



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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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