



# **Higher Education Support Amendment Act (No. 2) 2011**

**No. 178, 2011**

**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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# Higher Education Support Amendment Act (No. 2) 2011

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

[Assented to 5 December 2011]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Higher Education Support Amendment Act (No. 2) 2011*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	5 December 2011
2. Schedule 1	The day this Act receives the Royal Assent.	5 December 2011
3. Schedules 2 to 4	The later of: (a) 1 January 2012; and (b) the day this Act receives the Royal Assent.	1 January 2012

Note: This table relates only to the provisions of this Act as originally enacted.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

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

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Maximum grants and payments

### *Higher Education Support Act 2003*

#### **1 Continued and modified application of section 30-5**

- (1) Despite the repeal of section 30-5 of the *Higher Education Support Act 2003*, that section continues to apply in respect of 2011 as if the reference to \$5,011,996,000 were a reference to \$5,061,668,000.
- (2) To avoid doubt, the *Higher Education Support Act 2003* as it otherwise has effect continues to apply for the purposes of subitem (1).

#### **2 Subsection 41-45(1) (table items 8 to 10)**

Repeal the items, substitute:

8	2012	\$2,111,577,000
9	2013	\$2,303,230,000
10	2014	\$2,247,086,000
11	2015	\$2,247,086,000

#### **3 Section 46-40 (table items 9 to 11)**

Repeal the items, substitute:

9	2012	\$319,056,000
10	2013	\$288,948,000
11	2014	\$293,711,000
12	2015	\$287,601,000

## **Schedule 2—Up-front payments**

### ***Higher Education Support Act 2003***

#### **1 Section 36-50 (heading)**

Repeal the heading, substitute:

#### **36-50 Provider must not accept up-front payments of more than 90% of student contribution amounts**

#### **2 Section 36-50**

Omit “80%”, substitute “90%”.

#### **3 Subparagraph 90-1(f)(ii)**

Omit “80%”, substitute “90%”.

#### **4 Subsection 93-15(3)**

Omit “80%”, substitute “90%”.

#### **5 Section 93-15 (note 1)**

Repeal the note, substitute:

Note 1: The Commonwealth pays one-ninth of any up-front payments in respect of a student if the total amount of the up-front payments, for the unit and the student’s other units with the same census date, is 90% of the sum of his or her student contribution amounts for all of his or her units or is \$500 or more: see sections 96-5 and 96-10.

#### **6 Section 93-15 (note 2)**

Omit “80%”, substitute “90%”.

#### **7 Paragraph 96-5(1)(c)**

Omit “80%”, substitute “90%”.

#### **8 Subsection 96-5(4)**

Repeal the subsection (including the example), substitute:



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*Meaning of **HECS-HELP discount***

- (4) The **HECS-HELP discount** for a unit of study is an amount equal to one-ninth of the sum of all of the \*up-front payments made for the unit.

Example: Robert is required to pay a student contribution amount of \$2,745 by 31 January 2012, and makes an up-front payment of \$900 on 20 January 2012.

Robert is entitled to HECS-HELP assistance of \$1,845 (\$2,745 minus \$900), which the Commonwealth must pay to the higher education provider.

The up-front payment exceeded \$500 so there is a HECS-HELP discount of \$100 (one-ninth of \$900). The Commonwealth lends to Robert the remainder of the HECS-HELP assistance, an amount of \$1,745 (\$1,845 minus \$100).

**9 Paragraph 96-10(c)**

Omit “80%”, substitute “90%”.

**10 Section 96-10 (note)**

Omit “80%”, substitute “90%”.

**11 Paragraph 193-1(5)(b)**

Omit “80%”, substitute “90%”.

**12 Paragraph 193-5(1)(d)**

Omit “80%”, substitute “90%”.

**13 Application provision**

The amendments made by this Schedule apply in relation to units of study whose census dates are on or after the commencement of this Schedule.

## Schedule 3—Voluntary repayment bonus

### *Higher Education Support Act 2003*

#### **1 Subsection 140-5(1) (example)**

Repeal the example, substitute:

Example: Lorraine is studying part-time for a Degree of Bachelor of Communications. On 1 June 2011, Lorraine had an accumulated HELP debt of \$15,000. She incurred a HELP debt of \$1,500 on 31 March 2011. She made a voluntary repayment of \$525 (which includes a voluntary repayment bonus of \$25) on 1 May 2012. Lorraine lodged her 2010-11 income tax return and a compulsory repayment amount of \$3,000 was assessed and notified on her income tax notice of assessment on 3 September 2011.

To work out Lorraine's former accumulated HELP debt before indexation on 1 June 2012:

- Step 1: Take the previous accumulated HELP debt of \$15,000 on 1 June 2011.
- Step 2: Add the HELP debt of \$1,500 incurred on 31 March 2011.
- Step 3: Subtract the \$525 voluntary repayment made on 1 May 2012.
- Step 4: Subtract the \$3,000 compulsory repayment assessed on 3 September 2011.
- Step 4A: Does not apply because Lorraine does not satisfy the eligibility requirements for the HECS-HELP benefit.
- Steps 5 and 6: Do not apply because since 1 June 2011 Lorraine had no amendments to any assessment.

Lorraine's former accumulated HELP debt before indexation on 1 June 2012 is:

$$(\$15,000 + \$1,500) - (\$525 + \$3,000) = \$12,975$$

If, for example, the indexation factor for 1 June 2012 were 1.030, then the former accumulated HELP debt would be:

$$\$12,975 \times 1.030 = \$13,364.25$$

#### **2 Section 148-1 (first paragraph)**

Omit "10%", substitute "5%".

#### **3 Subsections 151-5(2) and (3)**

Repeal the subsections, substitute:

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*Total debt paid off*

- (2) The debtor is taken to pay off the total debt if the payment in respect of the debt is equal to, or exceeds, an amount worked out as follows:

$$\frac{\text{Amount of the debt outstanding}}{1.05}$$

Example: The total of Andrew's HELP debts and accumulated HELP debt is \$2,500. To pay off his debt to the Commonwealth he only needs to repay \$2,380 (\$2,500 divided by 1.05 is \$2,380, rounding down to the nearest dollar).

*Part of debt paid off*

- (3) If the debtor is not taken to pay off the total debt, the outstanding amount of the debt is to be reduced by an amount worked out as follows:

$$\text{Amount of the payment} \times 1.05$$

Example: The total of Helen's HELP debts and accumulated HELP debt is \$4,500. She makes a voluntary repayment of \$1,500. With a 5% bonus, the value of her repayment is \$1575. The total amount that she owes to the Commonwealth is reduced to \$2,925.

#### **4 Application provision**

The amendments made by this Schedule apply in relation to payments made under Division 151 of the *Higher Education Support Act 2003* on or after the commencement of this Schedule to meet a person's debts to the Commonwealth under Chapter 4 of that Act.

## **Schedule 4—Overseas campuses**

### ***Higher Education Support Act 2003***

#### **1 Before subsection 36-15(1)**

Insert:

- (1A) A higher education provider must not advise a person that the person is a \*Commonwealth supported student in relation to a unit of study if:
- (a) the unit contributes to the requirements of a \*course of study; and
  - (b) the course of study is, or is to be, undertaken by the person primarily at an overseas campus.

#### **2 Section 90-1**

Omit “A”, substitute “Subject to section 90-10, a”.

#### **3 At the end of Division 90**

Add:

##### **90-10 Students not entitled to HECS-HELP assistance**

A student is not entitled to \*HECS-HELP assistance for a unit of study if:

- (a) the unit forms a part of a \*course of study; and
- (b) the course of study is, or is to be, undertaken by the student primarily at an overseas campus.

#### **4 Subsection 104-1(1)**

After “Subject to”, insert “this section and”.

#### **5 At the end of section 104-1**

Add:

- (2) A student is not entitled to \*FEE-HELP assistance for a unit of study if:
- (a) the unit forms a part of a \*course of study; and

- 
- (b) the course of study is, or is to be, undertaken by the student primarily at an overseas campus.

## **6 Clause 43 of Schedule 1A**

Omit “A student”, substitute “(1) Subject to this clause, a student”.

## **7 At the end of clause 43 of Schedule 1A (after the note)**

Add:

- (2) A student is not entitled to \*VET FEE-HELP assistance for a \*VET unit of study if:
- (a) the unit forms a part of a \*VET course of study; and
  - (b) the VET course of study is, or is to be, undertaken by the student primarily at an overseas campus.

## **8 Application provision**

Subject to item 9, the amendments made by this Schedule apply in relation to units of study whose census dates are on or after the commencement of this Schedule.

## **9 Transitional provisions**

*Advice as to whether person is Commonwealth supported student*

- (1) The amendment made by item 1 of this Schedule does not apply in relation to a unit of study (the *proposed unit of study*) that is, or is to be, undertaken by a person if:
- (a) the proposed unit of study contributes to the requirements of a course of study (the *current course of study*); and
  - (b) the person started the current course of study before the commencement of this Schedule; and
  - (c) before that commencement, the person was a Commonwealth supported student in relation to another unit of study that contributed to the requirements of the current course of study; and
  - (d) the person would not have been a Commonwealth supported student in relation to that other unit of study if the amendment made by item 1 of this Schedule had applied in relation to that other unit of study and the person; and

- (e) the census date for the proposed unit of study is on or after the commencement of this Schedule.

*HECS-HELP assistance*

- (2) The amendments made by items 1, 2 and 3 of this Schedule do not apply in relation to a unit of study (the ***proposed unit of study***) in which a student is enrolled with a higher education provider as part of a course of study (the ***current course of study***) if:
  - (a) the student started the current course of study before the commencement of this Schedule; and
  - (b) before that commencement, the student was a Commonwealth supported student in relation to another unit of study that forms part of the current course of study; and
  - (c) the student would not have been a Commonwealth supported student in relation to that other unit of study if the amendments made by items 1, 2 and 3 of this Schedule had applied in relation to that other unit of study and the student; and
  - (d) the census date for the proposed unit of study is on or after the commencement of this Schedule.

*FEE-HELP assistance*

- (3) The amendments made by items 4 and 5 of this Schedule do not apply in relation to a unit of study (the ***proposed unit of study***) that is, or is to be, undertaken by a student as part of a course of study (the ***current course of study***) if:
  - (a) the student started the current course of study before the commencement of this Schedule; and
  - (b) before that commencement, the student received an amount of FEE-HELP assistance for another unit of study that forms part of the current course of study; and
  - (c) the student would not have received an amount of FEE-HELP assistance for that other unit of study if the amendments made by items 4 and 5 of this Schedule had applied in relation to the unit of study and the student; and
  - (d) the census date for the proposed unit of study is on or after the commencement of this Schedule.

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*VET FEE-HELP assistance*

- (4) The amendments made by items 6 and 7 of this Schedule do not apply in relation to a VET unit of study (the ***proposed VET unit of study***) that is, or is to be, undertaken by a student as part of a VET course of study (the ***current VET course of study***) if:
- (a) the student started the current VET course of study before the commencement of this Schedule; and
  - (b) before that commencement, the student received an amount of VET FEE-HELP assistance for another VET unit of study that forms part of the current VET course of study; and
  - (c) the student would not have received an amount of VET FEE-HELP assistance for that other VET unit of study if the amendments made by items 6 and 7 of this Schedule had applied in relation to the VET unit of study and the student; and
  - (d) the census date for the proposed VET unit of study is on or after the commencement of this Schedule.

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*[Minister's second reading speech made in—  
House of Representatives on 21 September 2011  
Senate on 2 November 2011]*