



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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No. 178, 2011

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*.

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Note: This table relates only to the provisions of this Act as originally enacted.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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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:

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:

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

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:

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

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- (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.

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]*

(192/11)
