



Higher Education Support Amendment (2022 Measures No. 1) Transitional Rules 2024

I, Jason Clare, Minister for Education, make the following rules.

Dated 13 February 2024

Jason Clare
Minister for Education

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1 Name

This instrument is the *Higher Education Support Amendment (2022 Measures No. 1) Transitional Rules 2024*.

2 Commencement

This instrument commences the day after this instrument is registered.

3 Authority

This instrument is made under item 12 of Schedule 1 to the *Higher Education Support Amendment (2022 Measures No. 1) Act 2023*.

4 Definitions

Note 1: A number of expressions used in this instrument are defined in the *Higher Education Support Act 2003*, including the following:

- (a) HECS-HELP assistance;
- (b) HECS-HELP debt;
- (c) HELP balance;
- (d) higher education provider;
- (e) unit of study;
- (f) student contribution amount.

Note 2: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) affected student;
- (b) old student contribution amount;
- (c) relevant amendment;
- (d) transition period.

(1) In this instrument:

Act means the *Higher Education Support Amendment (2022 Measures No.1) Act 2023*.

second transition period means the period, which forms part of the transition period, starting on 1 January 2023 and ending on the day before the commencement of the Act.

(2) Any other expression used in this instrument that is defined in the *Higher Education Support Act 2003*, or in Schedule 1 to the Act, has the same meaning in this instrument as it has in the *Higher Education Support Act 2003* or in that Schedule.

5 Transitional rules for full up-front payments made during second transition period

- (1) This section is made for the purposes of subitem 12(1) of Schedule 1 to the Act and applies if:
 - (a) during the second transition period, an affected student made one or more up-front payments to a higher education provider in relation to a unit of study; and
 - (b) the amount of that payment, or the sum of those payments, is equal to 100% of the affected student's old student contribution amount for the unit.
- (2) If the amount paid by the affected student is more than the amount that could have been paid to the higher education provider had the relevant amendment been in force during the second transition period, the higher education provider must pay to the affected student an amount equal to the difference between the two amounts.

6 Transitional rules for partial up-front payments made during second transition period

- (1) This section is made for the purposes of subitem 12(1) of Schedule 1 to the Act and applies if:
 - (a) during the second transition period, an affected student made one or more up-front payments to a higher education provider in relation to a unit of study; and
 - (b) the amount of that payment, or the sum of those payments, is less than 100% of the affected student's old student contribution amount for the unit; and
 - (c) under section 96-1 of the *Higher Education Support Act 2003*, the Commonwealth:
 - (i) as a benefit to an affected student, lent to the student an amount of HECS-HELP assistance for a unit of study with a higher education provider; and
 - (ii) paid to the provider the amount lent in discharge of the student's liability to pay the remainder of their old student contribution amount for the unit.
- (2) If the amount (the **old amount**) referred to in subparagraph (1)(c)(ii) is more than the amount (the **new amount**) that would have been paid to the provider had the relevant amendment been in force during the second transition period, the difference between the old amount and the new amount may be:
 - (a) deducted from any amount that is payable, or to be paid, to the higher education provider under the *Higher Education Support Act 2003*; or
 - (b) recovered by the Commonwealth from the higher education provider as a debt due to the Commonwealth.
- (3) If the amount paid by the affected student is more than the amount that could have been paid to the higher education provider had the relevant amendment been in force during the second transition period, the higher education provider

must pay to the affected student an amount equal to the difference between the two amounts.

- (4) The higher education provider must, on the Secretary's behalf, re-credit the affected student's HELP balance with an amount (the **relevant amount**) that is equal to the difference between the amount referred to in subparagraph (1)(c)(ii) that was paid to the provider and the amount that would have been paid under paragraph 96-1(b) of the *Higher Education Support Act 2003*, had the relevant amendment been in force during the second transition period.
- (5) The affected student's HECS-HELP debt in relation to the unit of study is taken to be remitted by an amount equal to the relevant amount for the purposes of the *Higher Education Support Act 2003*.

7 Secretary may act if provider is unable to

For the purposes of the transitional rules specified in section 6, if a higher education provider is unable to act for the purposes of subsection 6(4), the Secretary may act as if the reference in that subsection was a reference to the Secretary.

8 Interaction of transitional rules with the *Higher Education Support Act 2003*

For the purposes of subitem 12(2) of Schedule 1 to the Act, item 11 of Schedule 1 to the Act is modified such that the obligations imposed on a higher education provider in this instrument are taken, for the purposes of the *Higher Education Support Act 2003*, to be conditions of a grant made to the provider under Part 2-2 of that Act.