



Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Act 2012

No. 156, 2012

**An Act to amend the law relating to higher
education, vocational education and training and
research funding, and for related purposes**

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

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No. 156, 2012

**An Act to amend the law relating to higher
education, vocational education and training and
research funding, and for related purposes**

[Assented to 17 November 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Act 2012*.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Higher Education Support Act 2003

1 Subsection 41-45(1) (table items 8 to 11)

Repeal the items, substitute:

8	2012	\$2,114,960,000
9	2013	(a) if paragraph (b) does not apply—\$2,274,359,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2013—that amount
10	2014	(a) if paragraph (b) does not apply—\$2,225,794,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2014—that amount
11	2015	(a) if paragraph (b) does not apply—\$2,231,354,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2015—that amount
12	2016	(a) if paragraph (b) does not apply—\$2,219,169,000; or (b) if the Minister determines an amount under subsection (1A) in respect of 2016—that amount
13	2017 and each later year	The amount determined by the Minister under subsection (1B) in respect of that year

2 After subsection 41-45(1)

Insert:

- (1A) The Minister may, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2013 but before 1 January 2017.
- (1B) The Minister must, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2017.
- (1C) A determination under subsection (1B) for a year must be made before the start of that year.
- (1D) The Minister may, in writing, vary a determination under subsection (1A) or (1B) for a year at any time before the end of that year.

3 Section 41-50

Before “Before”, insert “(1)”.

4 At the end of section 41-50

Add:

- (2) The Minister may, in writing, vary a list for a year at any time before the end of that year.

5 Section 46-40

Before “The total”, insert “(1)”.

6 Section 46-40 (table items 10 to 12)

Repeal the items, substitute:

10	2013	(a) if paragraph (b) does not apply—\$300,217,000; or (b) if the Minister determines an amount under subsection (2) in respect of 2013—that amount
11	2014	(a) if paragraph (b) does not apply—\$305,166,000; or (b) if the Minister determines an amount under subsection (2) in respect of 2014—that amount

12	2015	(a) if paragraph (b) does not apply—\$307,456,000; or (b) if the Minister determines an amount under subsection (2) in respect of 2015—that amount
13	2016	(a) if paragraph (b) does not apply—\$307,329,000; or (b) if the Minister determines an amount under subsection (2) in respect of 2016—that amount
14	2017 and each later year	The amount determined by the Minister under subsection (3) in respect of that year

7 At the end of section 46-40

Add:

- (2) The Minister may, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2013 but before 1 January 2017.
- (3) The Minister must, by legislative instrument, determine the total payments made under this Part in respect of a year starting on or after 1 January 2017.
- (4) A determination under subsection (3) for a year must be made before the start of that year.
- (5) The Minister may, in writing, vary a determination under subsection (2) or (3) for a year at any time before the end of that year.

8 At the end of subsection 238-5(1)

Add “(other than under section 41-45 or section 46-40)”.

Schedule 2—Research funding

Australian Research Council Act 2001

1 At the end of subsection 48(2)

Add:

; (l) the financial year starting on 1 July 2015.

2 Paragraphs 49(m), (n) and (o)

Repeal the paragraphs, substitute:

(m) for the financial year starting on 1 July 2012—\$879,107,000;
and

(n) for the financial year starting on 1 July 2013—\$857,364,000;
and

(o) for the financial year starting on 1 July 2014—\$798,653,000;
and

(p) for the financial year starting on 1 July 2015—\$765,634,000.

Schedule 3—Use and disclosure of information

Part 1—Amendments

Higher Education Support Act 2003

1 At the end of Division 179

Add:

179-40 Officer may use information

An *officer may use *personal information in the course of the officer's *official employment.

179-45 This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *personal information.

Note: The disclosure or use of personal information may also be authorised in other circumstances. For example, see Division 180 and the *Privacy Act 1988*.

2 Division 180

Repeal the Division, substitute:

Division 180—Other rules about information

180-1 What this Division is about

This Division authorises the disclosure and use of Higher Education Support Act information for certain purposes.

180-5 Meaning of *Higher Education Support Act information*

Higher Education Support Act information means:

- (a) *personal information; and

- (b) *VET personal information; and
- (c) information obtained or created by a *Commonwealth officer as a result of a survey of the kind referred to in section 180-30; and
- (d) any other information obtained or created by a Commonwealth officer for the purposes of this Act.

180-10 Disclosure and use by Commonwealth officers

- (1) A *Commonwealth officer may disclose *Higher Education Support Act information to another Commonwealth officer to assist that other officer in the other officer's *official employment (within the meaning of section 179-15).
- (2) A *Commonwealth officer may use *Higher Education Support Act information in the course of the officer's *official employment (within the meaning of section 179-15).

180-15 Disclosure of information to TEQSA

The *Secretary may disclose *Higher Education Support Act information to:

- (a) *TEQSA; or
- (b) a member of the staff of TEQSA (within the meaning of the *TEQSA Act);

for the performance of duties or functions, or the exercise of powers, under, or for the purposes of, that Act.

180-20 Disclosure of information to the National VET Regulator

The *Secretary may disclose *Higher Education Support Act information to:

- (a) the *National VET Regulator; or
- (b) a member of the staff of the Regulator (within the meaning of the *National Vocational Education and Training Regulator Act 2011*);

for the performance of duties or functions, or the exercise of powers, under, or for the purposes of, that Act.

180-25 Disclosure of information to other bodies

Disclosure

- (1) The *Secretary may disclose *Higher Education Support Act information to a person referred to in subsection (3) for any of the following purposes (a *permitted purpose*):
 - (a) improving the provision of higher education or vocational education and training;
 - (b) research relating to the provision of higher education or vocational education and training, including research relating to:
 - (i) quality assurance; or
 - (ii) planning the provision of higher education or vocational education and training.
- (2) However, if the information was provided by a higher education provider or a *VET provider, then the *Secretary may only disclose the information under subsection (1) to a person referred to in paragraph (3)(b), (c) or (d) if the provider consents to that disclosure.

Persons to which information may be disclosed

- (3) For the purposes of subsection (1), the persons are the following:
 - (a) a person (an *officer*) who is employed or engaged by a State or Territory agency;
 - (b) an *officer of a higher education provider;
 - (c) an *officer of a VET provider;
 - (d) a person (an *officer*) who is employed or engaged by a body or association determined by the Minister under subsection (4).
- (4) The Minister may, by legislative instrument, make a determination in relation to a body or association for the purposes of paragraph (3)(d).

Use of the information

- (5) A person commits an offence if:
 - (a) the person uses information for a purpose; and

Schedule 3 Use and disclosure of information
Part 1 Amendments

- (b) the purpose is not a permitted purpose; and
- (c) the information is *personal information or *VET personal information; and
- (d) the information was disclosed under subsection (1) to the person or another person when the person or other person was an officer of a body referred to in subsection (3); and
- (e) the information was not obtained or created by an *officer for the purposes of Part 2-3.

Penalty: Imprisonment for 2 years.

Further disclosure of the information

- (6) A person commits an offence if:
 - (a) the person discloses information; and
 - (b) the information is *personal information or *VET personal information; and
 - (c) the information was disclosed under subsection (1) to the person or another person when the person or other person was an officer of a body referred to in subsection (3); and
 - (d) either or both of the following apply:
 - (i) the disclosure is not for a permitted purpose;
 - (ii) the disclosure is to a person who is not an officer of that body; and
 - (e) the information was not obtained or created by an *officer for the purposes of Part 2-3.

Penalty: Imprisonment for 2 years.

180-30 Use of information to conduct surveys

A *Commonwealth officer may use *Higher Education Support Act information in order to conduct a survey of staff, students or former students of higher education providers or *VET providers for any of the following purposes:

- (a) improving the provision of higher education or vocational education and training;
- (b) research relating to the provision of higher education or vocational education and training, including research relating to:

- (i) quality assurance; or
- (ii) planning the provision of higher education or vocational education and training.

180-35 This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *Higher Education Support Act information.

Note: The disclosure or use of Higher Education Support Act information may also be authorised in other circumstances. For example, see Division 179, Division 14 of Schedule 1A and the *Privacy Act 1988*.

3 Subdivision 14-A of Schedule 1A (heading)

Repeal the heading.

4 Clause 71 of Schedule 1A (heading)

Repeal the heading, substitute:

71 What this Division is about

5 After paragraph 75(a) of Schedule 1A

Insert:

- (aa) disclosure by a Commonwealth officer of VET personal information in accordance with Division 180;

6 Subclause 77(1) of Schedule 1A

Omit “Subdivision”, substitute “Division”.

7 Subdivision 14-B of Schedule 1A (heading)

Repeal the heading.

8 Clause 78A of Schedule 1A

Repeal the clause, substitute:

78A Officer may use information

A *VET officer may use *VET personal information in the course of the officer’s *official employment.

78B This Division does not limit disclosure or use of information

This Division does not limit the disclosure or use of *VET personal information.

Note: The disclosure or use of VET personal information may also be authorised in other circumstances. For example, see Division 180 and the *Privacy Act 1988*.

9 Subclause 1(1) of Schedule 1

Insert:

Higher Education Support Act information has the meaning given by section 180-5.

Part 2—Application

10 Application of Part 1

The amendments made by Part 1 of this Schedule apply to information obtained or created before, on or after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 12 September 2012
Senate on 11 October 2012]*