



VET Student Loans Amendment Rules (No. 2) 2019

Made under the *VET Student Loans Act 2016*

I, Michaelia Cash, Minister for Employment, Skills, Small and Family Business, make the following legislative instrument.

Dated 10 December 2019

Michaelia Cash
Minister for Employment, Skills, Small and Family Business

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1 Name

This instrument is the *VET Student Loans Amendment Rules (No. 2) 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1, Part 1, other than Division 1 of Part 6 in item 7.	Immediately after the commencement of the <i>Education Legislation Amendment (Tuition Protection and Other Measures) Act 2019</i> .	1 January 2020.
3. Division 1 of Part 6 in item 7 to Schedule 1, Part 1.	Immediately after the commencement of the <i>VET Student Loans (VSL Tuition Protection Levy) Act 2020</i> .	
4. Schedule 1, Part 2.	Immediately after the commencement of the <i>Education Legislation Amendment (Tuition Protection and Other Measures) Act 2019</i> .	1 January 2020.

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *VET Student Loans Act 2016*.

4 Schedule

The *VET Student Loans Rules 2016* are amended as set out in the Schedule to this instrument.

Schedule 1—Amendments to the *VET Student Loans Rules 2016*

Part 1—Tuition protection

1 Section 4

Repeal the following definitions:

- (a) definition of *affected part*;
- (b) definition of *assurance exempt provider*;
- (c) definition of *covered student*.

2 Section 4 (definition of *key personnel*)

Repeal the definition, substitute:

key personnel of a course provider – see section 16.

3 Section 4

Insert:

National Register has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

4 Section 4

Repeal the following definitions:

- (a) definition of *original course*;
- (b) definition of *quarter*;
- (c) definition of *replacement component*;
- (d) definition of *replacement course*.

5 Section 4 (definition of *replacement provider*)

Repeal the definition, substitute:

replacement provider means an approved course provider who provides a replacement course.

6 Section 4 (definition of *replacement tuition offer*)

Repeal the definition.

7 Part 6

Repeal the Part, substitute:

Part 6 – Tuition protection

Division 1 – VSL tuition protection levy

40 Purpose of this Division

This Division is made for the purposes of subsection 49A(2) of the Act.

41 Notice of amount of VSL tuition protection levy

- (1) The VSL Tuition Protection Director must specify in a written notice given to each approved course provider who is liable to pay VSL tuition protection levy:
 - (a) the amount of each component of the provider's levy;
 - (b) the total amount of the provider's levy;
 - (c) an explanation of how each component of the provider's levy was calculated; and
 - (d) the business day by which the levy is due and payable by the provider.
- (2) The day mentioned in paragraph (1)(d) of this section must be at least 14 days after the day the notice is given.
- (3) A failure to give a provider the notice under subsection (1) does not affect the liability of the provider to pay a VSL tuition protection levy.

Note 1: VSL tuition protection levy is imposed on approved course providers to whom Part 5A of the Act applies under the VET Student Loans (VSL Tuition Protection Levy) Act 2019.

Note 2: Section 49A of the Act requires an approved course provider to pay the VSL tuition protection levy when it is due and payable. Section 36 of the Act enables the Secretary to suspend or revoke a provider if satisfied the provider is not complying with the Act.

42 Extension notices

The VSL Tuition Protection Director may, at any time after giving an approved course provider the notice mentioned in subsection 41(1), give the provider a written notice (*extension notice*) that specifies a day that is later than the day specified in the notice issued under subsection 41(1) as the day on which the levy is due and payable. The extension notice has effect, and is taken to have always had effect, according to its terms.

Note: The VSL Tuition Protection Director may give a provider more than one extension notice.

43 Recovery of VSL tuition protection levy

An amount of VSL tuition protection levy that is due and payable by an approved course provider may be recovered by the VSL Tuition Protection Director, on behalf of the Commonwealth, as a debt due to the Commonwealth.

Division 2 – Providers to whom Part 5A of the Act does not apply

44 Purpose of this Division

This Division is made for the purposes of paragraph 66A(1)(b) of the Act.

45 Providers to whom Part 5A of the Act does not apply

- (1) Part 5A of the Act does not apply to a registered training organisation that is:
- (a) owned by the Commonwealth, a State or a Territory; or
 - (b) established to provide vocational education or training under one of the following:
 - (i) the *Technical and Further Education Commission Act 1990* (NSW);
 - (ii) the *Education and Training Reform Act 2006* (Vic.);
 - (iii) the *TAFE Queensland Act 2013* (Qld);
 - (iv) the *Vocational Education and Training Act 1996* (WA);
 - (v) the *TAFE SA Act 2012* (SA);
 - (vi) the *Training and Workforce Development Act 2013* (Tas.);
 - (vii) the *Canberra Institute of Technology Act 1987* (ACT).

Note: Subsection 66A(2) of the VET Student Loans Act 2016 provides that despite subsection 66A(1), sections 66F and 66G apply to all approved course providers. Section 66F deals with provider obligations to provide information about replacement courses and section 66G deals with obligations of providers who provide replacement courses.

Division 3 – Notifying the Director of the details of a default

46 Purpose of this Division

This Division is made for the purposes of paragraph 66C(3)(b) of the Act.

47 Additional details of default

- (1) The written notice provided to the VSL Tuition Protection Director within 3 business days of the default occurring must specify for each student the provider has defaulted in relation to:
- (a) whether the student was studying part-time or full-time;
 - (b) the mode of delivery of the original course;
 - (c) if the student did not study online, the location where the original course was primarily delivered;

- (d) whether the student has withdrawn from the course or part of the course and the date of withdrawal;
 - (e) any part of the course for which the student has deferred study, the date of the deferral and the date the student is expected to re-commence study;
 - (f) the completion status for each part of the course the student has enrolled in, including whether the student’s status is ongoing, passed or failed.
- (2) The written notice provided to the VSL Tuition Protection Director must specify for each course the provider has defaulted in relation to a student the name and code of each unit of competency as it appears on the National Register for each part of the course.

Note: The National Register is defined in section 4 to have the same meaning as in the National Vocational Education and Training Regulator Act 2011.

Division 4 – Requirements of notice to VSL Tuition Protection Director

48 Purpose of this Division

This Division is made for the purposes of subsection 66C(5) of the Act.

49 Requirements of notice

The information required under section 66C of the Act must be given to the VSL Tuition Protection Director in a manner and form approved by the Director.

Division 5 – Requirements of notice to student

50 Purpose of this Division

This Division is made for the purposes of subsection 66D(3) of the Act.

51 Requirements of notice

- (1) The approved course provider must specify in its written notice of default to students in relation to whom it has defaulted:
 - (a) the name of the course, or part or parts of the course that the student was enrolled in at the time of the default;
 - (b) the date of the default;
 - (c) a website specified by the VSL Tuition Protection Director where the student can get further information about tuition protection.
- (2) The provider must send the notice:
 - (a) to the student’s personal email address as advised by the student; or
 - (b) to the student’s postal address as advised by the student; or

- (c) to the student by another method agreed to by the student.

Note: Section 66D of the Act requires an approved course provider to give a student in relation to whom the provider has defaulted, written notice of the default within 24 hours of the default occurring.

Division 6 – Payments to replacement providers and others

52 Purpose of this Division

This Division is made for the purposes of subsection 66L(2) of the Act.

53 Payments in connection with tuition protection

- (1) If a student accepts an offer of a replacement course, the VSL Tuition Protection Director may make payment of such amounts that the Director considers appropriate to:
- (a) the replacement provider; or
 - (b) another person in order to facilitate a student's placement in a replacement course.
- (2) In deciding whether to make a payment, and the amount of such a payment, the Director:
- (a) must have regard to the sustainability of the VSL Tuition Protection Fund, and;
 - (b) may have regard to any other matters the Director considers relevant.

8 Subdivision J of Division 1 of Part 7

Repeal the Subdivision, substitute:

Subdivision J – Tuition protection

91 Action when provider defaults in relation to a student

An approved course provider must have a procedure to ensure that the provider performs the following actions after the provider defaults in relation to a student:

- (a) within 24 hours of the default occurring:
 - (i) notify students enrolled in the course, in writing, that the course is no longer being provided, and;
 - (ii) give written notice to the VSL Tuition Protection Director of the circumstances of the default;
- (b) as soon as practicable, update the provider's website to reflect that the course is no longer being provided and to give tuition protection information;
- (c) within 3 business days of the default occurring, give the VSL Tuition Protection Director the information required under subsection 66C(3) of the Act

Note: Section 66B of the VET Student Loans Act 2016 describes when an approved course provider defaults in relation to a student.

92 Procedures as a replacement provider

An approved course provider must have a procedure to ensure that if a student accepts an offer of a place in a replacement course:

- (a) the student is granted course credits for parts of the original course successfully completed by the student, as evidenced by:
 - (i) a statement of attainment or other Australian Qualifications Framework certification documentation issued in accordance with the Australian Qualifications Framework; or
 - (ii) an authenticated VET transcript prepared by the Registrar (within the meaning of the *Student Identifiers Act 2014*);
- (b) the student is not charged tuition fees for the replacement component of the replacement course – if tuition fees have been paid for the affected part of the original course;
- (c) the student is enrolled in the replacement course as soon as practicable; and
- (d) the VSL Tuition Protection Director is given written notice of the acceptance within 14 days of the acceptance.

Note: The procedure an approved course provider must have for the purposes of section 92 reflects obligations on approved course providers under section 66G of the VET Student Loans Act 2016.

9 Paragraph 94(2)(d)

Omit “tuition assurance scheme operators”, substitute “the VSL Tuition Protection Director”.

10 Subdivision C of Division 3 Part 7

Repeal the Subdivision.

11 Section 108

Repeal the section.

12 Paragraph 111(1)(a)

Omit “ceases to provide an approved course”, substitute “defaults in relation to a student”.

13 Subsection 111(2)

Omit “cease providing a course after it starts but before it is completed”, substitute “default in relation to a student”.

14 At the end of subsection 111(2)

Add:

Note: Section 66B of the *VET Student Loans Act 2016* describes when an approved course provider defaults in relation to a student.

15 Section 112

Repeal the section.

Part 2–Miscellaneous

16 Section 4

Insert:

Special admissions test means a test to determine the suitability of a person seeking admission into a specialist approved course that is necessary to establish the suitability of the person for admission into that approved course, and includes specialist auditions, tests and interviews that are different from the normal requirements for admissions.

17 Subsection 93(2)

Omit “An”, substitute “Subject to subsection (3), an”.

18 At the end of subsection 93(2)

Add:

- (3) An approved course provider’s processes and procedures in relation to fees other than tuition fees may allow fees to be paid for a Special admissions test.

19 After paragraph 118(1)(f)

Insert:

; (g) fees payable for a Special admissions test.

20 Section 161

Before “The” insert “(1)”.

21 At the end of section 161

Add:

- (2) The Commonwealth may recover the debts referred to in subsection (1) from one or more loan amounts that would otherwise be payable to the course provider in relation to a student.
- (3) If a debt is recovered from a loan amount that is otherwise payable in relation to a student, the amount recovered is taken to have been paid to the course provider in relation to the student.