



**Higher Education Legislation
Amendment (Miscellaneous Measures)
Act 2015**

No. 160, 2015

**An Act to amend the law relating to higher
education and research, 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 Legislation Amendment (Miscellaneous Measures) Act 2015

No. 160, 2015

An Act to amend the law relating to higher education and research, and for related purposes

[Assented to 30 November 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Legislation
Amendment (Miscellaneous Measures) Act 2015*.

2 Commencement

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

| Commencement information | | |
|---|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 30 November 2015 |
| 2. Schedule 1 | 1 January 2016. | 1 January 2016 |
| 3. Schedules 2 to 6 | The day after this Act receives the Royal Assent. | 1 December 2015 |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—New Zealand citizens

Higher Education Support Act 2003

1 After subsection 90-5(2)

Insert:

- (2A) A student also meets the citizenship or residency requirements under this section in relation to a unit of study if the student:
- (a) is a New Zealand citizen; and
 - (b) holds a special category visa under the *Migration Act 1958*; and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (2B) (the *test day*); and
 - (ii) was a *dependent child when he or she first began to be usually resident in Australia; and
 - (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.
- (2B) For the purposes of subsection (2A), the day is the earlier of:
- (a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that formed part of the same *course of study—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

2 Section 90-5(3)

Omit “and (2)”, substitute “, (2) and (2A)”.

3 After subsection 104-5(2)

Insert:

- (2A) A student also meets the citizenship or residency requirements under this section in relation to a unit of study if the student:
- (a) is a New Zealand citizen; and
 - (b) holds a special category visa under the *Migration Act 1958*; and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (2B) (the *test day*); and
 - (ii) was a *dependent child when he or she first began to be usually resident in Australia; and
 - (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.
- (2B) For the purposes of subsection (2A), the day is the earlier of:
- (a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that formed part of the same *course of study—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

4 Subsections 104-5(3) and (4)

Omit “and (2)”, substitute “, (2) and (2A)”.

5 Section 118-5

Before “The”, insert “(1)”.

6 At the end of section 118-5

Add:

; or (c) a student to whom subsection (2) applies.

(2) This subsection applies to a student who:

- (a) is a New Zealand citizen; and

-
- (b) holds a special category visa under the *Migration Act 1958*;
and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (3) (the **test day**); and
 - (ii) was a *dependent child when he or she first began to be usually resident in Australia; and
 - (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day;
and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.
- (3) For the purposes of subsection (2), the day is the earlier of:
- (a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter in relation to the *course of study the student is enrolled in with the home provider—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the period.

7 After subsection 126-5(1)

Insert:

- (1A) A student also meets the citizenship or residency requirements under this section in relation to a *student services and amenities fee imposed on the student by a higher education provider if the student:
- (a) is a New Zealand citizen on the day the fee is payable; and
 - (b) holds a special category visa under the *Migration Act 1958* on the day the fee is payable; and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (1B) (the **test day**); and
 - (ii) was a *dependent child when he or she first began to be usually resident in Australia; and

- (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.
- (1B) For the purposes of subsection (1A), the day is the earlier of:
- (a) if the student:
 - (i) is enrolled with the provider in a *course of study; and
 - (ii) has previously made a successful *request for Commonwealth assistance under this Chapter in relation to the course—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the fee.

8 Subsection 126-5(2)

Omit “subsection (1)”, substitute “subsections (1) and (1A)”.

9 At the end of subclause 44(1) of Schedule 1A

Add:

; or (c) a student to whom subclause (3) applies.

10 At the end of clause 44 of Schedule 1A

Add:

- (3) This subclause applies to a student who:
 - (a) is a New Zealand citizen; and
 - (b) holds a special category visa under the *Migration Act 1958*; and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subclause (4) (the *test day*); and
 - (ii) was a *dependent child when he or she first began to be usually resident in Australia; and

- (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.
- (4) For the purposes of subclause (3), the day is the earlier of:
- (a) if the student has previously made a successful *request for Commonwealth assistance under this Part for a *VET unit of study that formed part of the same *VET course of study—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the unit.

11 Subclause 1(1) of Schedule 1

Insert:

dependent child means a person who is aged under 18 and does not have a spouse or de facto partner (within the meaning of the *Acts Interpretation Act 1901*).

12 Application

The amendments made by this Schedule apply in relation to a unit of study that has a census date on or after the day this Schedule commences.

Schedule 2—Torrens University Australia

Higher Education Support Act 2003

1 Subsection 16-20(1) (at the end of the table)

Add:

Torrens University Australia

Schedule 3—University name change

Higher Education Support Act 2003

1 Subsection 16-15(1) (after table item dealing with Edith Cowan University)

Insert:

Federation University Australia

2 Subsection 16-15(1) (table item dealing with University of Ballarat)

Repeal the item.

Schedule 4—Constitutional bases for other grants

Higher Education Support Act 2003

1 At the end of Division 41

Add:

41-95 Alternative constitutional bases

- (1) In addition to the effect that it has apart from this section, this Part has the effect it would have if each reference in this Part to a grant were expressly confined to a grant:
 - (a) to a corporation to which paragraph 51(xx) of the Constitution applies for the purposes of carrying out the corporation's activities; or
 - (b) for one or more of the following purposes (as well as for a purpose described in section 41-10):
 - (i) a purpose related to trade or commerce with another country, among the States, between a State and a Territory, between 2 Territories or within a Territory;
 - (ii) a purpose involving the use of postal, telegraphic, telephonic, and other like services;
 - (iii) a purpose relating to astronomical or meteorological observations;
 - (iv) a purpose relating to census or statistics;
 - (v) a purpose relating to aliens;
 - (vi) a purpose relating to old-age pensions;
 - (vii) a purpose relating to the provision of benefits to students or sickness benefits;
 - (viii) a purpose relating to Aboriginal or Torres Strait Islander people;
 - (ix) a purpose relating to external affairs;
 - (x) a purpose relating to the executive power of the Commonwealth;

- (xi) a purpose relating to a matter that is peculiarly adapted to the government of a nation and that cannot otherwise be carried on for the benefit of the nation; or
 - (c) in or in relation to a Territory.
- (2) A term used in this section and the Constitution has the same meaning in this section as it has in the Constitution.

Schedule 5—TEQSA operational plans

Tertiary Education Quality and Standards Agency Act 2011

1 Section 5 (definition of *annual operational plan*)

Repeal the definition.

2 Subdivision A of Division 7 of Part 8 (heading)

Repeal the heading.

3 Paragraph 160(1)(a)

Repeal the paragraph, substitute:

- (a) 30 April before the first reporting period to which the plan relates; or

4 Subsection 161(2)

Repeal the subsection.

5 Subdivision B of Division 7 of Part 8

Repeal the Subdivision.

6 Application provision

The amendment of section 160 of the *Tertiary Education Quality and Standards Agency Act 2011* made by this Schedule applies in relation to a corporate plan prepared on or after the commencement of this item.

Schedule 6—Research funding

Australian Research Council Act 2001

1 Part 6 (heading)

Repeal the heading, substitute:

Part 6—Reporting

2 Division 1 of Part 6

Repeal the Division.

3 Division 2 of Part 6 (heading)

Repeal the heading.

4 At the end of subsection 48(2)

Add:

- ; (n) the financial year starting on 1 July 2017;
- (o) the financial year starting on 1 July 2018.

5 Paragraphs 49(p) and (q)

Repeal the paragraphs, substitute:

- (p) for the financial year starting on 1 July 2015—\$815,521,000;
and
- (q) for the financial year starting on 1 July 2016—\$734,868,000;
and
- (r) for the financial year starting on 1 July 2017—\$748,345,000;
and
- (s) for the financial year starting on 1 July 2018—\$739,587,000.

*[Minister's second reading speech made in—
House of Representatives on 22 October 2015
Senate on 24 November 2015]*

(187/15)
