

2019

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Student Identifiers Amendment (Higher
Education) Bill 2019**

No. , 2019

(Education)

**A Bill for an Act to amend the *Student Identifiers
Act 2014*, and for related purposes**

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A Bill for an Act to amend the *Student Identifiers Act 2014*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Student Identifiers Amendment (Higher Education) Act 2019*.

2 Commencement

- (1) Each provision of this Act 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 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
3. Schedule 1, Part 2, Division 1	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of Schedule 1 to the <i>Education Legislation Amendment (Tuition Protection and Other Measures) Act 2019</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 1, Part 2, Division 2	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of the <i>Student Identifiers Amendment (Enhanced Student Permissions) Act 2019</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Student Identifiers Act 2014

1 Title

After “**student identifiers and**”, insert “**for**”.

2 Section 3

After:

Generally, a registered training organisation must not issue a VET qualification or VET statement of attainment to an individual after 2014 unless the individual has a student identifier.

insert:

Generally, a registered higher education provider must not confer a regulated higher education award on an individual after 2022 unless the individual has been assigned a student identifier.

3 Section 3

Omit “organisation or body involved with vocational education and training”, substitute “organisation, body or person involved with vocational education and training or higher education”.

4 Subsection 4(1)

Insert:

authorised officer of the ESOS agency for a registered provider has the same meaning as in the *Education Services for Overseas Students Act 2000*.

Education Department means the Department administered by the Education Minister.

Education Minister means the Minister who administers the *Tertiary Education Quality and Standards Agency Act 2011*.

ESOS agency for a provider or registered provider has the same meaning as in the *Education Services for Overseas Students Act 2000*.

member of the staff of TEQSA has the same meaning as in the *Tertiary Education Quality and Standards Agency Act 2011*.

registered higher education provider has the same meaning as in the *Tertiary Education Quality and Standards Agency Act 2011*.

regulated higher education award has the same meaning as in the *Tertiary Education Quality and Standards Agency Act 2011*.

TEQSA Commissioner means a Commissioner of the Tertiary Education Quality and Standards Agency.

Tertiary Admission Centre has the same meaning as in the *Tertiary Education Quality and Standards Agency Act 2011*.

TPS Director means the person holding office as the TPS Director under the *Education Services for Overseas Students Act 2000*.

TPS officer has the same meaning as in the *Education Services for Overseas Students Act 2000*.

5 Section 8

Omit “organisation or body involved with vocational education and training”, substitute “organisation, body or person involved with vocational education and training or higher education”.

6 After paragraph 9(2)(b)

Insert:

- (ba) a registered higher education provider;
- (bb) a Tertiary Admission Centre;

7 Paragraph 11(1)(a)

Omit “a registered training organisation, VET admission body or other entity”, substitute “an entity”.

8 Subsection 11(1)

Omit “organisation, body or” (wherever occurring).

9 Subsection 11(2)

Omit “registered training organisation, VET admission body or other”.

10 After paragraph 12(2)(b)

Insert:

- (ba) the Secretary of, or an APS employee in, the Education Department; and

11 At the end of subsection 14(1)

Add:

- ; (e) a registered higher education provider;
- (f) a Tertiary Admission Centre authorised by the individual to make a request under this section;
- (g) the Secretary of the Education Department;
- (h) an APS employee in the Education Department;
- (i) a person who performs services for or on behalf of the Commonwealth in connection with the performance of functions, or the exercise of powers, under the *Higher Education Support Act 2003* or any instrument made under that Act;
- (j) a TEQSA Commissioner;
- (k) the Chief Executive Officer of the Tertiary Education Quality and Standards Agency;
- (l) a member of the staff of TEQSA;
- (m) a person who performs services for or on behalf of the Commonwealth in connection with the performance of functions, or the exercise of powers, under the *Tertiary Education Quality and Standards Agency Act 2011* or any instrument made under that Act;
- (n) the TPS Director;
- (o) an ESOS agency for a provider or registered provider;
- (p) a TPS officer;
- (q) an authorised officer of the ESOS agency for a registered provider.

12 At the end of section 18

Add:

- (3) The Registrar is authorised to use or disclose a student identifier of an individual if the use or disclosure is for the purposes of research:
- (a) that relates (directly or indirectly) to the provision of higher education; and
 - (b) that meets the requirements specified in an instrument under subsection (4).
- (4) The Education Minister must, by legislative instrument, specify requirements for the purposes of paragraph (3)(b).

13 After section 18A

Insert:

18B Collection, use or disclosure for purposes of higher education

- (1) A person referred to in subsection (2) is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary for the purposes of performing functions or exercising powers in relation to:
- (a) the *Higher Education Support Act 2003*; or
 - (b) any instrument made under that Act.
- (2) The persons are the following:
- (a) the Secretary of the Education Department;
 - (b) an APS employee in the Education Department;
 - (c) a person who performs services for or on behalf of the Commonwealth in connection with the performance of functions, or the exercise of powers, under the *Higher Education Support Act 2003* or any instrument made under that Act;
 - (d) the Commissioner of Taxation.
- (3) A person referred to in subsection (4) is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary for the purposes of performing functions or exercising powers in relation to:
- (a) the *Tertiary Education Quality and Standards Agency Act 2011*; or
 - (b) any instrument made under that Act.

- (4) The persons are the following:
 - (a) a TEQSA Commissioner;
 - (b) the Chief Executive Officer of the Tertiary Education Quality and Standards Agency;
 - (c) a member of the staff of TEQSA;
 - (d) a person who performs services for or on behalf of the Commonwealth in connection with the performance of functions, or the exercise of powers, under the *Tertiary Education Quality and Standards Agency Act 2011* or any instrument made under that Act.

- (5) A registered higher education provider is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary in connection with the operation of:
 - (a) the *Higher Education Support Act 2003* or *Tertiary Education Quality and Standards Agency Act 2011*; or
 - (b) any instrument made under that Act.

18C Collection, use or disclosure for purposes of education services for overseas students

- (1) An entity referred to in subsection (2) is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary for the purposes of performing functions or exercising powers in relation to:
 - (a) the *Education Services for Overseas Students Act 2000*; or
 - (b) any instrument made under that Act.

- (2) The entities are the following:
 - (a) the Secretary of the Department administered by the Minister administering the *Education Services for Overseas Students Act 2000*;
 - (b) the TPS Director;
 - (c) a TPS officer;
 - (d) an ESOS agency for a provider or registered provider;
 - (e) an authorised officer of the ESOS agency for a registered provider.

- (3) A registered higher education provider is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary in connection with the operation of:
- (a) the *Education Services for Overseas Students Act 2000*; or
 - (b) any instrument made under that Act.

14 At the end of section 25

Add:

- (3) The use or disclosure by the Registrar of personal information about an individual is taken, for the purposes of the *Privacy Act 1988*, to be authorised by this Act if the use or disclosure is for the purposes of research:
- (a) that relates (directly or indirectly) to the provision of higher education; and
 - (b) that meets the requirements specified in an instrument under subsection (4).
- (4) The Education Minister must, by legislative instrument, specify requirements for the purposes of paragraph (3)(b).

15 Section 30

After “staff from the Department”, insert “or the Education Department”.

16 Section 30

After “annually to the Commonwealth Minister”, insert “, the Education Minister”.

17 At the end of Subdivision A of Division 2 of Part 4

Add:

33A Education Minister may give directions to the Registrar

- (1) The Education Minister may, by legislative instrument, give written directions to the Registrar about the performance of the Registrar’s functions in relation to higher education.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations

made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (2) The Registrar must comply with a direction under subsection (1).

18 At the end of section 45

Add “or by the Secretary of the Education Department”.

19 Subsection 51(2)

After “copy of the report to the”, insert “Education Minister and the”.

20 Section 52

After:

Generally, a registered training organisation must not issue a VET qualification or VET statement of attainment to an individual after 2014 unless the individual has a student identifier.

insert:

Generally, a registered higher education provider must not confer a regulated higher education award on an individual after 2022 unless the individual has been assigned a student identifier. The Education Minister and the Registrar can give exemptions.

21 After section 53

Insert:

53A Conferral of regulated higher education awards

- (1) A registered higher education provider must not confer a regulated higher education award on an individual unless the individual has been assigned a student identifier.

Exemptions given by Education Minister

- (2) Subsection (1) does not apply to a conferral specified in an instrument under subsection (3).

- (3) The Education Minister may, by legislative instrument, specify a conferral to which subsection (1) does not apply, by reference to one or more of the following:
- (a) the registered higher education provider doing the conferring;
 - (b) the regulated higher education award being conferred;
 - (c) the individual on whom the regulated higher education award is being conferred.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

Exemptions given by Registrar

- (4) Subsection (1) does not apply in relation to an individual if a determination under subsection (6) is in force in relation to the individual.
- (5) An individual may request the Registrar to make a determination that subsection (1) does not apply in relation to the individual. The request must:
- (a) be made in a manner and form approved by the Registrar;
and
 - (b) include any information required by the Registrar.
- (6) If an individual makes a request under subsection (5), the Registrar must, by writing, make, or refuse to make, the determination requested.
- (7) The Registrar must, in making a decision on the request, have regard to the matters (if any) determined in an instrument under subsection (9).
- (8) The Registrar must give the person notice of the Registrar's decision on the request. If the Registrar refuses to make the determination requested, the notice must include reasons for the refusal.
- (9) The Education Minister may, by legislative instrument, determine matters for the purposes of subsection (7).
- (10) An instrument under subsection (6) is not a legislative instrument.
- (11) If:
- (a) the Registrar assigns a student identifier to an individual; and

(b) immediately before the assignment, a determination under subsection (6) is in force in relation to the individual; then that determination is taken to be revoked immediately after the assignment.

(12) The matters covered by subsections (3) and (9) may be included in the same instrument.

22 After subsection 57(2)

Insert:

(2A) However, subsection (2) does not apply in relation to the making of particular regulations if the Education Minister:

- (a) is satisfied that the regulations are in respect of matters relating to higher education; and
- (b) recommends to the Governor-General the making of the regulations.

23 Application provision

Section 53A of the *Student Identifiers Act 2014*, as inserted by this Part, applies in relation to the conferring of a regulated higher education award on an individual on or after 1 January 2023, whether the individual commenced the course of study leading to the award before, on or after that day.

Part 2—Contingent amendments

Division 1—First contingency

Student Identifiers Act 2014

24 Subsection 4(1)

Insert:

HELP Tuition Protection Director has the same meaning as in the *Higher Education Support Act 2003*.

VSL Tuition Protection Director has the same meaning as in the *VET Student Loans Act 2016*.

25 After paragraph 14(1)(n)

Insert:

(na) the VSL Tuition Protection Director;

(nb) the HELP Tuition Protection Director;

26 Section 18A

After “body”, insert “, the VSL Tuition Protection Director”.

27 After paragraph 18B(2)(b)

Insert:

(ba) the HELP Tuition Protection Director;

Division 2—Second contingency

Student Identifiers Act 2014

28 Paragraph 29E(4)(a)

After “Department”, insert “or in the Education Department”.

29 At the end of paragraph 29E(4)(b)

Add “or in the Education Department”.