

# Explanatory Statement

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## *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017*

### Summary

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017* (Amendment Determination) adds 11 courses to Schedule 3 – Approved courses for specified providers (Schedule 3) of the *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination).

### Background

The Courses and Loan Caps Determination specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts. The policy context and background for the Courses and Loan Caps Determination is set out in the [Explanatory Statement to the Courses and Loan Caps Determination](#).

The Courses and Loan Caps Determination was developed, in consultation with the education authorities of the states and territories and the vocational education and training (VET) sector, in the second half of 2016. During this process, the Government agreed to include specific courses for public and not-for-profit providers in the Courses and Loan Caps Determination (that is, VET student loans would only be available to students studying specified courses at specified public and not-for-profit providers). These were included in Schedule 3 to the Courses and Loan Caps Determination, which came into operation on 1 January 2017.

Subsequently, another 11 courses have been identified as appropriate to include in Schedule 3. The Amendment Determination will add these courses to Schedule 3.

### Consultation

On 10 October 2016, the Government released the proposed list of courses for which VET student loans would be available for public consultation. Submissions closed on 23 October 2016, and a further list of approved courses was publicly released on 17 November 2016.

Following circulation of the 17 November list, the department received further submissions from state and territory education authorities, and the Government agreed to consider additional courses for inclusion on the list for specific public VET providers (so-called “listed course providers”) and specific not-for-profit VET providers. In considering the additional courses, the Government required evidence from the provider of employment outcomes for that course, employer support for that course, and demonstrated history of student progression and completion through that course.

The Courses and Loans Caps Determination ultimately included these additional courses in Schedule 3.

Listed course providers and not-for-profit VET providers who were unsuccessful in their applications to have additional courses added to the Courses and Loan Caps Determination in

December 2016 were invited to submit additional evidence to support their applications. The Government had regard to the further evidence in assessing the courses against the same considerations of: employment outcomes, employer support, and track record of student progression and completion.

As a result, 11 additional courses were approved for specified providers and added to Schedule 3 by the Amendment Determination. Accordingly, the Amendment Determination expands the list of courses for which VET student loans are available for specified providers, thereby expanding students' access to loans, while ensuring that loans are linked to quality courses that meet industry needs and skills shortages. The inclusion of these courses in Schedule 3 will enable students to access VET student loans for these courses with the specified providers for upcoming study sessions. The Government intends for the list of approved courses in the Courses and Loan Caps to be reviewed and updated twice yearly from 2018. The Amendment Determination also makes a technical amendment to update the superseded course code for the Advanced Diploma of Myotherapy offered by the Royal Melbourne Institute of Technology and already listed in Scheduled 3 as an approved course.

## **Regulatory Impact Statement**

The Courses and Loan Caps Determination gives effect to policies and proposals examined in the Regulatory Impact Statement for the VET Student Loans Bill 2016, entitled *VET FEE-HELP Redesign*.

## **Authority**

The Courses and Loan Caps Determination is made under section 16(1) of the VET Student Loans Act. Section 16(1) provides that the Minister may, by legislative instrument, determine courses of study for which VET student loans may be approved and maximum loan amounts, or methods for working out maximum loan amounts, for those courses.

## Explanation of Provisions

Section 1 provides that the title of the instrument is the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017*.

Section 2 specifies that the commencement date of the Amendment Determination is 1 March 2017. This is consistent with subsections 12(2) and (3) of the *Legislation Act 2003* (Legislation Act).

The additional courses were approved by the Minister for Education and Training to be added to the Courses and Loan Caps Determination on 26 February 2017. Retrospective commencement of the instrument beneficially allows students who enrolled in these courses from 1 March 2017 to access VET student loans for these courses.

As at the day that this instrument was registered, no payments of VET student loans have been made in respect of these courses and no students have incurred any debts to the Commonwealth in respect of enrolment in these courses.

Accordingly, this retrospective commencement date does not affect these students' rights so as to disadvantage them, and does not impose liabilities on any students in respect of actions taken before the day that this instrument is registered. Indeed, the retrospective commencement date allows students to access VET student loans for these courses irrespective of the fact that they may have been commenced these courses prior to the Amendment Determination, which facilitates access to loans for approved courses that meet industry needs and skills shortages. The retrospective commencement of the Amendment Determination does not infringe subsection 12(2) of the Legislation Act because the measures are beneficial in nature and do not affect the rights of a person as at the date of registration so as to disadvantage that person. Similarly, the Amendment Determination does not impose any liabilities on any person in respect of anything done or omitted to be done before the date of registration.

Section 3 provides that the Amendment Determination is made under the authority of subsection 16(1) of the *Student Loans Act 2016*. Subsection 16(1) provides that the Minister may, by legislative instrument determine courses of study for which VET student loans may be approved; and maximum loan amounts, or methods for working out maximum loan amounts, for those courses. Subsection 16(2) provides that the determination is the courses and loan caps determination. That determination may provide for the method set out in Part 5-6 of the *Higher Education Support Act 2003* to be used to index amounts determined by, or worked out in accordance with, the determination.

**Section 4** provides that the Courses and Loan Caps Determination is amended as set out in the Schedule to the Amendment Determination.

**Schedule 1** specifies the amendments to the Courses and Loan Caps Determination.

**Item 1 of Schedule 1** updates the course code for the course listed at item 14 of the table in Schedule 3 to the Courses and Loan Caps Determination (the Advanced Diploma of Myotherapy offered by the Royal Melbourne Institute of Technology).

**Item 2 of Schedule 1** provides that the table in Schedule 3 is amended by inserting the details for additional approved courses for specified providers. The additional courses are to be added in alphabetical order according to the name of the approved course provider, and then all item numbers are to be renumbered.

# Statement of Compatibility with Human Rights

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

## *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017*

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Overview of the Legislative Instrument

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017* (Amendment Determination) adds 11 additional courses to Schedule 3 – Approved courses for specified providers (Schedule 3) of the *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination).

The Courses and Loans Cap Determination forms part of the Australian Government's reform of the student loan arrangements for vocational education and training (VET) courses, the policy context and background for which is set out in the Explanatory Memorandum to the VET Student Loans Bill 2016. The Courses and Loan Caps Determination specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act), sets the maximum loan amounts for those courses and provides for the annual indexation of the maximum loan amounts.

### Human Rights Implications

The Amendment Determination in isolation does not engage any of the applicable rights or freedoms. It merely amends the Courses and Loans Cap Determination, which contains mechanical provisions necessary to give effect to the Government's reforms to the VET student loan arrangements. The principal reforms are set out in the VET Student Loans Act, and the human rights implications associated with limiting the courses for which loans are available, and capping the amount of those loans, are dealt with the comprehensive Statement of Compatibility with Human Rights in relation to the reforms which was attached to the Explanatory Memorandum for the VET Student Loans Bill 2016.

In particular, in relation to the **right to work**, the Explanatory Memorandum stated:

*By enabling the Minister to make a loans and caps determination, this Bill also establishes a new framework to limit course eligibility for VET student loans to those courses approved by the Minister and introduces maximum loan amounts for eligible courses. While this measure may limit the right by limiting the scope of VET courses students might otherwise undertake and the amount of loans available, reform is justified as it ensures that the focus of the VET student loans program will be to provide support for students in respect to courses that have a high national priority, align with industry needs, contribute to addressing skills shortages and lead to employment outcomes.*

And in relation to the **right to education**, the Explanatory Memorandum stated:

*To the extent that the new courses and loan caps determination may limit students' access to particular courses and confine course choice, this is justifiable to ensure fiscal accountability and quality output from providers. Although this measure limits the loan amount available to the student, the intent of the measure is to put downward pressure on rising tuition fees to make education more affordable to students. The limit on courses eligible for loan access will ensure students are undertaking courses that are more likely to result in an employment outcome. These limitations are necessary and proportionate to the policy objective as the measures are designed to protect students by enhancing educational and employment outcomes, ensuring they are receiving value for money, and that there is a high level of quality assurance and transparency in the training courses by ensuring all providers are suitably experienced and have met statutory suitability requirements in order to operate as approved course providers.*

The Amendment Determination adds 11 courses to the list of courses for which VET student loans may be granted, thereby expanding students' access to loans.

## **Conclusion**

The Amendment Determination is compatible with human rights because it extends the quantity of approved courses for which VET student loans may be granted that promote the human rights to work and education.

**Simon Birmingham**  
**Minister for Education and Training**