

EXPLANATORY STATEMENT

Issued by the authority of Minister for Employment, Skills, Small and Family Business

VET Student Loans Act 2016

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2020

PURPOSE AND OPERATION

The purpose of the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2020 (Amendment Determination)* is to amend Schedule 3 of the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loans Caps Determination)*.

The Courses and Loans Caps Determination:

- specifies the courses for which VET student loans may be approved 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 full policy context and background for the Courses and Loan Caps Determination is set out in the publicly available [Explanatory Statement to the Courses and Loan Caps Determination](#), accessible on the Federal Register of Legislation.

Courses listed in Schedule 3 of the Courses and Loans Caps Determination are only approved courses if provided by the approved course provider against which they are listed in Schedule 3. Schedule 3 also sets out the loan caps for each course, with those loan caps set in a manner consistent with the loans caps for courses listed in Schedule 1.

The Amendment Determination:

- adds nine courses for specific providers to Schedule 3; and
- increases the loan cap for one course for a specified provider currently listed in Schedule 3.

Accordingly, the Amendment Determination expands the list of courses for which VET student loans are available for specified providers.

AUTHORITY

The Amendment Determination is made under section 16 of the VET Student Loans Act.

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.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make an instrument of a legislative or administrative character, the power includes a power to amend or vary the instrument.

REGULATORY IMPACT

The Office of Best Practice Regulation assessed that a Regulation Impact Statement was not required for the Amendment Determination due to the minor regulatory impact of the proposed changes (OBPR reference #43240).

CONSULTATION

The Government invites annual requests by listed course providers (as defined under section 27 of the VET Student Loans Act) and not-for-profit providers to include additional courses in Schedule 3 of the Courses and Loans Caps Determination. In considering the additional courses, the Government required evidence from providers about employment outcomes, industry demand and employer support for those courses, and their track record of student progression and completion through those courses.

As a result, nine additional courses were approved for specified providers and added to Schedule 3 by the Amendment Determination.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2020

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2020* (**Amendment Determination**) 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 Amendment Determination

The Amendment Determination amends Schedule 3 of the of the *VET Student Loans (Courses and Loan Caps) Determination 2016* (**Courses and Loan Caps Determination**). The Courses and Loan Caps Determination sets out the courses of study for which VET student loans can be approved under the *VET Student Loans Act 2016* (**VET Student Loans Act**) and the maximum loan amounts for those courses, which is subject to annual indexation. Courses listed in Schedule 3 of the Courses and Loans Caps Determination are only approved courses if provided by the approved course provider against which they are listed in Schedule 3. Schedule 3 also sets out the loan caps for each course.

The Amendment Determination:

- adds nine courses for specific providers to Schedule 3; and
- increases the loan cap for one course for a specified provider currently listed in Schedule 3.

Accordingly, the Amendment Determination expands the list of courses for which VET student loans are available for specified providers

Human rights implications

This Amendment Determination engages the following human rights:

- *Right to Education* – Article 13, International Covenant on Economic, Social and Cultural Rights (**ICESR**);
- *Right to Work* – Article 6(1) and 7 of the ICESCR.

Right to Education

The Amendment Determination engages the right to education, set out in Article 13 of the ICESR. The right to education recognises the important personal, societal, economic and intellectual benefits of education and provides that higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.

The right to education is positively engaged by the measures contained in the Amendment Determination because these amendments will ensure that students have access to educational opportunities in courses that prepare students to meet industry needs within

the vocational education training (**VET**) sector, thereby providing students with educational opportunities in relevant fields that lead to genuine employment opportunities.

To the extent that the Amendment Determination is interpreted in any way to limit students' access to particular courses and confine course choice, this is justifiable to ensure fiscal accountability and quality output from providers. The limit on which courses are eligible for loan access ensures that students are undertaking courses that are more likely to result in an employment outcome. This limitation is 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.

The Amendment Determination is compatible with the right to education.

Right to Work

The Amendment Determination engages the right to work, set out in Article 6 and 7 of the ICESCR. The right to work recognises the right of everyone to the opportunity to gain their living by work, which they freely choose or accept and under conditions where their fundamental political and economic freedoms are safeguarded.

VET equips students with workplace specific skills, designed by industry, for a wide range of occupations. It also represents an important economic and social opportunity for those seeking new employment opportunities, or those seeking to retrain.

Courses, which are eligible for a VET student loan, must be current and on at least two state or territory skills needs lists; or science, technology, engineering, agriculture or mathematics related; or tied to licensing requirements for a particular occupation. The Amendment Determination is intended to keep the focus of the VET student loans program on providing 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. This Amendment Determination allows the Courses and Loan Caps Determination to be updated with approved courses to ensure that Commonwealth income contingent loans are available to support students in VET training courses where genuine employment opportunities exist.

The Amendment Determination is compatible with the right to work.

Conclusion

The Amendment Determination is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Minister for Employment, Skills, Small and Family Business
Senator the Hon Michaelia Cash

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EXPLANATION OF PROVISIONS

Section 1: Name

1. This is a formal provision specifying the name of the instrument to be the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2020*.

Section 2: Commencement

2. Subsection 2(1) contains a table that sets out the commencement information for the instrument. Each provision of the instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.
3. The table has the effect of providing that sections 1 to 4, Schedule 1 and anything else in the instrument commence the day after the instrument is registered on the Federal Register of Legislation.

Section 3: Authority

4. Section 3 provides that the making of the instrument is authorised under section 16 of the *VET Student Loans Act 2016*.

Section 4: Title of Section

5. Section 4 provides that the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)* is amended as set out in Schedule 1 to the instrument.

Schedule 1 – Amendments

Item 1

6. Item 1 inserts nine rows into the table in Schedule 3 of the *Courses and Loan Caps Determination* setting out the details of an additional nine courses for seven specific approved course providers (and the applicable loan caps for those courses). The rows are to be inserted into the table in alphabetical order by approved course provider.

Item 2

7. Item 2 amends the amount listed at item 1, under the column headed 'Maximum loan amount', by omitting the current amount of '\$10 000' and substituting it with '\$15,000'. The effect of this amendment is that the loan cap for the approved course currently listed at item 1 of the table in Schedule 3 of the Courses and Loans Cap Determination is increased from \$10,000 to \$15,000.

Item 3

8. The insertion of the additional nine rows mentioned in Item 1 above will disrupt the numeric order of the item numbers in the column headed 'Item' of the table in Schedule 3 of the Courses and Loan Caps Determination. Item 3 therefore provides that all numbers and alphanumeric characters in the column headed 'Item' in the table in Schedule 3 are to be renumbered by row order, starting at 1. This means the item number for each row of the table is to be renumbered in accordance with its numeric order, with alphanumeric characters replaced with numbers.