

**Higher Education Support Amendment  
(Extending FEE-HELP for VET  
Diploma, Advanced Diploma, Graduate  
Diploma and Graduate Certificate  
Courses) Act 2007**

**No. 170, 2007**

**An Act to amend the *Higher Education Support Act  
2003*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

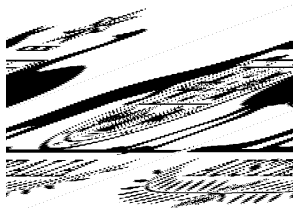


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**An Act to amend the *Higher Education Support Act 2003*, and for related purposes**

[Assented to 28 September 2007]

The Parliament of Australia enacts:

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*Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007* No. 170, 2007 1

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## 1 Short title

This Act may be cited as the *Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007*.

## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	28 September 2007
2. Schedule 1	1 January 2008.	1 January 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Higher Education Support Act 2003**

### **1 At the end of paragraph 2-1(d)**

Add “and certain vocational education and training”.

### **2 Section 3-1**

After “for higher education”, insert “and certain vocational education and training”.

### **3 At the end of Division 3**

Add:

#### **3-30 VET FEE-HELP Assistance Scheme (Schedule 1A)**

Schedule 1A provides for financial assistance to students undertaking certain accredited vocational education and training (VET) courses.

### **4 At the end of subsection 5-1(4)**

Add:

; (f) Schedule 1A (VET FEE-HELP Assistance Scheme).

### **5 At the end of Chapter 1**

Add:

## **Division 6—Schedule 1A**

### **6-1 Schedule 1A**

Schedule 1A has effect.

### **6 After section 22-30**

Insert:

**22-32 Determination retaining approval as a provider in respect of existing students following suspension of approval**

- (1) The Minister may determine, in writing, that a suspension of a body's approval as a higher education provider under section 22-30 is of no effect for the purposes of:
  - (a) grants to the body under this Chapter; and
  - (b) assistance payable to the body's students under Chapter 3; to the extent that the grants or assistance relate to students of the body who have not completed the \*courses of study in which they were enrolled with the body on the day specified for the purposes of paragraph 22-30(4)(a).
- (2) A copy of the determination must be given to the body concerned.
- (3) The body is taken, for the purposes of this Act, to continue to be a higher education provider, but only to the extent referred to in subsection (1).
- (4) Subsection (3) does not prevent the Minister subsequently revoking the body's approval as a higher education provider under this Division.
- (5) A determination made under subsection (1) is not a legislative instrument.

**7 Section 104-15**

Repeal the section, substitute:

**104-15 A person's FEE-HELP balance**

- (1) A person's *FEE-HELP balance* at a particular time is:
  - (a) if the \*FEE-HELP limit in relation to the person at the time exceeds the sum of all of the amounts of \*FEE-HELP assistance and \*VET FEE-HELP assistance that have previously been payable to the person, being that sum as reduced by any amounts previously re-credited under this Subdivision or Subdivision 7-B of Schedule 1A—that excess; and
  - (b) otherwise—zero.



Note: If an amount is to be re-credited to a FEE-HELP balance, the balance that is to be re-credited is worked out immediately before that re-crediting. The balance is worked out after the re-crediting by taking account of the amount re-credited. If a person's FEE-HELP limit has been reduced, the balance might not increase, or might not increase by the same amount as the amount re-credited.

- (2) To avoid doubt, the sum referred to in paragraph (1)(a) includes amounts of \*FEE-HELP assistance and \*VET FEE-HELP assistance that have been repaid.

## **8 Section 107-10**

Repeal the section, substitute:

### **107-10 Amounts of FEE-HELP assistance and VET FEE-HELP assistance must not exceed the FEE-HELP balance**

*Amount of FEE-HELP assistance for one unit*

- (1) The amount of \*FEE-HELP assistance to which a student is entitled for a unit of study is an amount equal to the student's \*FEE-HELP balance on the \*census date for the unit if:
- (a) there is no other:
    - (i) unit of study, with the same census date, for which the student is entitled to FEE-HELP assistance; or
    - (ii) \*VET unit of study, with the same census date, for which the student is entitled to \*VET FEE-HELP assistance; and
  - (b) the amount of FEE-HELP assistance to which the student would be entitled under section 107-1 for the unit would exceed that FEE-HELP balance.

*Amount of FEE-HELP assistance for more than one unit*

- (2) If the sum of:
- (a) the amount of \*FEE-HELP assistance to which a student would be entitled under section 107-1 for a unit of study; and
  - (b) any other amounts of:
    - (i) FEE-HELP assistance to which the student would be entitled under that section for other units that have the same \*census date as that unit; and

(ii) \*VET FEE-HELP assistance to which the student would be entitled under clause 52 of Schedule 1A for other units that have the same census date as that unit; would exceed the student's \*FEE-HELP balance on the census date for the unit, then, despite subsection (1) of this section, the total amount of FEE-HELP assistance and VET FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that FEE-HELP balance.

Example: Kath has a FEE-HELP balance of \$2,000, and is enrolled in 4 units with the same census date. Kath's tuition fee for each unit is \$600. The total amount of FEE-HELP assistance to which Kath is entitled for the units is \$2,000, even though the total amount of her tuition fees for the units is \$2,400.

- (3) If the student has enrolled in the units with more than one higher education provider or \*VET provider, and access to none of the units was provided by \*Open Universities Australia, the student must notify each provider of the proportion of the total amount of \*FEE-HELP assistance or \*VET FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.
- (4) If access to some, but not all, of the units of study was provided by \*Open Universities Australia, the student must:
- (a) notify Open Universities Australia of the proportion of the total amount of \*FEE-HELP assistance that is to be payable in relation to units access to which was provided by Open Universities Australia; and
  - (b) notify each higher education provider or \*VET provider at which the student is enrolled in a unit, access to which was not provided by Open Universities Australia, of the proportion of the total amount of FEE-HELP assistance or \*VET FEE-HELP assistance that is to be payable in relation to that unit.

## 9 Section 129-1

Repeal the section, substitute:

### **129-1 What this Chapter is about**

Loans that the Commonwealth makes to students under Chapter 3 are repayable under this Chapter. Loans that the Commonwealth makes to students under Schedule 1A are also repayable under this Chapter.

Each loan is incorporated into the person's accumulated HELP debt (see Part 4-1).

Under Part 4-2, the accumulated debts can be repaid in 2 ways:

- a person may make voluntary repayments (which may attract a repayment bonus); or
- compulsory repayments (based on a person's income) are made using the system for payment of income tax.

### **10 Section 134-1**

Repeal the section, substitute:

### **134-1 What this Part is about**

A person incurs a HELP debt if he or she receives, as HECS-HELP assistance, FEE-HELP assistance or OS-HELP assistance, a loan from the Commonwealth under Chapter 3.

A person also incurs a HELP debt if he or she receives, as VET FEE-HELP assistance, a loan from the Commonwealth under Schedule 1A.

HELP debts are incorporated into the person's accumulated HELP debt. This accumulated debt forms the basis of working out the amounts that the person is obliged to repay (see Part 4-2).

### **11 At the end of section 137-1**

Add:

; (d) \*VET FEE-HELP debts.

## 12 After section 137-15

Insert:

### 137-18 VET FEE-HELP debts

#### *Incurring VET FEE-HELP debts*

- (1) A person incurs a debt to the Commonwealth if, under clause 55 of Schedule 1A, the Commonwealth:
  - (a) makes a loan to the person; and
  - (b) uses the amount lent to make a payment in discharge of the person's liability to pay his or her \*VET tuition fee for a \*VET unit of study.

The debt is a *VET FEE-HELP debt*.

- (2) The amount of the \*VET FEE-HELP debt is the amount equal to 120% of the loan.

#### *When VET FEE-HELP debts are incurred*

- (3) A \*VET FEE-HELP debt is taken to have been incurred by a person immediately after the \*census date for the unit, whether or not the Commonwealth has made a payment in respect of the person's \*VET tuition fee for the unit.

#### *Remission of VET FEE-HELP debts*

- (4) A person's \*VET FEE-HELP debt in relation to a \*VET unit of study is taken to be remitted if the person's \*FEE-HELP balance is re-credited under clause 46, 47 or 51 of Schedule 1A in relation to the unit.

Note: The debt is taken to be remitted even if the person's FEE-HELP balance is not increased by an amount equal to the amount re-credited.

## 13 Subsection 140-5(1) (method statement, step 2)

Repeal the step, substitute:

<p><i>Step 2.</i> Take the HELP debts (if any) that the person incurred during the last 6 months of the immediately preceding</p>
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financial year. Group them according to whether the debts are in relation to:

- (a) units undertaken with a higher education provider that formed part of one particular \*course of study with that provider; or
- (b) units undertaken with a higher education provider that formed part of one particular course of study with another higher education provider; or
- (c) units that formed part of one particular \*bridging course for overseas-trained professionals; or
- (d) units access to which was provided by \*Open Universities Australia; or
- (e) \*OS-HELP assistance, the entitlement to which relates to the person's enrolment in an \*undergraduate course of study with one particular higher education provider (see paragraph 118-1(1)(c)); or
- (f) units undertaken with a \*VET provider that formed part of one particular \*VET course of study with that provider; or
- (g) units undertaken with a VET provider that formed part of one particular VET course of study with another VET provider.

Note: There will be more than one group of debts under paragraph (a) if the person incurred debts in relation to more than one course of study with a provider. Similarly, there could be more than one group of debts under paragraph (b), (c), (e), (f) or (g).

#### **14 Subsection 140-25(1A) (method statement, step 1)**

Repeal the step, substitute:

- Step 1.* Take the HELP debts (if any) that the person incurred during the first 6 months of the financial year. Group them according to whether the debts are in relation to:
- (a) units undertaken with a higher education provider that formed part of one particular \*course of study with that provider; or
  - (b) units undertaken with a higher education provider that formed part of one particular course of study with another higher education provider; or
  - (c) units that formed part of one particular \*bridging course for overseas-trained professionals; or
  - (d) units access to which was provided by \*Open Universities Australia; or
  - (e) \*OS-HELP assistance, the entitlement to which relates to the person's enrolment in an \*undergraduate course of study with one particular higher education provider (see paragraph 118-1(1)(c)); or
  - (f) units undertaken with a \*VET provider that formed part of one particular \*VET course of study with that provider; or
  - (g) units undertaken with a VET provider that formed part of one particular VET course of study with another VET provider.

Note: There will be more than one group of debts under paragraph (a) if the person incurred debts in relation to more than one course of study with a provider. Similarly, there could be more than one group of debts under paragraph (b), (c), (e), (f) or (g).

## 15 Section 164-25

Repeal the section.

## 16 After section 238-10

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Insert:

## **238-12 Appropriation**

Amounts payable by the Commonwealth under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **17 After Chapter 7**

Insert:

# **Schedule 1A—VET FEE-HELP Assistance Scheme**

Note: See section 6-1.

## **1 What this Schedule is about**

This Schedule provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain accredited vocational education and training (VET) courses.

## **Part 1—VET providers**

### **Division 1—Introduction**

## **2 What this Part is about**

A body has to be approved as a VET provider before its students can receive VET FEE-HELP. This Part sets out VET provider application and approval processes.

VET providers are subject to the VET quality and accountability requirements.

A body's approval as a VET provider may be revoked in circumstances such as breach of a VET quality and accountability requirement.

### **3 The VET Provider Guidelines**

\*VET providers and the \*VET quality and accountability requirements are also dealt with in the \*VET Provider Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The VET Provider Guidelines are made by the Minister under clause 99.

## **Division 3—What is a VET provider?**

### **Subdivision 3-A—General**

#### **4 Meaning of *VET provider***

A *VET provider* is a body corporate that is approved under this Division.

#### **5 When a body becomes or ceases to be a VET provider**

- (1) A body corporate becomes a \*VET provider if approved by the Minister under clause 6.
- (2) A \*VET provider ceases to be a provider if the provider's approval is revoked or suspended under Division 5.

### **Subdivision 3-B—How are bodies approved as VET providers?**

#### **6 Approval by the Minister**

The Minister, in writing, may approve a body corporate as a \*VET provider if:

- (a) the body:
  - (i) is established under the law of the Commonwealth, a State or a Territory; and
  - (ii) carries on business in Australia; and



- (iii) has its central management and control in Australia; and
- (b) the body's principal purpose is to provide education; and
- (c) the body is a registered training organisation as listed on \*NTIS; and
- (d) the body either fulfilled the \*VET tuition assurance requirements on the date of making an application under clause 9 or is exempted from those requirements under clause 8; and
- (e) the body applies for approval as provided for in clause 9; and
- (f) the Minister is satisfied that the body is willing and able to meet the \*VET quality and accountability requirements.

## **7 The VET tuition assurance requirements**

The *VET tuition assurance requirements* are that the body corporate complies with the requirements for VET tuition assurance set out in the \*VET Provider Guidelines.

## **8 VET tuition assurance requirements exemption for approvals**

- (1) The Minister may, in writing, exempt a body corporate from the \*VET tuition assurance requirements for the purposes of approving the body under clause 6.

Note: This clause only deals with exemptions from the VET tuition assurance requirements when approving bodies as VET providers. The VET Provider Guidelines will deal with exemptions from the VET tuition assurance requirements after approval has happened.

- (2) An exemption is subject to such conditions as are specified in the exemption.

Note: A body will not be exempt if a condition of the exemption is not complied with.

- (3) An exemption given under this clause is not a legislative instrument.

## **9 Application**

- (1) A body corporate may apply in writing to the Minister for approval as a \*VET provider.

- (2) The application:
-

- (a) must be in the form approved by the Minister; and
- (b) must be accompanied by such information as the Minister requests.

### **10 Minister may seek further information**

- (1) For the purposes of determining an application, the Minister may, by notice in writing, require an applicant to provide such further information as the Minister directs within the period specified in the notice.
- (2) If an applicant does not comply with a requirement under subclause (1), the application is taken to have been withdrawn.
- (3) A notice under this clause must include a statement about the effect of subclause (2).

### **11 Minister to decide application**

- (1) The Minister must:
  - (a) decide an application for approval as a \*VET provider; and
  - (b) cause the applicant to be notified in writing whether or not the applicant is approved as a VET provider.
- (2) For the purposes of paragraph 6(f), the Minister may be satisfied that a body corporate is willing and able to meet the \*VET quality and accountability requirements if the body gives the Minister such written undertakings as the Minister requires.
- (3) The Minister's decision must be made:
  - (a) within 90 days after receiving the application; or
  - (b) if further information is requested under clause 10—within 60 days after the end of the period within which the information was required to be provided under that clause; whichever is the later.
- (4) If the Minister decides that an applicant is approved as a \*VET provider, the notice must also contain such information as is specified in the VET Provider Guidelines as information that must be provided to an applicant upon approval as a VET provider.

## **12 Approvals are legislative instruments**

- (1) A notice of approval under paragraph 11(1)(b) is a legislative instrument.
- (2) A decision of the Minister to approve a body corporate as a \*VET provider takes effect at the later of the following times:
  - (a) on the day immediately after the last day on which a resolution referred to in subsection 42(1) of the *Legislative Instruments Act 2003* disallowing the notice could be passed;
  - (b) the day (if any) specified in the notice under paragraph 11(1)(b) as the day on which the approval takes effect.

## **Division 4—What are the VET quality and accountability requirements?**

### **Subdivision 4-A—General**

## **13 The VET quality and accountability requirements**

- (1) The *VET quality and accountability requirements* are:
  - (a) the \*VET financial viability requirements (see Subdivision 4-B); and
  - (b) the \*VET quality requirements (see Subdivision 4-C); and
  - (c) the \*VET fairness requirements (see Subdivision 4-D); and
  - (d) the \*VET compliance requirements (see Subdivision 4-E); and
  - (e) the \*VET fee requirements (see Subdivision 4-F); and
  - (f) any other requirements for VET quality and accountability set out in the \*VET Provider Guidelines.
- (2) This Division does not of its own force require a \*VET provider to do any act or thing.

### **Subdivision 4-B—The VET financial viability requirements**

## **14 Basic requirement**

A \*VET provider:

- (a) must be financially viable; and
-

(b) must be likely to remain financially viable.

### **15 Financial information must be provided**

- (1) A \*VET provider must give to the Minister a financial statement for each \*annual financial reporting period for the provider in which a student of the provider receives assistance under this Schedule.
- (2) The statement:
  - (a) must be in the form approved by the Minister; and
  - (b) must be provided together with a report on the statement by an independent \*qualified auditor; and
  - (c) must be provided within 6 months after the end of the \*annual financial reporting period for which the statement was given.
- (3) An *annual financial reporting period*, for a \*VET provider, is the period of 12 months:
  - (a) to which the provider's accounts relate; and
  - (b) that is notified in writing to the Minister as the provider's annual financial reporting period.

### **16 Minister to have regard to financial information**

In determining whether a \*VET provider is financially viable, and likely to remain so, the Minister must have regard to any financial statement provided by the provider under clause 15.

### **Subdivision 4-C—The VET quality requirements**

#### **17 Provider must maintain quality**

- (1) A \*VET provider must operate, and continue to operate, at an appropriate level of quality for a VET provider.
- (2) The Minister must not determine that a \*VET provider meets an appropriate level of quality for a VET provider unless the Minister is satisfied that the provider meets the requirements set out in the \*Australian Quality Training Framework.

## **Subdivision 4-D—The VET fairness requirements**

### **18 Equal benefits and opportunity requirements**

A \*VET provider must comply with the requirements relating to equal benefits and opportunity for students that are set out in the \*VET Provider Guidelines.

### **19 Student grievance and review requirements**

A \*VET provider must comply with the requirements relating to student grievance and review procedures that are set out in the \*VET Provider Guidelines.

### **20 Tuition assurance requirements**

- (1) A \*VET provider must comply with the \*VET tuition assurance requirements.
- (2) The Minister may, by declaration in writing, exempt a specified \*VET provider from the requirement in subclause (1).
- (3) An exemption:
  - (a) is subject to such conditions as are specified in the exemption; and
  - (b) may be expressed to be in force for a period specified in the exemption.

Note: A body will not be exempt if a condition of the exemption is not complied with.

- (4) An exemption given under this clause is not a legislative instrument.

### **21 VET providers to appoint review officers**

- (1) A \*VET provider must appoint a \*review officer to undertake reviews of decisions made by the provider relating to assistance under Part 2.

Note: The Secretary may delegate to a review officer of a VET provider the power to reconsider decisions of the provider under Subdivision 16-C: see subclause 98(2).

- (2) A **review officer** of a \*VET provider is a person, or a person included in a class of persons, whom:
- (a) the chief executive officer of the provider; or
  - (b) a delegate of the chief executive officer of the provider; has appointed to be a review officer of the provider for the purposes of reviewing decisions made by the provider relating to assistance under Part 2.

## 22 Review officers not to review own decisions

A \*VET provider must ensure that a \*review officer of the provider:

- (a) does not review a decision that the review officer was involved in making; and
- (b) in reviewing a decision of the provider, occupies a position that is senior to that occupied by any person involved in making the original decision.

## 23 Procedures relating to personal information

- (1) A \*VET provider must comply with the information privacy principles set out in section 14 of the *Privacy Act 1988* in respect of \*VET personal information obtained for the purposes of Part 2 of this Schedule or Chapter 4.
- (2) A \*VET provider must have a procedure under which a student enrolled with the provider may apply to the provider for, and receive, a copy of \*VET personal information that the provider holds in relation to that student.
- (3) The provider must comply with:
  - (a) the requirements of the \*VET Provider Guidelines relating to \*personal information in relation to students; and
  - (b) the procedure referred to in subclause (2).

## **Subdivision 4-E—The VET compliance requirements**

### **24 VET provider to provide statement of general information**

- (1) A \*VET provider must give to the Minister such statistical and other information that the Minister by notice in writing requires from the provider in respect of:
  - (a) the provision of vocational education and training by the provider; and
  - (b) compliance by the provider with the requirements of this Schedule.
- (2) The information must be provided:
  - (a) in a form approved by the Minister; and
  - (b) in accordance with such other requirements as the Minister makes.
- (3) A notice under this section must not require the giving of information that a \*VET provider is required to give to the Minister under clause 28.

### **25 Notice of events that affect provider's ability to comply with VET quality and accountability requirements**

A \*VET provider must, by writing, inform the Minister of any event affecting:

- (a) the provider; or
  - (b) a \*related body corporate of the provider;
- that may significantly affect the provider's capacity to meet the \*VET quality and accountability requirements.

### **26 Compliance assurance—provider**

- (1) The Minister may require a \*VET provider to be audited as to compliance with any one or more of the following requirements:
  - (a) the \*VET financial viability requirements;
  - (b) the \*VET fairness requirements;
  - (c) the \*VET compliance requirements;
  - (d) the \*VET fee requirements;

- (e) other requirements for VET quality and accountability set out in the \*VET Provider Guidelines.
- (2) The audit must be conducted:
  - (a) by a body determined in writing by the Minister; and
  - (b) at such time or times, and in such manner, as the Minister requires.
- (3) The provider must:
  - (a) fully co-operate with the auditing body in the course of its audit; and
  - (b) pay to the auditing body any charges payable for such an audit.
- (4) A determination made under paragraph (2)(a) is not a legislative instrument.

#### **Subdivision 4-F—The VET fee requirements**

##### **27 Determining tuition fees for all students**

- (1) This section applies to a \*VET unit of study that a \*VET provider provides or proposes to provide during a period ascertained in accordance with the \*VET Provider Guidelines.
- (2) The provider must determine, for the unit, the \*VET tuition fees that are to apply to students who may enrol in the unit during the period.
- (3) In determining \*VET tuition fees under subclause (2), the provider may have regard to any matters the provider considers appropriate, other than matters specified in the \*VET Provider Guidelines as matters to which a provider must not have regard.
- (4) The provider must not vary a \*VET tuition fee unless the provider:
  - (a) does so:
    - (i) before the date ascertained in accordance with the \*VET Provider Guidelines; and
    - (ii) in circumstances specified in the VET Provider Guidelines; or
  - (b) does so with the written approval of the Minister.



## **28 Schedules of VET tuition fees**

- (1) A \*VET provider must give the Minister a schedule of the \*VET tuition fees determined under clause 27 for all the VET units of study it provides or proposes to provide during a period ascertained in accordance with the \*VET Provider Guidelines. It must give the schedule:
  - (a) in a form approved by the Minister; and
  - (b) in accordance with the requirements that the Minister determines in writing.
- (2) The provider must:
  - (a) ensure that the schedule provides sufficient information to enable a person to work out the person's \*VET tuition fee for each \*VET unit of study the provider provides or is to provide; and
  - (b) publish the schedule for a particular period by the date ascertained in accordance with the \*VET Provider Guidelines; and
  - (c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the provider on request and without charge.

### *Replacement schedules*

- (3) If:
  - (a) the provider has given the Minister a schedule (the *previous schedule*) under:
    - (i) subclause (1); or
    - (ii) this subclause; and
  - (b) the provider varies a \*VET tuition fee in the previous schedule;the provider must:
  - (c) by written notice given to the Minister:
    - (i) withdraw the previous schedule; and
    - (ii) inform the Minister of the variation; and
  - (d) give the Minister a replacement schedule incorporating the variation.

Note: The provider must comply with subclause 27(4) when varying a tuition fee.

- (4) Subclauses (1) and (2) apply to the replacement schedule in a corresponding way to the way in which they apply to the previous schedule.

## **Division 5—When does a body cease to be a VET provider?**

### **Subdivision 5-A—General**

#### **29 Cessation of approval as a provider**

A body ceases to be approved as a \*VET provider:

- (a) if the approval is revoked under Subdivision 5-B or 5-D; or
- (b) while the approval is suspended under clause 36.

### **Subdivision 5-B—Revocation for cause**

#### **30 Revocation of approval if application for approval as a provider is false or misleading**

The Minister may revoke a body's approval as a \*VET provider if the Minister:

- (a) is satisfied that the body's application under clause 9 for approval as a VET provider contained material that was false or misleading; and
- (b) complies with the requirements of clause 34.

#### **31 Revocation of approval if providing education ceases to be the body's principal purpose**

The Minister may revoke a body's approval as a \*VET provider if:

- (a) the body's principal purpose is no longer to provide education; and
- (b) the Minister complies with the requirements of clause 34.

**32 Revocation of approval as a provider if body ceases to be a registered training organisation**

The Minister may revoke a body's approval as a \*VET provider if:

- (a) the body was listed as a registered training organisation on \*NTIS at the last time the body became a VET provider; and
- (b) since that time, the body has ceased to be listed as a registered training organisation on NTIS; and
- (c) the Minister complies with the requirements of clause 34.

**33 Revocation of approval as a provider for a breach of the VET quality and accountability requirements**

- (1) The Minister may revoke a body's approval as a \*VET provider if the Minister:
  - (a) is satisfied that the body has breached a \*VET quality and accountability requirement; and
  - (b) is satisfied that it is appropriate to take that action (see subclause (2)); and
  - (c) complies with the requirements of clause 34.
- (2) Without limiting the matters that the Minister may consider in deciding whether it is appropriate under this clause to revoke a body's approval as a \*VET provider, the Minister may consider any or all of the following matters:
  - (a) whether the breach in question is of a minor or major nature;
  - (b) whether the breach has occurred before and, if so, how often;
  - (c) the impact that the breach may have on the body's students;
  - (d) the impact of the breach on the \*accredited VET courses provided by the body;
  - (e) the impact of the breach on Australia's reputation as a provider of high quality education;
  - (f) any other matter set out in the \*VET Provider Guidelines.

**Subdivision 5-C—Process for decisions on revocation under  
Subdivision 5-B**

**34 Process for revoking approval as a provider for loss of status or a breach**

- (1) Before revoking a body's approval as a \*VET provider under Subdivision 5-B, the Minister must give the body notice in writing:
  - (a) stating that the Minister is considering revoking the body's approval; and
  - (b) stating the reasons why the Minister is considering revoking the body's approval; and
  - (c) inviting the body to make written submissions to the Minister within 28 days concerning why the approval should not be revoked.
- (2) In deciding whether or not to revoke a body's approval under Subdivision 5-B, the Minister must consider any submissions received from the body within the 28 day period.
- (3) The Minister must notify the body in writing of his or her decision whether to revoke the body's approval under Subdivision 5-B. The notice:
  - (a) must be in writing; and
  - (b) must be given within the period of 28 days following the period in which submissions may have been given to the Minister under subclause (1); and
  - (c) if the Minister decides to revoke the body's approval—must specify the day that the revocation takes effect.
- (4) If no notice is given within the period provided for in subclause (3), the Minister is taken to have decided not to revoke the approval.
- (5) If the Minister decides to revoke the body's approval:
  - (a) the revocation takes effect on the day specified in the notice under subclause (3); and
  - (b) a copy of the notice must be published in the *Gazette*.

### **35 Determination retaining approval as a provider in respect of existing students**

- (1) The Minister may determine, in writing, that a revocation of a body's approval as a \*VET provider under Subdivision 5-B is of no effect for the purposes of assistance payable to the body's students under Part 2 to the extent that the assistance relates to students of the body who have not completed the \*VET courses of study in which they were enrolled with the body on the day specified for the purposes of paragraph 34(5)(a).
- (2) The determination may be included in the notice of revocation under subclause 34(3).
- (3) The body is taken, for the purposes of this Schedule, to continue to be a \*VET provider, but only to the extent referred to in subclause (1).
- (4) Subclause (3) does not prevent the Minister subsequently revoking the body's approval as a \*VET provider under this Division.

### **36 Suspension of approval as a provider**

- (1) The Minister may, by legislative instrument, determine that, with effect from a specified day, a body's approval as a \*VET provider is suspended pending the making of a decision under Subdivision 5-B as to whether to revoke the body's approval as a provider.
- (2) A copy of the determination must be given to the body concerned.
- (3) If the Minister makes a determination under subclause (1) in respect of a body, the Minister must give to the body a notice under clause 34 within 48 hours after giving a copy of the determination to the body.
- (4) A determination under this clause:
  - (a) takes effect accordingly on the day specified in the determination; and
  - (b) ceases to have effect if the Minister decides not to revoke the body's approval as a \*VET provider.

**37 Determination retaining approval as a provider in respect of existing students following suspension of approval**

- (1) The Minister may determine, in writing, that a suspension of a body's approval as a \*VET provider under clause 36 is of no effect for the purposes of assistance payable to the body's students under Part 2 to the extent that the assistance relates to students of the body who have not completed the \*VET courses of study in which they were enrolled with the body on the day specified for the purposes of paragraph 36(4)(a).
- (2) A copy of the determination must be given to the body concerned.
- (3) The body is taken, for the purposes of this Schedule, to continue to be a \*VET provider, but only to the extent referred to in subclause (1).
- (4) Subclause (3) does not prevent the Minister subsequently revoking the body's approval as a \*VET provider under this Division.
- (5) A determination made under subclause (1) is not a legislative instrument.

**38 Revocations are legislative instruments**

- (1) A notice of revocation under subclause 34(3) is a legislative instrument.
- (2) A decision of the Minister to revoke the approval of a \*VET provider takes effect at the later of the following times:
  - (a) on the day immediately after the last day on which a resolution referred to in subsection 42(1) of the *Legislative Instruments Act 2003* disallowing the notice could be passed;
  - (b) the day specified in the notice of revocation under subclause 34(3) as the day on which the revocation takes effect.

## **Subdivision 5-D—Revocation of approval on application**

### **39 Revocation of approval as a provider on application**

- (1) The Minister may revoke the approval of a body as a \*VET provider if the body requests the Minister in writing to revoke the approval.
- (2) The request must be given to the Minister at least 30 days before the day on which the revocation is requested to have effect.
- (3) The Minister must cause the body to be notified of the revocation. The notice must:
  - (a) be in writing; and
  - (b) be given to the body at least 14 days before the day on which the revocation is to take effect.
- (4) A notice of revocation under subclause (3) is a legislative instrument.
- (5) The revocation has effect on the day requested unless another day is specified in the notice under subclause (3).

## **Part 2—VET FEE-HELP assistance**

### **Division 6—Introduction**

#### **40 What this Part is about**

A student may be entitled to VET FEE-HELP assistance for VET units of study if certain requirements are met.

The amount of assistance to which the student may be entitled is based on his or her VET tuition fees for the units, but there is a limit on the total amount of assistance that the student can receive. The assistance is paid to a VET provider to discharge the student's liability to pay his or her VET tuition fees.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Chapter 4.

#### **41 The VET FEE-HELP Guidelines**

\*VET FEE-HELP assistance is also dealt with in the \*VET FEE-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The VET FEE-HELP Guidelines are made by the Minister under clause 99.

#### **42 The VET Tuition Fee Guidelines**

\*VET tuition fees are also dealt with in the \*VET Tuition Fee Guidelines.

Note: The VET Tuition Fee Guidelines are made by the Minister under clause 99.

### **Division 7—Who is entitled to VET FEE-HELP assistance?**

#### **Subdivision 7-A—Basic rules**

#### **43 Entitlement to VET FEE-HELP assistance**

A student is entitled to \*VET FEE-HELP assistance for a \*VET unit of study if:

- (a) the student meets the citizenship or residency requirements under clause 44; and
- (b) the student's \*FEE-HELP balance is greater than zero; and
- (c) the \*census date for the unit is on or after 1 January 2008; and
- (d) the unit meets the course requirements under clause 45; and
- (e) the unit is, or is to be, undertaken as part of a \*VET course of study; and
- (f) the student:
  - (i) enrolled in the unit on or before the census date for the unit; and
  - (ii) at the end of the census date, remained so enrolled; and
- (g) the student \*meets the tax file number requirements (see clause 80); and
- (h) the student has, on or before the census date, completed, signed and given to an \*appropriate officer of the \*VET



provider a \*request for Commonwealth assistance in relation to the unit or, where the VET course of study of which the unit forms a part is, or is to be, undertaken with the provider, in relation to the VET course of study.

#### **44 Citizenship or residency requirements**

- (1) The citizenship or residency requirements for \*VET FEE-HELP assistance for a \*VET unit of study are that the student in question is:
  - (a) an Australian citizen; or
  - (b) a \*permanent humanitarian visa holder who will be resident in Australia for the duration of the unit.
- (2) In determining, for the purpose of paragraph (1)(b), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:
  - (a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or
  - (b) is required for the purpose of completing a requirement of that unit.

#### **45 Course requirements**

- (1) The course requirements for \*VET FEE-HELP assistance for a \*VET unit of study are that the unit is not being undertaken as part of a \*VET course of study that:
  - (a) is subject to a determination under subclause (2); or
  - (b) is with a \*VET provider that is subject to a determination under subclause (2).
- (2) The Minister may, by legislative instrument, determine that:
  - (a) a specified course provided by a specified \*VET provider is a course in relation to which \*VET FEE-HELP assistance is unavailable; or
  - (b) all courses provided by a specified VET provider are courses in relation to which VET FEE-HELP assistance is unavailable.

- (3) In deciding whether to make a determination under subclause (2), the Minister must have regard to the effect of the determination on students undertaking the course or courses.
- (4) A determination of the Minister under subclause (2) must not be made later than 6 months before the day that students are able next to commence the specified course, or courses, with the provider.

### **Subdivision 7-B—FEE-HELP balances**

#### **46 Main case of re-crediting a person's FEE-HELP balance**

- (1) If clause 51 applies to re-credit a person's \*FEE-HELP balance with an amount equal to the amounts of \*VET FEE-HELP assistance that the person has received for a \*VET unit of study, then this clause does not apply in relation to that unit.

Note: For *FEE-HELP balance*, see section 104-15, and for *FEE-HELP limit*, see section 104-20.

- (2) A \*VET provider must, on the \*Secretary's behalf, re-credit a person's \*FEE-HELP balance with an amount equal to the amounts of \*VET FEE-HELP assistance that the person received for a \*VET unit of study if:
  - (a) the person has been enrolled in the unit with the provider; and
  - (b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and
  - (c) the provider is satisfied that special circumstances apply to the person (see clause 48); and
  - (d) the person applies in writing to the provider for re-crediting of the FEE-HELP balance; and
  - (e) either:
    - (i) the application is made before the end of the application period under clause 49; or
    - (ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the FEE-HELP balance in relation to the unit is re-credited: see section 137-18.

- (3) If the provider is unable to act for one or more of the purposes of subclause (2), or clause 48, 49 or 50, the \*Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

#### **47 Re-crediting a person's FEE-HELP balance—no tax file number**

- (1) A \*VET provider must, on the \*Secretary's behalf, re-credit a person's \*FEE-HELP balance with an amount equal to the amounts of \*VET FEE-HELP assistance that the person received for a \*VET unit of study if:
- (a) the person has been enrolled in the unit with the provider; and
  - (b) subclause 89(1) applies to the person in relation to the unit.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the FEE-HELP balance in relation to the unit is re-credited: see section 137-18.

- (2) The \*Secretary may re-credit the person's \*FEE-HELP balance under subclause (1) if the provider is unable to do so.

#### **48 Special circumstances**

For the purposes of paragraph 46(2)(c), special circumstances apply to the person if and only if the \*VET provider receiving the application is satisfied that circumstances apply to the person that:

- (a) are beyond the person's control; and
- (b) do not make their full impact on the person until on or after the \*census date for the \*VET unit of study in question; and
- (c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

#### **49 Application period**

- (1) If:
- (a) the person applying under paragraph 46(2)(d) for the re-crediting of the person's \*FEE-HELP balance in relation to
-

- a \*VET unit of study has withdrawn his or her enrolment in the unit; and
  - (b) the \*VET provider gives notice to the person that the withdrawal has taken effect;
- the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.
- (2) If subclause (1) does not apply, the application period for the application is the period of 12 months after the period during which the person undertook, or was to undertake, the unit.

## **50 Dealing with applications**

- (1) If:
    - (a) the application is made under paragraph 46(2)(d) before the end of the relevant application period; or
    - (b) the \*VET provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.
  - (2) The notice must include a statement of the reasons for the decision.
- Note: Refusals of applications are reviewable under Division 16.

## **51 Re-crediting a person's FEE-HELP balance if provider ceases to provide course of which unit forms part**

- (1) A \*VET provider must, on the \*Secretary's behalf, re-credit a person's \*FEE-HELP balance with an amount equal to the amounts of \*VET FEE-HELP assistance that the person received for a \*VET unit of study if:
  - (a) the person has been enrolled in the unit with the provider; and
  - (b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider ceased to provide

the unit as a result of ceasing to provide the course of which the unit formed part; and

- (c) the \*VET tuition assurance requirements applied to the provider at the time the provider ceased to provide the unit; and
- (d) the person chose the option designated under the VET tuition assurance requirements as VET tuition fee repayment in relation to the unit.

Note: A VET FEE-HELP debt relating to a VET unit of study will be remitted if the FEE-HELP balance in relation to the unit is re-credited: see subsection 137-18(4).

- (2) The \*Secretary may re-credit the person's \*FEE-HELP balance under subclause (1) if the provider is unable to do so.

## **Division 8—How are amounts of VET FEE-HELP assistance worked out?**

### **52 The amount of VET FEE-HELP assistance for a VET unit of study**

The amount of \*VET FEE-HELP assistance to which a student is entitled for a \*VET unit of study is the difference between:

- (a) the student's \*VET tuition fee for the unit; and
- (b) the sum of any \*up-front VET payments made in relation to the unit.

Note: A lesser amount may be payable because of clause 54.

### **53 Up-front payments**

- (1) An *up-front VET payment*, in relation to a \*VET unit of study for which a student is liable to pay a \*VET tuition fee, is a payment of all or part of the student's VET tuition fee for the unit, other than a payment of \*VET FEE-HELP assistance under this Part.
- (2) The payment must be made on or before the \*census date for the unit.

**54 Amounts of VET FEE-HELP assistance and FEE-HELP assistance must not exceed the FEE-HELP balance**

*Amount of VET FEE-HELP assistance for one unit*

- (1) The amount of \*VET FEE-HELP assistance to which a student is entitled for a \*VET unit of study is an amount equal to the student's \*FEE-HELP balance on the \*census date for the unit if:
- (a) there is no other:
    - (i) VET unit of study, with the same census date, for which the student is entitled to VET FEE-HELP assistance; or
    - (ii) unit of study, with the same census date, for which the student is entitled to \*FEE-HELP assistance; and
  - (b) the amount of VET FEE-HELP assistance to which the student would be entitled under clause 52 for the unit would exceed that FEE-HELP balance.

*Amount of VET FEE-HELP assistance for more than one unit*

- (2) If the sum of:
- (a) the amount of \*VET FEE-HELP assistance to which a student would be entitled under clause 52 for a \*VET unit of study; and
  - (b) any other amounts of:
    - (i) VET FEE-HELP assistance to which the student would be entitled under that clause for other units that have the same \*census date as that unit; and
    - (ii) \*FEE-HELP assistance to which the student would be entitled under clause 52 for other units that have the same census date as that unit;
- would exceed the student's \*FEE-HELP balance on the census date for the unit, then, despite subclause (1) of this clause, the total amount of VET FEE-HELP assistance and FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that FEE-HELP balance.

Example: Kath has a FEE-HELP balance of \$2,000, and is enrolled in 4 units with the same census date. Kath's VET tuition fee for each unit is \$600. The total amount of VET FEE-HELP assistance to which Kath is entitled for the units is \$2,000, even though the total amount of her VET tuition fees for the units is \$2,400.

- (3) If the student has enrolled in the units with more than one \*VET provider or higher education provider, the student must notify each provider of the proportion of the total amount of \*VET FEE-HELP assistance or \*FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

### **Division 9—How are amounts of VET FEE-HELP assistance paid?**

Note: Division 11 also deals with payments by the Commonwealth under this Schedule.

#### **55 Payments**

If a student is entitled to an amount of \*VET FEE-HELP assistance for a \*VET unit of study with a \*VET provider, the Commonwealth must:

- (a) as a benefit to the student, lend to the student the amount of VET FEE-HELP assistance; and
- (b) pay the amount lent to the provider in discharge of the student's liability to pay his or her \*VET tuition fee for the unit.

Note: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Chapter 4.

#### **56 Effect of FEE-HELP balance being re-credited**

- (1) If, under subclause 46(2) or 47(1), or clause 51, a person's \*FEE-HELP balance is re-credited with an amount relating to \*VET FEE-HELP assistance for a \*VET unit of study, the provider must pay to the Commonwealth an amount equal to the amount of VET FEE-HELP assistance to which the person was entitled for the unit.

Note: The provider must repay the amount under subclause (1) even if the person's FEE-HELP balance is not increased by an amount equal to the amount re-credited.

- (2) Subclause (1) does not apply to the provider if:
- (a) the person's \*FEE-HELP balance was re-credited under subclause 46(2) (main case of re-crediting a person's FEE-HELP balance); and

- (b) the person enrolled in the unit in circumstances that make it a replacement unit within the meaning of the \*VET tuition assurance requirements.
- (3) The \*VET Provider Guidelines may, in setting out the \*VET tuition assurance requirements, specify, in relation to the re-crediting of a person's \*FEE-HELP balance in circumstances to which subclause (2) applies:
- (a) the amount (if any) that is to be paid to the Commonwealth; and
- (b) the person (if any) who is to pay the amounts.

## **Part 3—Administration**

### **Division 10—Introduction**

#### **57 What this Part is about**

This Part deals with the following administrative matters:

- payments made by the Commonwealth under this Schedule (see Division 11);
- administrative requirements that are imposed on VET providers (see Division 12);
- electronic communication between VET providers and students (see Division 13);
- protection of VET personal information gained in the administration of Part 2 of this Schedule (see Division 14) and Chapter 4;
- tax file numbers of students (see Division 15);
- reconsideration and administrative review of certain decisions (see Division 16).



## **58 The VET Administration Guidelines**

Administrative matters are also dealt with in the \*VET Administration Guidelines. The provisions of this Part may indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The VET Administration Guidelines are made by the Minister under clause 99.

## **Division 11—Payments by the Commonwealth**

### **59 What this Division is about**

This Division contains general provisions relating to how the Commonwealth makes payments under this Schedule to VET providers.

### **60 Time and manner of payments**

- (1) Amounts payable by the Commonwealth to a \*VET provider under this Schedule are to be paid in such a way, including payment in instalments, as the Minister determines.
- (2) Payments of amounts payable by the Commonwealth to a \*VET provider under this Schedule are to be made at such times as the \*Secretary determines.

### **61 Advances**

- (1) The \*Secretary may determine that an advance is to be made to a \*VET provider on account of an amount that is expected to become payable under a provision of this Schedule to the provider.
- (2) If the advance exceeds the amount that becomes payable, an amount equal to the excess may be:
  - (a) deducted from any amount that is payable, or to be paid, to the provider under this Schedule; or
  - (b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.

- (3) If the provider uses the advance for a purpose other than that for which it was given, an amount equal to the advance may be:
  - (a) deducted from any amount that is payable, or to be paid, to the provider under this Schedule; or
  - (b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.
- (4) The conditions that would be applicable to a payment of the amount on account of which the advance is made are applicable to the advance.

## **62 Rounding of amounts**

If an amount payable by the Commonwealth under this Schedule is an amount made up of dollars and cents, round the amount down to the nearest dollar.

## **Division 12—Administrative requirements on VET providers**

### **63 What this Division is about**

This Division imposes a number of administrative requirements on VET providers.

### **64 Notices**

*Who gets a notice?*

- (1) A \*VET provider must give such notices as are required by the \*VET Administration Guidelines to a person:
  - (a) who is enrolled with the provider for a \*VET unit of study; and
  - (b) who is seeking Commonwealth assistance under this Schedule for the unit.

*Contents of notice*

- (2) A notice must contain the information set out in the \*VET Administration Guidelines as information that must be provided in such a notice.

*Date by which notice to be given*

- (3) A notice must be given within the period set out in the \*VET Administration Guidelines.

*Purpose and effect of notice*

- (4) A notice under this clause is given for the purpose only of providing information to a person. Any liability or entitlement of a person under this Schedule is not affected by:
- (a) the failure of a \*VET provider to give a notice under this clause; or
  - (b) the failure of a VET provider to give such a notice by the date required under the \*VET Administration Guidelines; or
  - (c) the notice containing an incorrect statement.

## **65 Correction of notices**

*VET provider to correct notice*

- (1) If, after giving a person a notice under clause 64, a \*VET provider is satisfied that a material particular in the notice was not, or has ceased to be, correct, the provider must give a further written notice to the person setting out the correct particular.

*Person may request correction of notice*

- (2) A person who receives a notice from a \*VET provider under clause 64 may give to the provider a written request for the notice to be corrected in respect of a material particular if the person considers that the notice was not, or has ceased to be, correct in that particular.
- (3) The request must be given to an \*appropriate officer of the provider either:
- (a) within 14 days after the day the notice was given; or

- (b) within such further period as the provider allows for the giving of the request.
- (4) The request must:
  - (a) specify the particular in the notice that the person considers is incorrect; and
  - (b) specify the reasons the person has for considering that the particular is incorrect.
- (5) The making of the request does not affect any liability or entitlement of the person under this Schedule.

*VET provider to process request*

- (6) If a \*VET provider receives a request under this clause the provider must, as soon as practicable:
  - (a) determine the matter to which the request relates; and
  - (b) notify the person in writing of the provider's determination; and
  - (c) if the provider determines that a material particular in the notice was not, or has ceased to be, correct—give a further notice under subclause (1).

## **66 Charging VET tuition fees**

A \*VET provider must not require a \*domestic student who is enrolling in a unit in circumstances that make it a replacement unit within the meaning of the \*VET tuition assurance requirements to pay to the provider the student's \*VET tuition fee for the unit.

## **67 Determining census dates**

- (1) A \*VET provider must, for each \*VET unit of study it provides or proposes to provide during a period ascertained in accordance with the \*VET Administration Guidelines, determine for that period a particular date to be the \*census date for the unit.

Note: If a VET provider provides the same unit over different periods, the unit is taken to be a different VET unit of study in respect of each period. Therefore the provider will have to determine a separate census date in respect of each period.

- (2) A date determined under subclause (1) must not occur less than 20% of the way through the period during which the unit is undertaken.
- (3) The provider must publish the \*census date for the unit by the date ascertained in accordance with, and in the manner specified in, the \*VET Administration Guidelines.

*Variations*

- (4) The provider must not vary the \*census date for the unit after publication under subclause (3), unless the provider:
  - (a) does so:
    - (i) before the date ascertained in accordance with the \*VET Administration Guidelines; and
    - (ii) in circumstances specified in the VET Administration Guidelines; or
  - (b) does so with the written approval of the Minister.
- (5) If paragraph (4)(a) applies, the provider must publish the variation by the date ascertained in accordance with, and in the manner specified in, the \*VET Administration Guidelines.
- (6) If paragraph (4)(b) applies, the provider must publish the variation by the date, and in the manner, specified by the Minister in the approval.

**68 Communications with the Commonwealth concerning students etc.**

In communications under, or for the purposes of, this Schedule between the Commonwealth and a \*VET provider concerning a person who:

- (a) is enrolled, or seeking to enrol, in a \*VET unit of study with the provider; and
- (b) has indicated that the person is seeking Commonwealth assistance under this Schedule for the unit;

the provider must use any identifier for that person that the \*Secretary has indicated must be used in such communications.

## Division 13—Electronic communications

### 69 What this Division is about

Certain documents that this Schedule requires or permits to be given between students and VET providers may be transmitted electronically.
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### 70 Guidelines may deal with electronic communications

- (1) The \*VET Administration Guidelines may make provision for or in relation to requiring or permitting information or documents to be given by students to \*VET providers, or by VET providers to students, in accordance with particular information technology requirements:
  - (a) on a particular kind of data storage device; or
  - (b) by means of a particular kind of electronic communication.
- (2) The \*VET Administration Guidelines may make provision for or in relation to requiring, in relation to an electronic communication from a student to a \*VET provider:
  - (a) that the communication contain an electronic signature (however described); or
  - (b) that the communication contain a unique identification in an electronic form; or
  - (c) that a particular method be used to identify the originator of the communication and to indicate the originator's approval of the information communicated.
- (3) The reference in subclause (1) to giving information includes a reference to anything that is ***giving information*** for the purposes of section 9 of the *Electronic Transactions Act 1999*.
- (4) In this clause:

***data storage device*** has the same meaning as in the *Electronic Transactions Act 1999*.

***electronic communication*** has the same meaning as in the *Electronic Transactions Act 1999*.

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*information* has the same meaning as in the *Electronic Transactions Act 1999*.

*information technology requirements* has the same meaning as in the *Electronic Transactions Act 1999*.

## **Division 14—Protection of VET personal information**

### **71 What this Division is about**

A VET officer who discloses, copies or records VET personal information otherwise than in the course of official employment, or causes unauthorised access to or modification of VET personal information, commits an offence.

### **72 Meaning of VET personal information**

*VET personal information* is:

- (a) information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; and
- (b) obtained or created by a \*VET officer for the purposes of Part 2 of this Schedule and Chapter 4.

### **73 Use of VET personal information**

A \*VET officer commits an offence if:

- (a) the officer either:
  - (i) discloses information; or
  - (ii) makes a copy or other record of information; and
- (b) the information is \*VET personal information; and
- (c) the information was acquired by the officer in the course of the officer's \*official employment; and
- (d) the disclosure did not occur, or the copy or record was not made, in the course of that official employment.

Penalty: Imprisonment for 2 years.

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## **74 Meanings of *VET officer* etc. and *official employment***

### *Meaning of VET officer*

- (1) A person is a ***VET officer*** if:
  - (a) the person is or was a \*Commonwealth officer (see subsection 179-15(2)); or
  - (b) the person is or was an \*officer of a \*VET provider (see subclause (2)).
- (2) A person is an ***officer of a VET provider*** if the person is:
  - (a) an officer or employee of the provider; or
  - (b) a person who, although not an officer or employee of the provider, performs services for or on behalf of the provider.

### *Meaning of official employment*

- (3) ***Official employment*** of a \*VET officer is:
  - (a) for a \*Commonwealth officer—the performance of duties or functions, or the exercise of powers, under, or for the purposes of, this Schedule; or
  - (b) for an \*officer of a VET provider—service as such an officer.

## **75 When information is disclosed in the course of official employment**

Without limiting the matters that are disclosures that occur in the course of a \*VET officer's \*official employment for the purposes of paragraph 73(d), the following disclosures are taken to be disclosures that occur in the course of a VET officer's official employment:

- (a) disclosure by a \*Commonwealth officer of \*VET personal information to another Commonwealth officer to assist that other officer in the other officer's official employment;
- (b) disclosure by a VET officer of VET personal information to the Administrative Appeals Tribunal in connection with a \*reviewable VET decision;
- (c) disclosure by a Commonwealth officer of VET personal information to an \*officer of a VET provider to assist the provider's officer in performing duties or functions, or in



exercising powers, under, or for the purposes of, this Schedule;

- (d) disclosure by an officer of a VET provider of VET personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer's official employment.

## **76 Commissioner may disclose information**

- (1) Despite anything in an Act of which the \*Commissioner has the general administration, the Commissioner, or a person authorised by the Commissioner, may communicate \*VET personal information to a \*VET officer for use by that officer:
  - (a) in the case of a \*Commonwealth officer—in the course of the officer's \*official employment; or
  - (b) in the case of an \*officer of a \*VET provider—to assist the officer in performing duties or functions, or in exercising powers, under, or for the purposes of, this Schedule.
- (2) Despite subsection 13.3(3) of the *Criminal Code*, in a prosecution for an offence against an Act of which the \*Commissioner has the general administration, the defendant does not bear an evidential burden in relation to whether this clause applies to a communication of \*VET personal information.

## **77 Oath or affirmation to protect information**

- (1) A \*VET officer must, if and when required by the \*Secretary or the \*Commissioner to do so, make an oath or affirmation to protect information in accordance with this Division.
- (2) The \*Secretary may determine, in writing:
  - (a) the form of the oath or affirmation that the Secretary will require; and
  - (b) the manner in which the oath or affirmation must be made.
- (3) The \*Commissioner may determine, in writing:
  - (a) the form of the oath or affirmation that the Commissioner will require; and
  - (b) the manner in which the oath or affirmation must be made.

## **78 Unauthorised access to, or modification of, VET personal information**

- (1) A person commits an offence if:
- (a) the person causes any unauthorised access to, or modification of, \*VET personal information:
    - (i) that is held in a computer; and
    - (ii) to which access is restricted by an access control system associated with a function of the computer; and
  - (b) the person intends to cause the access or modification; and
  - (c) the person knows that the access or modification is unauthorised; and
  - (d) either of the following apply:
    - (i) the VET personal information is held in a computer of a \*VET provider;
    - (ii) the VET personal information is held on behalf of a provider.

Penalty: 2 years imprisonment.

- (2) Absolute liability applies to paragraph (1)(d).

## **Division 15—Tax file numbers**

### **Subdivision 15-A—Introduction**

#### **79 What this Division is about**

Requirements relating to students' tax file numbers apply to assistance under Part 2 that gives rise to VET FEE-HELP debts.

The Commissioner may notify VET providers of matters relating to tax file numbers.

VET providers have obligations relating to notifying students about tax file number requirements.

VET providers have obligations relating to cancelling the enrolment of students who do not have tax file numbers.

Note: Part VA of the *Income Tax Assessment Act 1936* provides for issuing, cancelling or altering tax file numbers.

## **Subdivision 15-B—What are the tax file number requirements for assistance under Part 2?**

### **80 Meeting the tax file number requirements**

- (1) A student who is enrolled, or proposes to enrol, with a \*VET provider in a \*VET unit of study ***meets the tax file number requirements*** for assistance under Part 2 if:
  - (a) the student notifies his or her \*tax file number to an \*appropriate officer of the provider, and the provider is satisfied (in accordance with subclause (4)) that this number is a valid tax file number; or
  - (b) the student gives to the officer a certificate from the \*Commissioner stating that the student has applied to the Commissioner asking the Commissioner to issue a tax file number to the student.
- (2) Compliance by a person with subclause (1) in relation to a \*VET course of study is to be ignored in determining whether there has been compliance by the person with subclause (1) in relation to any other VET course of study.
- (2A) If the student is seeking \*VET FEE-HELP assistance for a \*VET unit of study, he or she does not meet the tax file number requirements for the assistance unless he or she complies with subclause (1) on or before the \*census date for the unit.
- (3) A notification under paragraph (1)(a) may be included in a \*request for Commonwealth assistance that the student has given to the provider in relation to:
  - (a) the \*VET unit of study for which the assistance is sought; or
  - (b) the \*VET course of study of which the unit forms a part; or
  - (c) any other VET unit of study forming part of that course.
- (4) The \*Commissioner may issue guidelines about the circumstances in which a \*VET provider is to be, or is not to be, satisfied that a number is a valid \*tax file number for the purposes of paragraph (1)(a).

- (5) A certificate under paragraph (1)(b) must be in a form approved by the \*Commissioner.
- (6) A guideline issued under subclause (4) is a legislative instrument.

### **81 Who is an appropriate officer?**

An *appropriate officer* of a \*VET provider, means a person, or a person included in a class of persons, whom:

- (a) the chief executive officer of the provider; or
  - (b) a delegate of the chief executive officer of the provider;
- has appointed to be an appropriate officer of the provider for the purposes of this Schedule.

### **82 Student to notify tax file number when issued**

If a student \*meets the tax file number requirements for the assistance under paragraph 80(1)(b):

- (a) the student must notify his or her \*tax file number to an \*appropriate officer of the \*VET provider within 21 days from the day on which the \*Commissioner issues the tax file number to the student; and
- (b) the provider must be satisfied (in accordance with subclause 80(4)) that this number is a valid tax file number.

### **Subdivision 15-C—In what circumstances can VET providers be notified of tax file number matters?**

### **83 When tax file numbers are issued etc.**

The \*Commissioner may give to a \*VET provider written notice of the \*tax file number of a student who is enrolled in a \*VET course of study with the provider if the Commissioner:

- (a) issues the tax file number to the student; or
- (b) refuses to issue a tax file number to the student on the ground that the student already has a tax file number.

**84 When tax file numbers are altered**

- (1) The \*Commissioner may give to a \*VET provider written notice of the \*tax file number of a student who is enrolled in a \*VET course of study with the provider if the Commissioner issues a new tax file number to the student in place of a tax file number that has been withdrawn.
- (2) That new number is taken to be the number that the student notified to the provider.

**85 When tax file numbers are incorrectly notified—students with tax file numbers**

- (1) If the \*Commissioner is satisfied:
  - (a) that the \*tax file number that a student has notified to a \*VET provider:
    - (i) has been cancelled or withdrawn since the notification was given; or
    - (ii) is otherwise wrong; and
  - (b) that the student has a tax file number;the Commissioner may give to the provider written notice of the incorrect notification and of the student's tax file number.
- (2) That number is taken to be the number that the student notified to the provider.

**86 When tax file numbers are incorrectly notified—students without tax file numbers**

- (1) If:
    - (a) the \*Commissioner is satisfied that the \*tax file number that a student notified to a \*VET provider:
      - (i) has been cancelled since the notification was given; or
      - (ii) is for any other reason not the student's tax file number; and
    - (b) the Commissioner is not satisfied that the student has a tax file number;the Commissioner may give to the provider a written notice informing the provider accordingly.
-

- (2) The \*Commissioner must give a copy of any notice under subclause (1) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subclause (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

## **87 When applications are refused or tax file numbers are cancelled**

- (1) If the \*Commissioner:
- (a) refuses a student's application for the issue of a \*tax file number; or
  - (b) cancels a tax file number issued to a student;
- the Commissioner may give to a \*VET provider with which the student is enrolled in a \*VET course of study a written notice informing the provider accordingly.

- (2) The \*Commissioner must give a copy of any notice under subclause (1) to the student concerned, together with a written statement of the reasons for the decision to give the notice.

Note: Decisions to give notice under subclause (1) are reviewable under section 202F of the *Income Tax Assessment Act 1936*.

## **Subdivision 15-D—Other provisions relating to tax file numbers**

### **88 Giving information about tax file number requirements**

*Requests for VET FEE-HELP assistance—requirements on VET providers*

- (1) A \*VET provider must notify a person in writing how to \*meet the tax file number requirements if:
- (a) the person is enrolled in a \*VET unit of study with the provider; and
  - (b) the person has, on or before the \*census date for the unit, completed, signed and given to the \*appropriate officer of the provider a \*request for Commonwealth assistance in relation to the unit or, where the \*VET course of study of which the unit forms a part is undertaken with the provider, in relation to the VET course of study; and

- (c) in that request, the person requests \*VET FEE-HELP assistance for the unit or the course; and
  - (d) the request does not include a number that purports to be the person's \*tax file number.
- (2) The provider must notify the person under subclause (1):
- (a) on or before the \*census date for the unit; or
  - (b) within 7 days after the person gives the provider the \*request for Commonwealth assistance;
- whichever is earlier.
- (3) A ***request for Commonwealth assistance***, in relation to a person enrolling in a \*VET unit of study means a document:
- (a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the unit or, where the unit forms part of a \*VET course of study undertaken with the provider, in relation to the course of study; and
  - (b) that is in the form approved by the Minister.

*Cases where there is no obligation to notify*

- (4) This clause does not apply to the person if the person, in the \*request for Commonwealth assistance, requests \*VET FEE-HELP assistance but the person is not entitled to the assistance.

### **89 No entitlement to VET FEE-HELP assistance for students without tax file numbers**

- (1) This subclause applies to a person in relation to a \*VET unit of study if:
- (a) the person is enrolled with a \*VET provider in the unit; and
  - (b) the provider receives notice under clause 86 or 87 to the effect that the person does not have, or no longer has, a \*tax file number; and
  - (c) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subclause (3)) is a valid tax file number; and
  - (d) the person is entitled to \*VET FEE-HELP assistance for the unit (ignoring paragraph 43(1)(h)).

Note: The person's FEE-HELP balance in relation to the unit is re-credited: see subclause 47(1).

- (2) A \*VET provider must, in deciding whether it is satisfied that a number is a valid \*tax file number for the purposes of paragraph (1)(d), comply with the guidelines issued by the \*Commissioner under subclause 80(4).
- (3) A \*VET provider must comply with any requirements, set out in guidelines issued by the \*Commissioner, relating to procedures for informing persons of the need to obtain a valid \*tax file number where the persons may be affected by subclause (1) applying to them.
- (4) A guideline issued under subclause (3) is a legislative instrument.

## **Division 16—Review of decisions**

### **Subdivision 16-A—Introduction**

#### **90 What this Division is about**

Some decisions made under this Schedule are subject to reconsideration and then review by the Administrative Appeals Tribunal.
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#### **Subdivision 16-B—Which decisions are subject to review?**

##### **91 Reviewable VET decisions etc.**

The following table sets out:

- (a) the *reviewable VET decisions* under this Schedule; and
- (b) the *decision maker*, for the purposes of this Division, in respect of each of those decisions.



**Reviewable VET decisions**

<b>Item</b>	<b>Decision</b>	<b>Provision under which decision is made</b>	<b>Decision maker</b>
1	Refusal to re-credit a person's *FEE-HELP balance	subclause 46(2)	(a) the *VET provider with whom the student is enrolled in the unit; or (b) if the *Secretary made the decision to refuse the re-crediting—the Secretary

Note: The decisions referred to in item 1 of the table are made by a VET provider on the Secretary's behalf.

**92 Deadlines for making reviewable VET decisions**

If:

- (a) this Schedule provides for a person to apply to a \*decision maker to make a \*reviewable VET decision; and
- (b) a period is specified under this Schedule for giving notice of the decision to the applicant; and
- (c) the decision maker has not notified the applicant of the decision maker's decision within that period;

the decision maker is taken, for the purposes of this Schedule, to have made a decision to reject the application.

**93 Decision maker must give reasons for reviewable VET decisions**

- (1) If this Schedule requires the \*decision maker to notify a person of the making of a \*reviewable VET decision, the notice must include reasons for the decision.
- (2) Subclause (1) does not affect an obligation, imposed upon the \*decision maker by any other law, to give reasons for a decision.

## Subdivision 16-C—How are decisions reconsidered?

### 94 Reviewer of decisions

- (1) The *reviewer* of a \*reviewable VET decision is:
  - (a) if the \*decision maker was a \*VET provider acting on behalf of the \*Secretary—the Secretary; or
  - (b) in any other case—the decision maker, but see subclause (2).
- (2) If:
  - (a) a \*reviewable VET decision was made by a delegate of a \*decision maker; and
  - (b) the decision is to be reconsidered by a delegate of the decision maker;then the delegate who reconsiders the decision must be a person who:
  - (c) was not involved in making the decision; and
  - (d) occupies a position that is senior to that occupied by any person involved in making the decision.

Note: The Secretary may delegate to a review officer of a VET provider the power to reconsider reviewable VET decisions made under Part 2: see subclause 98(2).

### 95 Reviewer may reconsider reviewable VET decisions

- (1) The \*reviewer of a \*reviewable VET decision may reconsider the decision if the reviewer is satisfied that there is sufficient reason to do so.
- (2) The \*reviewer may reconsider the decision even if:
  - (a) an application for reconsideration of the decision has been made under clause 96; or
  - (b) the decision has been confirmed, varied or set aside under clause 96 and an application has been made under clause 97 for review of the decision.
- (3) After reconsidering the decision, the \*decision maker must:
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) set the decision aside and substitute a new decision.

- (4) The \*reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
  - (a) on the day specified in the decision on review; or
  - (b) if a day is not specified—on the day on which the decision on review was made.
- (5) The \*reviewer must give written notice of the decision on review to the person to whom that decision relates.
- (6) The notice:
  - (a) must be given within a reasonable period after the decision is made; and
  - (b) must contain a statement of the reasons for the \*reviewer's decision on review.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.

## **96 Reconsideration of reviewable VET decisions on request**

- (1) A person whose interests are affected by a \*reviewable VET decision may request the \*reviewer to reconsider the decision.
- (2) The person's request must be made by written notice given to the \*reviewer within 28 days, or such longer period as the reviewer allows, after the day on which the person first received notice of the decision.
- (3) The notice must set out the reasons for making the request.
- (4) After receiving the request, the \*reviewer must reconsider the decision and:
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) set the decision aside and substitute a new decision.
- (5) The \*reviewer's decision (the ***decision on review***) to confirm, vary or set aside the decision takes effect:
  - (a) on the day specified in the decision on review; or
  - (b) if a day is not specified—on the day on which the decision on review was made.

- (6) The \*reviewer must give the person written notice of the decision on review.
- (7) The notice:
  - (a) must be given within a reasonable period after the decision on review is made; and
  - (b) must contain a statement of the reasons for the decision on review.
- (8) The \*reviewer is taken, for the purposes of this Division, to have confirmed the decision if the reviewer does not give notice of a decision to the person within 45 days after receiving the person's request.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.

## **Subdivision 16-D—Which decisions are subject to AAT review?**

### **97 AAT review of reviewable VET decisions**

An application may be made to the Administrative Appeals Tribunal for the review of a \*reviewable VET decision that has been confirmed, varied or set aside under clause 95 or 96.

## **Part 4—Miscellaneous**

### **98 Delegations by Secretary**

- (1) The \*Secretary may, in writing, delegate to an APS employee in the Department all or any of the powers of the Secretary under clause 99.

Note: Section 238-5 provides for the Minister to delegate his or her powers under this Act.

- (2) The \*Secretary may, in writing, delegate to a \*review officer of a \*VET provider the Secretary's powers under Subdivision 16-C to reconsider \*reviewable VET decisions made by the provider relating to Part 2.
  - (3) In exercising powers under the delegation, the delegate must comply with any directions of the \*Secretary.
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**99 VET Guidelines**

- (1) The Minister may, by legislative instrument, make Guidelines, specified in the second column of the table, providing for matters:
- (a) required or permitted by the corresponding Part specified in the third column of the table to be provided; or
  - (b) necessary or convenient to be provided in order to carry out or give effect to that Part.

<b>Guidelines</b>		
<b>Item</b>	<b>Guidelines</b>	<b>Part</b>
1	*VET Provider Guidelines	Part 1
2	*VET FEE-HELP Guidelines	Part 2
3	*VET Tuition Fee Guidelines	Part 2
4	*VET Administration Guidelines	Part 3

*Indexation*

- (2) Guidelines may provide for the indexation of any or all amounts in the Guidelines, using the method of indexation set out in Part 5-6.

**18 Clause 1 of Schedule 1**

Insert:

***accredited VET course*** means a course that:

- (a) is a \*VET course of study; and
- (b) is accredited by the Commonwealth or by a State or Territory VET Course Accrediting Body listed in the \*Australian Qualifications Framework Register; and
- (c) is listed as a current VET Diploma, VET Advanced Diploma, VET Graduate Diploma or VET Graduate Certificate qualification on \*NTIS.

**19 Clause 1 of Schedule 1 (definition of *annual financial reporting period*)**

Repeal the definition, substitute:

***annual financial reporting period*** has the meanings given by subsection 19-10(3) and subclause 15(3) of Schedule 1A.

**20 Clause 1 of Schedule 1 (definition of *appropriate officer*)**

Repeal the definition, substitute:

***appropriate officer:***

- (a) in relation to a higher education provider, has the meaning given by section 187-2; and
- (b) in relation to a \*VET provider, has the meaning given by clause 81 of Schedule 1A.

**21 Clause 1 of Schedule 1**

Insert:

***Australian Quality Training Framework*** means the arrangements agreed from time to time between the Commonwealth, the States and the Territories to ensure the high quality of vocational education and training (VET) services.

**22 Clause 1 of Schedule 1 (definition of *census date*)**

Repeal the definition, substitute:

***census date:***

- (a) for a unit of study for a year, means:
  - (i) if the student undertaking the unit has not accessed it through \*Open Universities Australia—the date determined under section 169-25; and
  - (ii) if the student undertaking the unit has accessed it through Open Universities Australia—the date determined under subsection 104-4(5); and
- (b) for a \*VET unit of study for a year, means the date determined under clause 67 of Schedule 1A.

**23 Clause 1 of Schedule 1 (definition of *decision maker*)**

Repeal the definition, substitute:

***decision maker:***

- (a) for a \*reviewable decision, means the person listed in column 3 of the table in section 206-1, in respect of a decision in column 2 of the table, as the decision maker in respect of that decision; and

- (b) for a \*reviewable VET decision, means the person listed in column 3 of the table in clause 91 of Schedule 1A, in respect of a decision in column 2 of the table, as the decision maker in respect of that decision.

**24 Clause 1 of Schedule 1 (definition of *enrolled*)**

Repeal the definition, substitute:

*enrolled*:

- (a) a person *enrolled* in a \*course of study includes a person undertaking the course of study; and  
(b) a person *enrolled* in a \*VET course of study includes a person undertaking the VET course of study.

**25 Clause 1 of Schedule 1 (definition of *meets the tax file number requirements*)**

Repeal the definition, substitute:

*meets the tax file number requirements* has the meanings given by section 187-1 and clause 80 of Schedule 1A.

**26 Clause 1 of Schedule 1**

Insert:

*NTIS* means the National Training Information Service maintained by the Commonwealth in conjunction with the States and Territories.

**27 Clause 1 of Schedule 1**

Insert:

*officer of a VET provider* has the meaning given by subclause 74(3) of Schedule 1A.

**28 Clause 1 of Schedule 1 (definition of *official employment*)**

Repeal the definition, substitute:

*official employment* has the meanings given by subsection 179-15(4) and subclause 74(3) of Schedule 1A.

**29 Clause 1 of Schedule 1 (at the end of the definition of *request for Commonwealth assistance*)**

Add:

; and (c) in relation to a person enrolling in a \*VET unit of study has the meaning given by subclause 88(3) of Schedule 1A.

**30 Clause 1 of Schedule 1**

Insert:

*reviewable VET decision* means a decision listed in the table in clause 91 of Schedule 1A.

**31 Clause 1 of Schedule 1 (definition of *reviewer*)**

Repeal the definition, substitute:

*reviewer* has the meanings given by section 209-1 and clause 94 of Schedule 1A.

**32 Clause 1 of Schedule 1 (at the end of the definition of *review officer*)**

Add:

; and (c) of a \*VET provider—has the meaning given by subclause 21(2) of Schedule 1A.

**33 Clause 1 of Schedule 1 (definition of *student*)**

Repeal the definition, substitute:

*student* means:

- (a) a person who is enrolled in a \*course of study with a higher education provider, and includes a person who is enrolled in a unit of study access to which was provided by \*Open Universities Australia; or
- (b) a person who is enrolled in a \*VET course of study with a \*VET provider.

**34 Clause 1 of Schedule 1**

Insert:

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*up-front VET payment* has the meaning given by subclause 53(1) of Schedule 1A.

### **35 Clause 1 of Schedule 1**

Insert:

*VET Administration Guidelines* means the VET Administration Guidelines made under clause 99 of Schedule 1A.

### **36 Clause 1 of Schedule 1**

Insert:

*VET advanced diploma* means a qualification:

- (a) at the level of advanced diploma in the Australian Qualifications Framework; and
- (b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework Implementation Handbook.

### **37 Clause 1 of Schedule 1**

Insert:

*VET compliance requirements* means the requirements set out in Subdivision 4-E of Schedule 1A.

### **38 Clause 1 of Schedule 1**

Insert:

*VET course of study* means a structured and integrated program of vocational education or vocational training, usually consisting of a number of modules (units of study) or shorter programs, and leading to the award of a \*VET diploma, a \*VET advanced diploma, a \*VET graduate diploma or a \*VET graduate certificate.

### **39 Clause 1 of Schedule 1**

Insert:

*VET diploma* means a qualification:

- (a) at the level of diploma in the Australian Qualifications Framework; and

(b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework Implementation Handbook.

**40 Clause 1 of Schedule 1**

Insert:

*VET fairness requirements* means the requirements set out in Subdivision 4-D of Schedule 1A.

**41 Clause 1 of Schedule 1**

Insert:

*VET FEE-HELP assistance* means assistance payable under Part 2 of Schedule 1A.

**42 Clause 1 of Schedule 1**

Insert:

*VET FEE-HELP debt* has the meaning given by subsection 137-18(1).

**43 Clause 1 of Schedule 1**

Insert:

*VET FEE-HELP Guidelines* means the VET FEE-HELP Guidelines made under clause 99 of Schedule 1A.

**44 Clause 1 of Schedule 1**

Insert:

*VET fee requirements* means the requirements set out in Subdivision 4-F of Schedule 1A.

**45 Clause 1 of Schedule 1**

Insert:

*VET financial viability requirements* means the requirements set out in Subdivision 4-B of Schedule 1A.

**45A Clause 1 of Schedule 1**

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Insert:

***VET graduate certificate*** means a qualification:

- (a) at the level of graduate certificate in the Australian Qualifications Framework; and
- (b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework Implementation Handbook.

#### **45B Clause 1 of Schedule 1**

Insert:

***VET graduate diploma*** means a qualification:

- (a) at the level of graduate diploma in the Australian Qualifications Framework; and
- (b) that meets the guidelines for a VET award as set out in the Australian Qualifications Framework Implementation Handbook.

#### **46 Clause 1 of Schedule 1**

Insert:

***VET officer*** has the meaning given by subclause 74(1) of Schedule 1A.

#### **47 Clause 1 of Schedule 1**

Insert:

***VET personal information*** has the meaning given by clause 72 of Schedule 1A.

#### **48 Clause 1 of Schedule 1**

Insert:

***VET provider*** has the meaning given by clause 4 of Schedule 1A.

#### **49 Clause 1 of Schedule 1**

Insert:

***VET Provider Guidelines*** means the VET Provider Guidelines made under clause 99 of Schedule 1A.

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**50 Clause 1 of Schedule 1**

Insert:

*VET quality and accountability requirements* means the meaning given by subclause 13(1) of Schedule 1A.

**51 Clause 1 of Schedule 1**

Insert:

*VET quality requirements* are the requirements set out in Subdivision 4-C of Schedule 1A.

**52 Clause 1 of Schedule 1**

Insert:

*VET tuition assurance requirements* means the requirements set out in clause 7 of Schedule 1A.

**53 Clause 1 of Schedule 1**

Insert:

*VET tuition fee*: a person's *VET tuition fee* for a \*VET unit of study is the fee determined under subclause 27(2) for the unit that applies to the person.

**54 Clause 1 of Schedule 1**

Insert:

*VET Tuition Fee Guidelines* means the VET Tuition Fee Guidelines made under clause 99 of Schedule 1A.

**55 Clause 1 of Schedule 1**

Insert:

*VET unit of study* means a subject or unit that a person may undertake with a \*VET provider as part of a \*VET course of study. If a VET provider provides the same such subject or unit in respect of more than one period, the subject or unit is taken to be a different VET unit of study in respect of each period.

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*[Minister's second reading speech made in—  
House of Representatives on 21 June 2007  
Senate on 20 September 2007]*

(135/07)

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*Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007* No. 170, 2007