



Higher Education Support Amendment (2008 Budget Measures) Act 2008

No. 43, 2008

**An Act to amend legislation relating to higher
education, 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. 43, 2008

An Act to amend legislation relating to higher education, and for related purposes

[Assented to 25 June 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Support
Amendment (2008 Budget Measures) Act 2008*.

2 Commencement

This Act commences on the day on which it 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—HECS-HELP benefit

Higher Education Support Act 2003

1 After paragraph 140-1(2)(d)

Insert:

; and (e) if compulsory repayment amounts are not required to be paid in respect of the debt—the *HECS-HELP benefit (if any).

2 Subsection 140-5(1) (method statement, after step 4)

Insert:

| |
|---|
| Step 4A. In respect of that period, subtract the amount of *HECS-HELP benefit (if any) determined, in respect of the person, by the *Commissioner under section 157-20 for an *income year, if the person did not have any *compulsory repayment amounts for that year. |
|---|

3 Subsection 140-5(1) (after step 4 of the example)

Insert:

Step 4A: Does not apply because Lorraine does not satisfy the eligibility requirements for the HECS-HELP benefit.

4 At the end of section 140-5

Add:

- (3) If a determination by the *Commissioner under section 157-20 is reviewed under Part 5-7:
- (a) the reference in step 4A of the method statement in subsection (1) to the determination includes a reference to the decision on review; and
 - (b) to the extent that the decision on review affects any step in the method statement—the decision on review must be taken into account in working out a person's *former accumulated HELP debt under this section.

5 Section 148-1 (second paragraph)

Repeal the paragraph, substitute:

The person is required to make repayments, of amounts based on his or her income, if that income is above a particular amount. The Commissioner of Taxation makes assessments of repayment amounts, which are collected in the same way as amounts of income tax.

Repayment amounts may be reduced by the HECS-HELP benefit. To receive the benefit, a person must satisfy eligibility requirements and apply for it. The Commissioner determines whether a person is eligible for the benefit, and if so, the amount of the benefit.

6 At the end of Division 148

Add:

148-5 The HECS-HELP Benefit Guidelines

The *HECS-HELP benefit is also dealt with in the HECS-HELP Benefit Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The HECS-HELP Benefit Guidelines are made by the Minister under section 238-10.

7 Subsection 154-1(1)

Omit “If”, substitute “Subject to section 154-3, if”.

8 After section 154-1

Insert:

154-3 Reduction of liability by HECS-HELP benefit

If the *Commissioner has determined, in respect of a person, an amount of *HECS-HELP benefit under section 157-20 for an *income year, the amount that the person is liable to pay under section 154-1 for that year is reduced by the amount of the benefit.

Note 1: The calculation of a person’s compulsory repayment amount under section 154-1 remains unaffected. A person’s accumulated HELP debt is reduced by compulsory repayment amounts under Division 140. The HECS-HELP benefit reduces a person’s liability that arises under

section 154-1, so that the amount that the person will actually pay (if any) will be less than the compulsory repayment amount calculated.

Note 2: If a determination is reviewed, a reference to the determination includes a reference to the decision on review, see section 157-30.

9 At the end of section 154-35

Add:

Note: The amount that the person will actually pay (if any) will be less than the amount mentioned in paragraph (b) if the person receives the HECS-HELP benefit.

10 Section 154-40

Before “If”, insert “(1)”.

11 At the end of section 154-40

Add:

- (2) If the *Commissioner has determined, in respect of the person, an amount of *HECS-HELP benefit under section 157-20 for the *income year, the notice of assessment for that year may also refer to the amount of the benefit.

Note: If a determination is reviewed, a reference to the determination includes a reference to the decision on review, see section 157-30.

12 At the end of Subdivision 154-D

Add:

154-85 Reduction of compulsory repayment amount by HECS-HELP benefit

- (1) This section applies if the *Commissioner has determined, in respect of a person, an amount of *HECS-HELP benefit under section 157-20 for an *income year.
- (2) For the purposes of this Subdivision, a *compulsory repayment amount of a person in respect of an *income year is to be reduced by the amount of *HECS-HELP benefit determined by the *Commissioner in respect of the person for that year.

Note: If a determination is reviewed, a reference to the determination includes a reference to the decision on review, see section 157-30.

13 At the end of Part 4-2

Add:

Division 157—HECS-HELP benefit

Subdivision 157-A—Who is eligible for the HECS-HELP benefit?

157-1 Application for the HECS-HELP benefit

A person may apply to the *Commissioner for the *HECS-HELP benefit in respect of an *income year if:

- (a) the HECS-HELP Benefit Guidelines set out eligibility requirements for the HECS-HELP benefit; and
- (b) the person satisfies those eligibility requirements.

157-5 Form of application

An application for the *HECS-HELP benefit must:

- (a) be in writing; and
- (b) be in the form required by the HECS-HELP Benefit Guidelines; and
- (c) provide all the information, and be accompanied by any documents, required by the HECS-HELP Benefit Guidelines.

157-10 Providing application to Commissioner

An application must be made in the manner, and within the time, specified in the HECS-HELP Benefit Guidelines.

Subdivision 157-B—What is the amount of the HECS-HELP benefit?

157-15 Amount of HECS-HELP benefit

- (1) The amount of the *HECS-HELP benefit for an *income year is the amount specified in, or worked out in accordance with, the HECS-HELP Benefit Guidelines.
- (2) If an amount is required to be paid under section 154-1 for an *income year, the amount of the *HECS-HELP benefit for that year must not be more than the amount required to be paid for that year.

Subdivision 157-C—Determination of applications

157-20 Commissioner must determine application

- (1) If a person applies for the *HECS-HELP benefit for an *income year, the *Commissioner must determine:
- (a) whether the person is eligible for the benefit for the year; and
 - (b) if the person is eligible—the amount of the benefit, worked out in accordance with the HECS-HELP Benefit Guidelines.

Note: A determination is reviewable under Part 5-7.

- (2) A determination made under subsection (1) is not a legislative instrument.

157-25 Notifying applicant of determination

The *Commissioner must notify the applicant, in writing, of his or her determination. The notice must be given within the time specified in the HECS-HELP Benefit Guidelines.

Note: Notification may also be given to a person by referring to the amount of HECS-HELP benefit in the person's notice of assessment, see subsection 154-40(2).

157-30 Review of determinations

If a determination by the *Commissioner under section 157-20 is reviewed under Part 5-7, a reference in this Part (other than this Division) to the determination includes a reference to the decision on review.

14 Section 206-1 (after table item 4)

Insert:

4A A determination section 157-20 the *Commissioner

15 Subsection 238-10(1) (after table item 4)

Insert:

4A HECS-HELP Benefit Guidelines Part 4-2

16 Clause 1 of Schedule 1

Insert:

HECS-HELP benefit means a benefit for an *income year that:

- (a) if a *compulsory repayment amount is required to be paid—has the effect of reducing the amount actually payable for that year; and
- (b) if a compulsory repayment amount is not required to be paid—reduces a person's *accumulated HELP debt for that year.

17 Application

The amendments made by this Schedule apply in respect of the 2008-2009 and later income years.

Schedule 2—Other amendments

Higher Education Support Act 2003

1 Paragraphs 30-5(1)(d) to (g)

Repeal the paragraphs, substitute:

- (d) for the year 2008—\$3,793,766,000; or
- (e) for the year 2009—\$4,138,233,000; or
- (f) for the year 2010—\$4,307,474,000; or
- (g) for the year 2011—\$4,439,813,000; or
- (h) for the year 2012—\$4,547,229,000.

2 At the end of subsection 30-10(3)

Add:

- ; and (d) the number of those places that have a transitional loading.

3 After paragraph 30-25(3)(ca)

Insert:

- (cb) the maximum number of Commonwealth supported places provided by the provider which can have a transitional loading in the grant years; and

4 After paragraph 30-25(3)(da)

Insert:

- (e) the maximum amount of transitional loading that will be payable to the provider, under the Commonwealth Grant Scheme Guidelines, in the grant years; and

5 At the end of section 33-5

Add:

- ; and (e) if the allocation has specified under paragraph 30-10(3)(d) a number of Commonwealth supported places that have a transitional loading—the amount of transitional loading worked out under the Commonwealth Grant Scheme Guidelines for those places.

6 After paragraph 36-30(1)(a)

Insert:

- (aa) the unit to be undertaken with the provider forms part of an *undergraduate course of study; and

Note: The heading to section 36-30 is replaced by the heading “**Providers to enrol persons as Commonwealth supported students**”.

7 Subsection 36-30(2)

Repeal the subsection, substitute:

- (2) Subsection (1) does not apply in respect of a person’s enrolment with a *Table A provider in a unit of study that forms part of an *undergraduate course of study if:
 - (a) the person commences the undergraduate course of study with the provider before 1 January 2009; or
 - (b) both:
 - (i) the person transfers to the undergraduate course of study with the provider on or after 1 January 2009 from another undergraduate course of study in which the person was enrolled with the provider before 1 January 2009; and
 - (ii) the person had not completed that other undergraduate course of study; or
 - (c) all of the following apply:
 - (i) the person was offered, and accepted, a place (other than a Commonwealth supported place) in the undergraduate course of study with the provider before 1 January 2009;
 - (ii) the undergraduate course of study was to commence before 1 January 2009;
 - (iii) with the provider’s approval, the person commences the course of study after that time; or
 - (d) at the time the person commences the undergraduate course of study with the provider, the person is an *overseas student.

8 Subsection 36-30(5)

Omit “(2)(b) or”.

Note: The heading to subsection 36-30(5) is altered by omitting “(2)(b) or”.

9 Subsection 41-45(1) (table items 4 to 7)

Repeal the items, substitute:

| | | |
|---|------|-----------------|
| 4 | 2008 | \$1,912,350,000 |
| 5 | 2009 | \$1,883,928,000 |
| 6 | 2010 | \$1,849,974,000 |
| 7 | 2011 | \$1,837,424,000 |
| 8 | 2012 | \$1,825,290,000 |

10 Section 46-40 (table items 6 to 8)

Repeal the items, substitute:

| | | |
|---|------|---------------|
| 6 | 2009 | \$290,104,000 |
| 7 | 2010 | \$350,366,000 |
| 8 | 2011 | \$424,457,000 |
| 9 | 2012 | \$501,640,000 |

11 Subsection 93-10(1) (table item 3)

Repeal the item, substitute:

- | | | |
|---|---|--|
| 3 | Mathematics, Statistics, Behavioural Science, Social Studies, Education, Computing, Built Environment, Other Health | <p>(a) for a place in a unit in Computing, Built Environment or Other Health—\$7,260; or</p> <p>(b) for a place in a unit in Behavioural Science or Social Studies—\$5,095; or</p> <p>(c) for a place in a unit in Mathematics, Statistics or Education—\$4,077.</p> |
|---|---|--|

12 Subsection 93-10(1) (table item 6)

Repeal the item, substitute:

- | | | |
|---|---------------------------------|---|
| 6 | Engineering, Science, Surveying | <p>(a) for a place in a unit in Engineering or Surveying—\$7,260; or</p> <p>(b) for a place in a unit in Science—\$4,077.</p> |
|---|---------------------------------|---|

13 Application

- (1) The amendments made by items 2 to 5 of this Schedule apply in respect of the year 2009 or a later year.
- (2) The amendments made by items 6 and 7 of this Schedule apply in relation to an enrolment of a person in a unit of study on or after 1 January 2009.
- (3) The amendments made by items 11 and 12 of this Schedule apply in relation to a person's enrolment in a unit of study that forms part of a course of study if:
 - (a) the person commences that course of study on or after 1 January 2009; or
 - (b) that course of study is in natural and physical sciences and the person transfers to that course of study on or after 1 January 2009 from a course of study (other than in natural and physical sciences) that the person did not complete.
- (4) In subitem (3):

course of study, in relation to natural and physical sciences, means a course of study in the field of natural and physical sciences, classified as Broad Field 01 by the Australian Bureau of Statistics in the publication known as the Australian Standard Classification of Education (ASCED) 2001 (catalogue number 1272.0), as updated from time to time. This updating takes 2 forms:

 - (a) from time to time, a new version of the publication is produced;
 - (b) from time to time, material in the current version of the publication is updated by other publications of the Australian Bureau of Statistics.

*[Minister's second reading speech made in—
House of Representatives on 29 May 2008
Senate on 16 June 2008]*

(113/08)