



VET Student Loans (Consequential Amendments and Transitional Provisions) Act 2016

No. 100, 2016

**An Act to deal with consequential and transitional
matters in relation to the enactment of the *VET
Student Loans Act 2016*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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An Act to deal with consequential and transitional matters in relation to the enactment of the *VET Student Loans Act 2016*, and for related purposes

[Assented to 7 December 2016]

The Parliament of Australia enacts:

No. 100, 2016

VET Student Loans (Consequential Amendments and Transitional Provisions) Act 2016

1

1 Short title

This Act is the *VET Student Loans (Consequential Amendments and Transitional Provisions) Act 2016*.

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.	7 December 2016
2. Schedule 1, Part 1	At the same time as the <i>VET Student Loans Act 2016</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 January 2017
3. Schedule 1, Part 2	The later of: (a) the commencement of the <i>VET Student Loans Act 2016</i> ; and (b) immediately after the commencement of Schedule 2 to the <i>Higher Education Support Legislation Amendment (2016 Measures No. 1) Act 2016</i> . However, the provisions do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	1 January 2017 (paragraph (a) applies)
4. Schedule 2	The day this Act receives the Royal Assent.	7 December 2016

Note: This table relates only to the provisions of this Act as originally enacted.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.

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Main amendments

Higher Education Support Act 2003

1 Paragraph 104-15(1)(a)

Omit “and *VET FEE-HELP assistance”, substitute “, *VET FEE-HELP assistance and *VET student loans”.

2 Paragraph 104-15(1)(a)

Omit “or Subdivision 7-B of Schedule 1A”, substitute “, Subdivision 7-B of Schedule 1A or Part 6 of the *VET Student Loans Act 2016*”.

3 Subsection 104-15(2)

Omit “and *VET FEE-HELP assistance”, substitute “, *VET FEE-HELP assistance and *VET student loans”.

4 Section 129-1

After “under Schedule 1A”, insert “or the *VET Student Loans Act 2016*”.

5 Section 134-1

After:

A person also incurs a HELP debt if he or she receives, as VET FEE-HELP assistance, a loan from the Commonwealth under Schedule 1A.

insert:

A person also incurs a HELP debt if the Secretary uses an amount of a VET student loan approved under the *VET Student Loans Act 2016* to pay tuition fees for the person.

6 At the end of section 137-1

Add:

; (e) *VET student loan debts.

7 After section 137-18

Insert:

137-19 VET student loan debts

Incurring VET student loan debts

- (1) A person incurs a debt to the Commonwealth if, under the *VET Student Loans Act 2016*, the Secretary:
 - (a) approves a *VET student loan for the person; and
 - (b) uses an amount (the **loan amount**) covered by the VET student loan to pay tuition fees for the person for a course.The debt is a **VET student loan debt**.
- (2) The amount of the *VET student loan debt is:
 - (a) 120% of the loan amount; or
 - (b) if the rules made under the *VET Students Loans Act 2016* specify a lesser percentage of the loan amount for the person—that lesser percentage of the loan amount.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

When VET student loan debts are incurred

- (3) A *VET student loan debt is incurred on the day that the Secretary pays the loan amount.

Remission of VET student loan debts

- (4) A person's *VET student loan debt in relation to a loan amount is taken to be remitted if the person's *FEE-HELP balance is re-credited under Part 6 of the *VET Student Loans Act 2016* in relation to the loan amount.

8 Subsection 140-5(1) (method statement, step 2, paragraph (g))

Omit “provider.”, substitute “provider; or”.

9 Subsection 140-5(1) (method statement, step 2, after paragraph (g))

Insert:

(h) a *VET student loan in relation to one particular course of study.
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10 Subsection 140-5(1) (method statement, step 2, note)

Omit “(f) or (g)”, substitute “(f), (g) or (h)”.

11 Subsection 140-25(1A) (method statement, step 1, paragraph (g))

Omit “provider.”, substitute “provider; or”.

12 Subsection 140-25(1A) (method statement, step 1, after paragraph (g))

Insert:

(h) a *VET student loan in relation to one particular course of study.
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13 Subsection 140-25(1A) (method statement, step 1, note)

Omit “(f) or (g)”, substitute “(f), (g) or (h)”.

14 At the end of clause 1 of Schedule 1A

Add:

Note: VET FEE-HELP assistance will be phased out during 2017 and 2018: see subclauses 6(5) and 43(3) to (5).

15 At the end of clause 2 of Schedule 1A

Add:

Note: The Minister must not approve a body as a VET provider after 4 October 2016: see subclause 6(5).

16 At the end of clause 6 of Schedule 1A

Add:

- (5) The Minister must not approve a body as a *VET provider after 4 October 2016.

17 Before subclause 11(1) of Schedule 1A

Insert:

- (1A) The Minister is not required to comply with this clause after 4 October 2016.

Note: The Minister must not approve a body as a VET provider after 4 October 2016: see subclause 6(5).

18 Clause 40 of Schedule 1A (note)

Omit “Note”, substitute “Note 1”.

19 At the end of clause 40 of Schedule 1A

Add:

Note 2: VET FEE-HELP assistance will be phased out during 2017 and 2018: see subclauses 43(3) to (5).

20 At the end of clause 43 of Schedule 1A

Add:

- (3) A student is not entitled to *VET FEE-HELP assistance for a *VET unit of study if:
- (a) the *census date for the unit is on or after 1 January 2017; or
 - (b) if the student is covered by subclause (4)—the census date for the unit is on or after:
 - (i) unless subparagraph (ii) applies—1 January 2018; or
 - (ii) if the Minister is satisfied that exceptional circumstances justify continued entitlement to VET FEE-HELP assistance for the student—a day determined in writing by the Minister.
- (4) A student is covered by this subclause if:

- (a) immediately before 1 January 2017, the student was enrolled in the *VET course of study of which the *VET unit of study forms a part; and
 - (b) the unit is provided:
 - (i) by the *VET provider with whom the student was enrolled immediately before 1 January 2017; or
 - (ii) in compliance with the *VET tuition assurance requirements as they apply in relation to the provider; and
 - (c) before 1 January 2017, the student received *VET FEE-HELP assistance for another unit that formed a part of the course; and
 - (d) the Secretary is satisfied that, at all times from the commencement of this paragraph, the student has been a genuine student (within the meaning of the *VET Student Loans Act 2016*).
- (5) A student is not entitled to *VET FEE-HELP assistance for a *VET unit of study if a *VET student loan has been approved for the student for the *VET course of study of which the unit forms a part.
- (6) The *VET Guidelines may specify matters to which the Minister must or may have regard in deciding for the purposes of subparagraph (3)(b)(ii) whether exceptional circumstances justify continued entitlement to *VET FEE-HELP assistance for the student.
- (7) A determination under subparagraph (3)(b)(ii) is not a legislative instrument.

21 Subclause 1(1) of Schedule 1

Insert:

VET student loan has the same meaning as in the *VET Student Loans Act 2016*.

VET student loan debt has the meaning given by subsection 137-19(1).

***National Vocational Education and Training Regulator Act
2011***

22 After section 24

Insert:

24A Condition—complying with student assistance laws

- (1) An NVR registered training organisation that is a VET provider within the meaning of the *Higher Education Support Act 2003* must comply with that Act.
- (2) An NVR registered training organisation that is an approved course provider within the meaning of the *VET Student Loans Act 2016* must comply with:
 - (a) the *VET Student Loans Act 2016*; and
 - (b) any Act or instrument to the extent that it is included in the definition of ***this Act*** in the *VET Student Loans Act 2016*.

Student Identifiers Act 2014

23 After section 18

Insert:

18A Collection, use or disclosure for administration of VET student loans

A VET-related body or the Commissioner of Taxation is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is reasonably necessary for the purposes of performing functions or exercising powers in relation to:

- (a) the *VET Student Loans Act 2016*; or
- (b) any Act or instrument to the extent that it is included in the definition of ***this Act*** in the *VET Student Loans Act 2016*.

Part 2—Contingent amendments

Higher Education Support Act 2003

24 Paragraph 180-28(6)(b)

After “Schedule 1A”, insert “or the *VET Student Loans Act 2016*”.

25 At the end of section 180-28

Add:

- (9) For the purposes of this section, *Higher Education Support Act information includes VET information (within the meaning of the *VET Student Loans Act 2016*).

Schedule 2—Transitional provisions

1 Definitions

In this Schedule:

loan amount has the same meaning as in the *VET Student Loans Act 2016*.

provider transition period means the period:

- (a) beginning on 1 January 2017; and
- (b) ending on 30 June 2017 or a later date determined by the Minister under item 8.

Secretary means the Secretary of the Department.

Table A provider has the same meaning as in the *Higher Education Support Act 2003*.

Table B provider has the same meaning as in the *Higher Education Support Act 2003*.

VET provider has the same meaning as in the *Higher Education Support Act 2003*.

2 Bodies taken to be approved course providers on 1 January 2017

- (1) Each of the following bodies is taken to be approved by the Secretary, under Division 1 of Part 4 of the *VET Student Loans Act 2016*, as an approved course provider on 1 January 2017 if, immediately before 1 January 2017, the body is a VET provider:
 - (a) a Table A provider;
 - (b) a Table B provider;
 - (c) a body established to provide vocational education or training under one of the following:
 - (i) the *Technical and Further Education Commission Act 1990* (NSW);
 - (ii) the *Education and Training Reform Act 2006* (Vic.);
 - (iii) the *TAFE Queensland Act 2013* (Qld);
 - (iv) the *Vocational Education and Training Act 1996* (WA);
 - (v) the *TAFE SA Act 2012* (SA);

- (vi) the *Training and Workforce Development Act 2013* (Tas.);
 - (vii) the *Canberra Institute of Technology Act 1987* (ACT);
 - (d) a training organisation owned by the Commonwealth, a State or a Territory.
- (2) A body is taken to be approved by the Secretary, under Division 1 of Part 4 of the *VET Student Loans Act 2016*, as an approved course provider on 1 January 2017 if:
- (a) before 1 January 2017:
 - (i) the body applies to the Secretary; and
 - (ii) the Secretary decides that the body is suitable for being an approved course provider during the provider transition period; and
 - (b) immediately before 1 January 2017, the body is a VET provider.
- (3) For the purposes of subparagraph (2)(a)(i), the application must be in the form approved by the Secretary.
- (4) For the purposes of subparagraph (2)(a)(ii), the Secretary may decide that a body is suitable if the Secretary is satisfied that the body:
- (a) meets the requirements determined by the Minister under item 3; and
 - (b) is not excluded because of circumstances determined by the Minister under item 4.
- (5) If a body applies to the Secretary under subparagraph (2)(a)(i), the Secretary must give the body written notice of the Secretary's decision as to whether the body is suitable.

3 Minister may determine suitability requirements

- (1) The Minister may, by legislative instrument, determine requirements for the purposes of ensuring that course providers to whom loan amounts are paid during the provider transition period are suitable.
 - (2) The requirements may deal with the following in relation to a course provider:
 - (a) financial performance;
 - (b) management and governance;
-

- (c) experience in providing vocational education;
 - (d) scope of courses;
 - (e) fees and modes of delivery for courses;
 - (f) student outcomes;
 - (g) industry links.
- (3) Subitem (2) does not limit the requirements the Minister may determine.

4 Minister may determine circumstances in which body is excluded

- (1) The Minister may, by legislative instrument, determine circumstances in which a body is excluded from being an approved course provider during the provider transition period.
- (2) Without limiting subitem (1), the circumstances may relate to:
- (a) the past compliance of the body or its officers or agents with the *Higher Education Support Act 2003*, another law of the Commonwealth or a law of a State or Territory; or
 - (b) action taken under the *Higher Education Support Act 2003*, another law of the Commonwealth or a law of a State or Territory in relation to the body or its officers or agents.

5 Period of approval

- (1) An approval as an approved course provider under subitem 2(1) is for a period of 7 years beginning on 1 January 2017.
- (2) An approval as an approved course provider under subitem 2(2) is for the provider transition period.
- (3) Section 33 of the *VET Student Loans Act 2016* does not apply to an approval under subitem 2(2).

6 Conditions of approval

An approval as an approved course provider under item 2 is subject to the same conditions (if any) that the body's approval as a VET provider is subject to immediately before 1 January 2017.

7 Approval may be revoked or suspended

- (1) After the commencement of the *VET Student Loans Act 2016*, an approval as an approved course provider under item 2 may be revoked or suspended under that Act.
- (2) If, at any time during the provider transition period, a body approved under subitem 2(2) ceases to be a VET provider, the approval is revoked.

8 Minister may extend provider transition period

- (1) The Minister may, by legislative instrument, determine a date after 30 June 2017 as the end of the provider transition period.
- (2) The Minister must not make a legislative instrument under subitem (1) on or after 30 June 2017.

9 Approval under *VET Student Loans Act 2016* not to commence before 1 July 2017

- (1) The period of an approval as an approved course provider under Division 1 of Part 4 of the *VET Student Loans Act 2016* must not begin before 1 July 2017.
- (2) To avoid doubt, subitem (1) does not apply to an approval that is taken to have been given under item 2.

10 Delegation by Secretary

- (1) The Secretary may, in writing, delegate his or her powers under this Schedule to an SES employee, or an acting SES employee, in the Department.
- (2) In exercising powers under the delegation, the delegate must comply with any directions of the Secretary.

11 Regulations about transitional matters

- (1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) in relation to:
 - (a) the amendments made by Schedule 1 to this Act; or

- (b) the enactment of this Act or the *VET Student Loans Act 2016*.
- (2) Without limiting subitem (1), regulations made for the purposes of that subitem may do any of the following:
- (a) modify the operation of provisions of the *VET Student Loans Act 2016*;
 - (b) modify the operation of provisions of any Act or instrument to the extent that it is included in the definition of ***this Act*** in the *VET Student Loans Act 2016*;
 - (c) modify the operation of this Act.
- (3) Provisions modified by the regulations have effect as if they were so modified.
- (4) However, the regulations must not modify the operation of an Act, or continue to modify the operation of an Act, after 31 December 2017.
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[*Minister's second reading speech made in—
House of Representatives on 13 October 2016
Senate on 7 November 2016*]

(154/16)
