

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

HELP Debtor Guidelines (Health Practitioners) 2023

AUTHORITY

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make HELP Debtor Guidelines (Health Practitioners) to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out or give effect to Part 4-1 of the Act.

PURPOSE AND OPERATION

The purpose of the *HELP Debtor Guidelines (Health Practitioners) 2023* (the Instrument) is to provide for matters relevant to location-preferred HELP debtors that are health practitioners, for the purposes of Division 144 in Part 4-1 of the Act. This includes providing for matters relevant to determining when a person is a 'location-preferred HELP debtor (health practitioner)' for the purposes of the Act, and specifying requirements that a person has to meet to be eligible for a reduction of their accumulated HELP debt, or a reduction of the indexation in relation to their accumulated HELP debt.

The *Higher Education Support Amendment (2022 Measures No. 1) Act 2023* (Amendment Act) amended the Act to include Division 144, and to provide the power to make the Instrument, to implement the 'HELP for Rural Doctors and Nurse Practitioners' measure (the measure) which was part of the previous Government's 2021-22 Mid-Year Economic and Fiscal Outlook (MYEFO). The current Government is implementing this measure as it recognises the unique challenges facing the health system in the regions and is focused on improving the capacity, quality and distribution of health services to meet the needs of families living in rural, remote and very remote communities.

All Australians are entitled to be supported to be healthy and well, through access to equitable, affordable, person-centred primary care services, regardless of where they live and when they need care.

The measure is intended to attract and retain health practitioners to work in rural, remote or very remote areas of Australia, addressing issues of equity and access to healthcare in these areas.

IMPACT ANALYSIS

The Office of Impact Analysis has advised that an Impact Analysis is not required as the Instrument is unlikely to have a more than minor impact (OIA23-05245).

COMMENCEMENT

The Instrument commences on the day after it is registered on the Federal Register of Legislation.

CONSULTATION

Following the announcement of the measure as part of the 2021-22 MYEFO, the Department of Health completed consultations with health sector stakeholders – through established consultation channels – to explain how the new measure to reduce outstanding Higher Education Loan Program (HELP) debts would operate, and to seek their input to ensure the measure would incentivise the targeted recipients.

Feedback from stakeholders during these consultations was very positive. Stakeholder feedback also identified issues in relation to the eligibility requirements for health practitioners delivering primary care services, including in relation to both the setting where services are delivered and the remuneration arrangements for nurse practitioners and medical practitioners.

The Department of Health has also received representations advocating expansion of the measure to include additional health professional cohorts – including but not limited to a range of ‘allied health’ practitioners. During the passage of the Amendment Act, it was agreed by the Parliament that the measure would be reviewed in 2025 and 2028 to determine whether the measure was delivering as intended and whether expansion to other professions, including additional health practitioner cohorts, should be considered by Government.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

HELP Debtor Guidelines (Health Practitioners) 2023

The *HELP Debtor Guidelines (Health Practitioners) 2023* (the 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 purpose of the Instrument is to provide for matters relevant to location-preferred HELP debtors that are health practitioners, for the purposes of Division 144 in Part 4-1 of the *Higher Education Support Act 2003* (the Act). This includes providing for matters relevant to determining when a person is a 'location-preferred HELP debtor (health practitioner)' for the purposes of the Act, and specifying requirements that a person has to meet to be eligible for a reduction of their accumulated HELP debt, or a reduction of the indexation in relation to their accumulated HELP debt.

The *Higher Education Support Amendment (2022 Measures No. 1) Act 2023* amended the Act to include Division 144, and to provide the power to make the Instrument, to implement the 'HELP for Rural Doctors and Nurse Practitioners' measure (the measure) which was part of the previous Government's 2021-22 Mid-Year Economic and Fiscal Outlook (MYEFO). The current Government is implementing this measure as it recognises the unique challenges facing the health system in the regions and is focused on improving the capacity, quality and distribution of health services to meet the needs of families living in rural, remote and very remote communities.

All Australians are entitled to be supported to be healthy and well, through access to equitable, affordable, person-centred primary care services, regardless of where they live and when they need care.

The measure is intended to attract and retain health practitioners to work in rural, remote or very remote areas of Australia, addressing issues of equity and access to healthcare in these areas.

Human rights implications

The Instrument engages the following rights:

- the right to health in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); and
- right to education in Article 13 of the ICESCR.

Right to health

Article 12 of the ICESCR recognises the right of all persons to the enjoyment of the highest attainable standard of physical and mental health. The Instrument engages the right to health as the Instrument assists with facilitating the reduction of accumulated HELP debts, and the reduction of indexation on those debts, for health practitioners working in rural remote or very remote Australia.

This Instrument supports the right to health as it provides a financial incentive for health practitioners to consider working in rural, remote and very remote areas. These areas have historically experienced shortages of these key health workers, which has been a contributing factor towards the measurably lower health outcomes in these regions compared to the Australian average. Increasing the number of health practitioners in these areas will help address the inequity in access to health services, and improve health outcomes for Australians living in rural, remote and very remote areas.

Right to education

Article 13(2)(c) of the ICESCR 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 Instrument provides for the reduction of accumulated HELP debts and the reduction of indexation on those debts. This provides a post-study economic benefit of reducing all or part of a health practitioner’s HELP debt. This Instrument supports the right to education as it reduces the financial burden on health practitioners for debts incurred in the course of pursuing higher education.

Conclusion

The Instrument is compatible with human rights because it supports the right to health and the right to education.

Minister for Education, The Hon Jason Clare MP

HELP DEBTOR GUIDELINES (HEALTH PRACTITIONERS) 2023

EXPLANATION OF PROVISIONS

Part 1 – Preliminary

Section 1: Name

1. This section specifies the name of the instrument as the *HELP Debtor Guidelines (Health Practitioners) 2023* (the Instrument).

Section 2: Commencement

2. This section provides that the Instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3: Authority

3. This section provides that the Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

Section 4: Definitions

4. This section defines a range of terms that are used in the Instrument and notes that some terms used in the Instrument are defined in the Act (and have the same meaning as in the Act).
5. This section defines the 'Modified Monash Model (MMM)' to mean the geographical classification system managed by the Health Department (also defined in section 4) that categorises metropolitan, regional, rural and remote areas by reference to the ABS Remoteness Structure. This definition incorporates the MMM, a classification system, as in force or existing from time to time. This is permitted because of subsection 238-10(5) of the Act, which provides that, despite subsection 14(2) of the *Legislation Act 2003* (which prohibits incorporating another instrument or writing as in force or existing from time to time), the Instrument may incorporate any matter contained in any other instrument or writing as in force or existing from time to time. The MMM can be found here: [Modified Monash Model | Australian Government Department of Health and Aged Care](#).

Part 2 – Meaning of location-preferred HELP debtor (health practitioner)

Section 5: Registration or accreditation of health practitioner

6. Paragraph 144-1(1)(d) of the Act provides that a person is a location-preferred HELP debtor (health practitioner) if the person holds the registration or accreditation as a kind of health practitioner for the course of study specified in the Instrument.
7. Subsection 5(1) provides that a person holds the registration or accreditation as a health practitioner where the person has completed a course of study in medicine leading to their registration as a medical practitioner.
8. Subsection 5(2) provides that a person holds the registration or accreditation as a health practitioner, that is a nurse practitioner, where the person has completed all relevant postgraduate courses of study in nursing required for registration as a nurse practitioner.
9. Section 5 does not list courses of study, but specifies classes of courses for the purposes of specifying a course of study under paragraph 144-1(1)(d) of the Act. This is consistent with subsection 13(3) of the *Legislation Act 2003*, which provides that, if an enabling legislation confers on a person the power to make a legislative instrument specifying a matter, then, in exercising the power, the person may identify the matter by referring to a class or classes of matters.

Section 6: Work carried out by the health practitioner

10. Paragraph 144-1(1)(e) of the Act provides that a person is a location-preferred HELP debtor (health practitioner) if the person carries out work as the kind of health practitioner in the circumstances specified by the Instrument.
11. Section 6 provides that a person is a location-preferred HELP debtor (health practitioner) if the person carries out work as a medical practitioner or a nurse practitioner within a general practice.

Section 7: Rural, remote or very remote areas

12. Paragraph 144-1(1)(f) of the Act provides that a person is a location-preferred HELP debtor (health practitioner) if the person carries out work in an area specified by the Guidelines (by reference to the ABS Remoteness Structure), as a rural area, a remote area, or a very remote area.
13. Section 7 defines rural, remote and very remote area by reference to the Modified Monash Model, which in turn, uses the ABS Remoteness Structure.

Section 8: Minimum hours of work for a health practitioner

14. Paragraph 144-1(1)(g) of the Act provides that a person is a location-preferred HELP debtor (health practitioner) if the number of hours the person carries out work is not less than the minimum number of hours specified in the Instrument.
15. The Instrument provides that the minimum number of hours that a health practitioner must carry out work as the kind of health practitioner specified in section 6 is 24 hours per week.

Section 9: Post-registration experience requirement for medical practitioners

16. Paragraph 144-1(1)(h) of the Act provides that a person is a location-preferred HELP debtor (health practitioner) in relation to a course of study if the person satisfies any other applicable requirements specified in the Instrument.
17. Section 9 specifies that a person who is a medical practitioner must have been a medical practitioner for a cumulative period of at least 36 months in order to be a location-preferred HELP debtor (health practitioner).

Section 10: Eligible courses of study

18. Subsection 144-1(2) of the Act provides that the Instrument can specify courses of study that are eligible courses of study for the purposes of determining whether a person is a location-preferred HELP debtor (health practitioner).
19. Subsection 10(1) provides that an eligible course of study for the purposes of paragraph 144-1(2)(a) of the Act (i.e. for a course of study in medicine) is a course of study that is specified in subsection 5(1).
20. Subsection 10(2) provides that an eligible course of study for the purposes of subparagraph 144-1(2)(b)(ii) of the Act (i.e. for courses of study for nurse practitioners) is a course of study that is specified in subsection 5(2).

Part 3 – Reducing indexation of accumulated HELP debts

Section 11: Requirements for the reduction of the indexation of accumulated HELP debts

21. Subsection 144-5(1) of the Act provides that the Secretary must, on application of a person, determine that the indexation of the person's accumulated HELP debt for a course of study is to be reduced in relation to a financial year if, on 1 June of the financial year in relation to which the application is made, the person has an accumulated HELP debt for the course of study, and the Secretary is satisfied that the person was a location-preferred HELP debtor (health practitioner) in relation to the course of study at any time during the calendar year, and has met such other requirements as are specified in the Instrument.

22. Section 11 provides that the other requirement that a person must meet for the purposes of determining that the indexation of their accumulated HELP debt for a course of study is to be reduced, is that the person resides in a rural, remote or very remote area, as defined in section 7.

Part 4 – Reducing accumulated HELP debts

Section 12: Requirements for the reduction of accumulated HELP debts

23. Subsection 144-10(1) of the Act provides that the Secretary must, on application of a person, determine that the person’s accumulated HELP debt for a course of study is to be reduced by a specified amount if the Secretary is satisfied that the person has been a location-preferred HELP debtor (health practitioner) for a period that is not less than the minimum period specified in the Instrument, and has met such other requirements that are specified in the Instrument.
24. Subsection 12(1) sets out the minimum period for which a person must have been a location-preferred HELP debtor (health practitioner). This subsection provides that the minimum period for a person carrying out work in a remote or very remote area is a quarter of the period of the duration of the relevant course of study, and the minimum period for a person carrying out work in a rural area is half the period of the duration of the relevant course of study.
25. The note in subsection 12(1) clarifies that under subsection 144-10(1) the Secretary has discretion to determine the amount by which a person’s accumulated HELP debt may be reduced, as long as the amount by which the debt is reduced does not exceed the amounts specified in subsection 144-10(2). Where a person has only been a location-preferred HELP debtor (health practitioner) for the minimum period specified in subsection 12(1), the Secretary will reduce the person’s accumulated HELP debt by 50 per cent. Where a person has been a location-preferred HELP debtor (health practitioner) for a period equivalent to double the minimum period specified in subsection 12(1), the Secretary will reduce the person’s accumulated HELP debt by 100 per cent.
26. Subsection 12(2) sets out other requirements that a person must meet for the purposes of determining whether their accumulated HELP debt is to be reduced. This subsection provides that the other requirements are that the person has an accumulated HELP for all or part of their completed courses of study, and resides in a rural, remote or very remote area, as defined in section 7.
27. Subsection 12(3) provides that the courses of study that are specified in section 5 are the relevant courses of study for the purposes of subparagraph 144-10(2)(a)(i) of the Act. Subsection 144-10(2) of the Act provides that, the Secretary must not determine that a person’s accumulated HELP debt for a course of study is to be reduced by an amount that is less than either:

- a. the sum of the amounts of HECS-HELP debt and FEE-HELP debt incurred by the person in respect of units of study with a total EFTSL value not exceeding the maximum amount for the courses of study specified in section 5 (subparagraph 144-10(2)(a)(i)), and undertaken as part of the course of study (subparagraph 144-10(2)(a)(ii)); or
- b. the amount of the person's accumulated HELP debt for the course of study on the day the person first becomes a location-preferred HELP debtor (health practitioner) in relation to the course of study (paragraph 144-10(2)(b)).