounts."

"The information regarding Commonwealth assistance contained in this notice is correct only insofar as you have correctly advised this VET provider of your entitlement to that assistance under the *Higher Education Support Act 2003*.".

(5) For the purposes of this section, multiple VET units of study may be included in the notice if each of their census dates:

(a) is within the period referred to in subsection (7); and

(b) is before the day the notice is given to the student in the manner set out in subsection (6).

Note: If one or more of these census dates are the same, that date only needs to be mentioned once in the notice.

Manner of giving assistance notices

(6) The VET provider must give the notice to the student's:

(a) personal email address as advised by the student to the VET provider at the time of enrolling in the unit; or

(b) personal mail address as advised by the student to the VET provider at the time of enrolling in the unit.

The VET provider may also give the notice to the student in other ways.

Period for giving assistance notices

(7) The VET provider must give the notice within the period:

(a) starting on the earliest census date for a VET unit of study included in the notice; and

(b) ending 28 days after that census date.

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Part 9—Electronic communications

81 Purpose

This Part sets out:

(a) information technology requirements for the purposes of subclause 70(1) of Schedule 1A to the Act; and

(b) requirements for the purposes of subclause 70(2) of that Schedule relating to electronic communications.

82 Information technology requirements

(1) Subsection (2) applies if the Act requires or permits information or a document to be given by a student to a VET provider by way of fax, email, web-based communication or any other form of electronic communications specified by the VET provider.

(2) The VET provider must ensure that the information technology system to be used for giving that information or document is:

(a) accessible, in the sense that the VET provider has:

(i) informed the student that the information or document is to be given using the system; and

(ii) authorised the student to use the system; and

(b) secure, so that the student's information can be accessed only by persons authorised by the student; and

(c) able to store the information or document so that it is readily accessible by the student; and

(d) accessible in respect of requests for Commonwealth assistance under Schedule 1A to the Act; and

(e) for a student who gives such a request electronically:

(i) accessible by the student using a student identification number supplied by the VET provider; and

(ii) able to automatically generate a date field on the request; and

(f) able to generate printable receipts for the student.

(3) If the Act requires or permits information or a document to be given by a VET provider to a student by way of fax, email, web-based communication or any other form of electronic communications specified by the VET provider, then the VET provider must ensure that:

(a) the student is directly informed that the information or document will be communicated by electronic means; and

(b) the student is authorised to use an information system for receiving, storing or otherwise processing the information or document; and

(c) the information system stores the information or document sent to the student so that it is readily accessible by the student.

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83 Electronic communications—identification requirements

(1) If the Act requires or permits a student to sign an electronic communication provided to a VET provider, the VET provider must have in place a method the student can use to identify himself or herself in the communication and to indicate his or her approval of the information communicated.

(2) If the Act requires or permits a student to sign a document to be given to a VET provider, and when giving the document the student uses a method the VET provider has put in place under subsection (1), the student is taken to have signed the document for the purposes of the Act.

(3) Without limiting subsection (1), a method a student can use to identify himself or herself may involve the student using a student identification number issued to the student by the VET provider. If the VET provider puts in place such a method, the VET provider must:

(a) first verify the identity of the person to whom the student identification number is to be issued; and

(b) take all reasonable precautions to ensure that there is no unauthorised access to, or use of, the student identification number; and

(c) ensure that the student is advised that, apart from the VET provider's obligations under paragraphs (a) and (b), the student is personally responsible for protecting the student identification number.

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Part 10—Specified qualifications for the trial to extend VET FEE-HELP to certain certificate IV qualifications

84 Purpose

For the purposes of giving effect to the Trial to Extend VET FEE-HELP to Specified Certificate IV Qualifications, and only for the duration of that Trial, this Part specifies:

(a) qualifications for the purposes of paragraph (e) of the definition of ***VET qualification*** in Schedule 1 to the Act; and

(b) other requirements for the purposes of paragraph 43(1)(i) of Schedule 1A to the Act (about entitlement to VET FEE-HELP assistance); and

(c) when this Part expires.

85 Extra VET qualifications

(1) A qualification set out in the following table is a ***VET qualification*** if the course of study leading to the award of the qualification is delivered by a body that:

(a) is an approved VET provider; and

(b) receives funding from a subsidising State or Territory for subsidised students enrolled in that course; and

(c) in addition to the qualification, offers at all times at least one qualifying VET course.

Qualifications relevant to the trial

Item	This qualification:	if the qualification can be awarded for the satisfactory completion of a course undertaken in this State or Territory:
1	(a) Certificate IV in Aged Care as described in the Community Services Training Package; (b) Certificate IV in Agriculture as described in the Agriculture, Horticulture and Conservation and Land Management Training Package; (c) Certificate IV in Disability as described in the Community Services Training Package; (d) Certificate IV in Information Technology Networking as described in the Information and Communications Technology Training Package; (e) Certificate IV in Travel and Tourism as described in the Tourism, Travel and Hospitality Training Package	New South Wales
2	(a) Certificate IV in Agriculture as	Victoria

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Qualifications relevant to the trial

Item	This qualification:	if the qualification can be awarded for the satisfactory completion of a course
	described in the Agriculture, Horticulture and Conservation and Land Management Training Package; (b) Certificate IV in Building and Construction (Building) as described in the Construction Plumbing and Services Training Package; (c) Certificate IV in Competitive Systems and Practices as described in the Sustainability Training Package; (d) Certificate IV in Disability as described in the Community Services Training Package; (e) Certificate IV in Training and Assessment as described in the Training and Education Training Package	
3	(a) Certificate IV in Aged Care as described in the Community Services Training Package; (b) Certificate IV in Disability as described in the Community Services Training Package; (c) Certificate IV in Building and Construction (Building) as described in the Construction Plumbing and Services Training Package; (d) Certificate IV in Engineering as described in the Metal and Engineering Training Package; (e) Certificate IV in Small Business Management as described in the Business Services Training Package	Queensland
4	(a) Certificate IV in Aged Care as described in the Community Services Training Package; (b) Certificate IV in Disability as described in the Community Services Training Package; (c) Certificate IV in Community Services Work as described in the Community Services Training Package; (d) Certificate IV in Youth Work as described in the Community Services Training Package; (e) Certificate IV in Education Support as described in the Community Services Training Package	Western Australia

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Section 86

Qualifications relevant to the trial		
Item	**This qualification:**	**if the qualification can be awarded for the satisfactory completion of a course**
5	(a) Certificate IV in Accounting as described in the Financial Services Training Package; (b) Certificate IV in Aged Care as described in the Community Services Training Package; (c) Certificate IV in Disability as described in the Community Services Training Package; (d) Certificate IV in Engineering as described in the Metal and Engineering Training Package; (e) Certificate IV in Youth Work as described in the Community Services Training Package	South Australia

(2) To avoid doubt, if a qualification set out in the table in subsection (1) is superseded by another qualification (a ***replacement qualification***), both the superseded qualification and the replacement qualification are taken to be set out in that table.

86 Students entitled

If:

(a) a person is enrolled as a VET student in a VET unit of study with a VET provider; and

(b) the unit forms part of a VET course of study that leads to the award of a VET qualification covered by subsection 85(1);

the student is only entitled to VET FEE-HELP assistance for the unit if:

(c) the student is a subsidised student for the unit; and

(d) the unit is being offered from the State or Territory that is the subsidising State or Territory for the enrolment; and

(e) that State or Territory is one of those referred to in subsection 46(2).

87 Expiration

Sections 85 and 86 do not apply in relation to units of study completed on or after 1 January 2017.

Note: This means that only units of study completed before 1 January 2017 are eligible for inclusion in the Trial.

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Part 11—Review of decisions

88 Reviewable decisions

The Minister must, as soon as practicable after making a decision (the ***reviewable decision***) under subsection 38(2) to refuse to approve a tool, give a written notice to the relevant VET provider setting out:

(a) the reviewable decision; and

(b) the reasons for the reviewable decision; and

(c) a statement that the VET provider may apply to have the reviewable decision reviewed:

(i) under this Part, if the reviewable decision was made by a delegate of the Minister; or

(ii) by the Administrative Appeals Tribunal, if the reviewable decision was made by the Minister personally.

89 Internal review of reviewable decisions made by delegates

(1) This section applies to a reviewable decision if the decision was made by a delegate of the Minister.

(2) The relevant VET provider may apply to the Minister to review the decision.

(3) The application must:

(a) be in a form approved by the Minister; and

(b) be made within 30 days after the day on which the written notice of the reviewable decision was given to the VET provider, or within such further period as the Minister allows.

(4) On receiving such an application, the Minister must review the reviewable decision. The Minister may:

(a) affirm, vary or revoke the reviewable decision; and

(b) if the Minister revokes the decision, make such other decision as the Minister thinks appropriate.

(5) The Minister's review must be done by:

(a) a delegate of the Minister who occupies a more senior position in the Department than the delegate who made the reviewable decision; or

(b) the Minister personally.

(6) The Minister's decision on review has effect (except for the purposes of section 88) as if it were made under subsection 38(2).

(7) The Minister must, within 30 days after making the decision on review, give a written notice to the applicant that includes:

(a) details of the decision; and

(b) the reasons for the decision; and

(c) a statement that the VET provider may apply to have the decision reviewed by the Administrative Appeals Tribunal.

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Section 90

90 Review by the Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of:

(a) decisions of the Minister under subsection 89(4); or

(b) reviewable decisions made by the Minister personally.

Note: The *Administrative Appeals Tribunal Act 1975* provides for the manner of applying for review.

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Part 12—Other matters

91 Delegations by the Minister

(1) The Minister may, in writing, delegate any or all of the Minister's powers under this instrument to an SES employee, or an acting SES employee, in the Department.

Note: Clause 98 of Schedule 1A to the Act provides for the Secretary to delegate his or her powers under this instrument.

(2) In exercising powers under the delegation, a delegate must comply with any directions of the Minister.

92 Application of provisions

Financial viability

(1) Paragraphs 22(2)(a) to (c) apply while a body is approved as a VET provider on or after 1 January 2016. Paragraph 22(2)(d) applies in relation to a body's most recently completed annual financial reporting period that starts on or after 1 January 2016.

Not contravening civil penalty provisions etc.

(2) Division 2 of Part 4 applies in relation to conduct that happens on or after 1 January 2016.

Requests for Commonwealth assistance

(3) Section 33 applies in relation to enrolments happening, and requests given, on or after 1 January 2016.

Student entry procedures

(4) Division 5 of Part 4 applies in relation to VET courses of study enrolled in on or after 1 January 2016.

Matters relating to unacceptable conduct that can cause the re-crediting of HELP balances

(5) Section 43 and Division 2 of Part 6 apply in relation to unacceptable conduct engaged in on or after 1 January 2016.

Charging VET tuition fees

(6) Section 69 and Division 3 of Part 7 apply in relation to a student enrolled as a VET student in the VET units of study forming part of a VET course of study, if the course commences on or after 1 January 2016.

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Invoice notices

(7) Sections 70 and 79 apply in relation to VET units of study with census dates on or after 28 January 2016.

Commonwealth assistance notices

(8) Section 80 applies in relation to VET units of study for which the period referred to in subsection 80(7) starts on or after 1 January 2016.

93 Transitional—things done under the VET Guidelines 2015

(1) A thing done:

(a) before the commencement of this instrument; and

(b) under or in relation to a provision of the VET Guidelines 2015;

has effect after that commencement as if the thing had been done under or in relation to the corresponding provision of this instrument.

(2) Without limiting subsection (1), a thing includes a notice and a decision.

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Schedule 1—Repeals

Amendment No. 1 to the VET Guidelines 2015

1 The whole of the Amendment

Repeal the Amendment.

VET Guidelines 2015

2 The whole of the Guidelines

Repeal the Guidelines.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
exp = expires/expired or ceases/ceased to have effect
F = Federal Register of Legislation
gaz = gazette
LA = *Legislation Act 2003*
LIA = *Legislative Instruments Act 2003*
(md) = misdescribed amendment can be given effect
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
o = order(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
pres = present
prev = previous
(prev…) = previously
Pt = Part(s)
r = regulation(s)/rule(s)
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)/subsection(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Higher Education Support (VET) Guidelines 2015 [F2015L02124]	24 December 2015	1 January 2016	s.92, s.93
Higher Education Support (VET) Amendment (VET FEE-HELP Student Protection) Guidelines 2018 [F2018L01827]	24 December 2018	1 January 2019 [Schedule 1] 1 January 2020 [Schedule 2]	

Endnote 4—Amendment history

Provision affected	How affected
s.2	rep. s. 48D LA
s.5	am. 2018 [F201801827]
s. 7	am. 2018 [F201801827]
s. 10	am. 2018 [F201801827]
s. 16	am. 2018 [F201801827]
s.21	am. 2018 [F201801827]
s. 43	am. 2018 [F201801827]
Pt 6 (heading)	am. 2018 [F201801827]
Div 2 (heading)	am. 2018 [F201801827]
Div 3 (heading)	am. 2018 [F201801827]
s. 58A	ad. 2018 [F201801827]
s. 58AB	ad. 2018 [F201801827]
s. 79	am. 2018 [F201801827]
s. 80	am. 2018 [F201801827]
s.92	am. 2018 [F201801827]

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