Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018

No. 76, 2018

An Act to amend legislation relating to student loans, and for other 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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Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018

No. 76, 2018

An Act to amend legislation relating to student loans, and for other purposes

[*Assented to 24 August 2018*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

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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.	24 August 2018
2. Schedule 1	1 July 2019.	1 July 2019
3. Schedule 2	1 July 2019.	1 July 2019
3A. Schedule 2A	1 January 2019.	1 January 2019
4. Schedule 3	1 January 2020.	1 January 2020
5. Schedule 4	1 January 2019.	1 January 2019

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Repayment thresholds

Part 1—General amendments

Higher Education Support Act 2003

1 Paragraph 154-10(a)

Repeal the paragraph, substitute:

(a) for the 2019-20 income year—$45,880; or

2 Section 154-20 (table)

Repeal the table, substitute:

Applicable percentages

Item	If the person's repayment income is:	The percentage applicable is:
1	More than the *minimum repayment income, but less than: (a) for the 2019-20 *income year—$52,974; or (b) for a later income year—that amount indexed under section 154-25.	1%
2	More than or equal to the amount under item 1, but less than: (a) for the 2019-20 *income year—$56,152; or (b) for a later income year—that amount indexed under section 154-25.	2%
3	More than or equal to the amount under item 2, but less than: (a) for the 2019-20 *income year—$59,522; or (b) for a later income year—that amount indexed under section 154-25.	2.5%
4	More than or equal to the amount under item 3, but less than: (a) for the 2019-20 *income year—$63,093; or (b) for a later income year—that amount indexed under section 154-25.	3%

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Applicable percentages		
Item	**If the person's repayment income is:**	**The percentage applicable is:**
5	More than or equal to the amount under item 4, but less than: (a) for the 2019-20 *income year—$66,878; or (b) for a later income year—that amount indexed under section 154-25.	3.5%
6	More than or equal to the amount under item 5, but less than: (a) for the 2019-20 *income year—$70,891; or (b) for a later income year—that amount indexed under section 154-25.	4%
7	More than or equal to the amount under item 6, but less than: (a) for the 2019-20 *income year—$75,145; or (b) for a later income year—that amount indexed under section 154-25.	4.5%
8	More than or equal to the amount under item 7, but less than: (a) for the 2019-20 *income year—$79,653; or (b) for a later income year—that amount indexed under section 154-25.	5%
9	More than or equal to the amount under item 8, but less than: (a) for the 2019-20 *income year—$84,433; or (b) for a later income year—that amount indexed under section 154-25.	5.5%
10	More than or equal to the amount under item 9, but less than: (a) for the 2019-20 *income year—$89,499; or (b) for a later income year—that amount indexed under section 154-25.	6%
11	More than or equal to the amount under item 10, but less than: (a) for the 2019-20 *income year—$94,869; or (b) for a later income year—that amount indexed under	6.5%

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Applicable percentages		
Item	**If the person's repayment income is:**	**The percentage applicable is:**
	section 154-25.	
12	More than or equal to the amount under item 11, but less than: (a) for the 2019-20 *income year—$100,561; or (b) for a later income year—that amount indexed under section 154-25.	7%
13	More than or equal to the amount under item 12, but less than: (a) for the 2019-20 *income year—$106,594; or (b) for a later income year—that amount indexed under section 154-25.	7.5%
14	More than or equal to the amount under item 13, but less than: (a) for the 2019-20 *income year—$112,990; or (b) for a later income year—that amount indexed under section 154-25.	8%
15	More than or equal to the amount under item 14, but less than: (a) for the 2019-20 *income year—$119,770; or (b) for a later income year—that amount indexed under section 154-25.	8.5%
16	More than or equal to the amount under item 15, but less than: (a) for the 2019-20 *income year—$126,956; or (b) for a later income year—that amount indexed under section 154-25.	9%
17	More than or equal to the amount under item 16, but less than: (a) for the 2019-20 *income year—$134,573; or (b) for a later income year—that amount indexed under section 154-25.	9.5%
18	More than or equal to the amount under item 17.	10%

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Social Security Act 1991

3 Section 1061ZZFD

Repeal the section, substitute:

1061ZZFD Amounts payable to the Commonwealth

(1) The amount that a person is liable to pay under section 1061ZZEZ, in respect of:

(a) the 2019-20 income year; or

(b) a later income year;

is the amount worked out using the formula:

$$\text{Applicable percentage of repayment income} - \text{Relevant income-contingent loans liability}$$

where:

applicable percentage of repayment income means an amount equal to so much of the person's repayable debt for the income year as does not exceed the percentage of the person's repayment income worked out in respect of the income year using the table in section 154-20 of the *Higher Education Support Act 2003*.

relevant income-contingent loans liability means the amount that is the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year.

(2) For the purposes of subsection (1), assume that the reference in the table in section 154-20 of the *Higher Education Support Act 2003* to the person's repayment income is a reference to the person's repayment income within the meaning of section 1061ZZFA of this Act.

(3) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.

4 Paragraph 1061ZZENA(b)

Omit ", except section 1061ZZFE".

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5 Section 1061ZZFE

Repeal the section.

Student Assistance Act 1973

6 Section 12ZLC

Repeal the section, substitute:

12ZLC Amounts payable to the Commonwealth

(1) The amount that a person is liable to pay under section 12ZK, in respect of:

(a) the 2019-20 income year; or

(b) a later income year;

is the amount worked out using the formula:

$$\text{Applicable percentage of repayment income} - \text{Relevant income-contingent loans liability}$$

where:

applicable percentage of repayment income means an amount equal to so much of the person's repayable debt for the income year as does not exceed the percentage of the person's repayment income worked out in respect of the income year using the table in section 154-20 of the *Higher Education Support Act 2003*.

relevant income-contingent loans liability means the amount that is the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year.

(2) For the purposes of subsection (1), assume that the reference in the table in section 154-20 of the *Higher Education Support Act 2003* to the person's repayment income is a reference to the person's repayment income within the meaning of section 12ZL of this Act.

(3) A person is not liable under this section to pay an amount for an income year if the amount worked out under subsection (1) is zero or less.

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7 Section 12ZLD

Repeal the section.

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Part 2—Amendments relating to indexation

Higher Education Support Act 2003

8 Section 140-15

Repeal the section.

9 Subsection 154-25(1)

Repeal the subsection, substitute:

(1) The following amounts for the 2020-21 *income year, or a later income year:

(a) the *minimum repayment income;

(b) the amounts referred to in paragraph (a) of the second column of items 1 to 17 of the table in section 154-20;

are indexed by multiplying the corresponding amounts for the 2019-20 income year by the amount worked out using the formula:

$$\frac{\text{The sum of the *index numbers for the *quarter ending on 31 December immediately before the income year and the 3 quarters immediately preceding that quarter}}{\text{The sum of the *index numbers for the *quarter ending on 31 December immediately before the 2019-20 income year and the 3 quarters immediately preceding that quarter}}$$

10 Subsections 154-25(2) and (3)

Repeal the subsections.

11 Paragraph 154-30(b)

Omit “to 9”, substitute “to 17”.

12 Section 198-1 (note 1)

Omit “sections 140-10 and 140-15”, substitute “section 140-10”.

13 Subclause 1(1) of Schedule 1 (definition of *AWE*)

Repeal the definition.

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14 Subclause 1(1) of Schedule 1 (paragraph (a) of the definition of *index number*)

Repeal the paragraph, substitute:

(a) for the purposes of Parts 4-1 and 4-2, has the meaning given by clause 2 of this Schedule; and

15 Subclause 1(1) of Schedule 1 (definition of *reference period*)

Repeal the definition.

16 At the end of Schedule 1

Add:

2 Index numbers

(1) For the purposes of Parts 4-1 and 4-2, the ***index number*** for a *quarter is the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the *Australian Statistician in respect of that quarter.

(2) Subject to subclause (3), if, at any time before or after the commencement of this clause:

(a) the *Australian Statistician has published or publishes an *index number in respect of a *quarter; and

(b) that index number is in substitution for an index number previously published by the Australian Statistician in respect of that quarter;

disregard the publication of the later index number for the purposes of this clause.

(3) If, at any time before or after the commencement of this clause, the *Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, in applying this clause after the change took place or takes place, have regard only to *index numbers published in terms of the new index reference period.

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Part 3—Application and transitional provisions

17 Application of amendments

(1) The amendments made by Part 1 of this Schedule apply in relation to the 2019-20 income year and later income years.

(2) The amendments made by Part 2 of this Schedule apply in relation to the 2020-21 income year and later income years.

18 Transitional—indexation

Despite anything in repealed subsection 154-25(1) of the *Higher Education Support Act 2003* (as that subsection applies to the 2019-20 income year), an amount referred to in paragraph (a) or (b) of that subsection is not to be indexed for the 2019-20 income year.

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Schedule 2—Order of repayment of debts

Part 1—Amendments

Social Security Act 1991

1 Subsection 1061ZVHA(1)

Repeal the subsection, substitute:

(1) If:

(a) a person's HELP repayment income for an income year exceeds the minimum HELP repayment income for the income year; and

(b) on 1 June immediately preceding the making of an assessment in respect of the person's income of that income year, the person had an accumulated SSL debt;

the person is liable to pay to the Commonwealth, in accordance with this Division, so much of the person's repayable SSL debt for the income year as does not exceed the amount worked out using the formula:

$$\text{Applicable percentage of repayment income} _ \text{Relevant income-contingent loans liability}$$

where:

applicable percentage of repayment income means the amount that is the percentage of the person's HELP repayment income applicable under the table in section 154-20 of the *Higher Education Support Act 2003*.

relevant income-contingent loans liability means the amount that is the sum of the following:

(a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year;

(b) the sum of any amounts the person is liable to pay under section 1061ZZEZ of this Act, or section 12ZK of the *Student Assistance Act 1973*, in respect of the income year.

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Student Assistance Act 1973

2 Subsection 10F(1) (definition of *relevant income-contingent loans liability*)

Repeal the definition, substitute:

> ***relevant income-contingent loans liability*** means the amount that is the sum of the following:
>
> (a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year;
>
> (b) the sum of any amounts the person is liable to pay under section 1061ZZEZ of the *Social Security Act 1991*, or section 12ZK of this Act, in respect of the income year;
>
> (c) any amount the person is liable to pay under section 1061ZVHA of the *Social Security Act 1991* in respect of the income year.

Trade Support Loans Act 2014

3 Subsection 46(1) (definition of *relevant income-contingent loans liability*)

Repeal the definition, substitute:

> ***relevant income-contingent loans liability*** means the amount that is the sum of the following:
>
> (a) the sum of any amounts the person is liable to pay under section 154-1 or 154-16 of the *Higher Education Support Act 2003* in respect of the income year;
>
> (b) the sum of any amounts the person is liable to pay under section 1061ZZEZ of the *Social Security Act 1991*, or section 12ZK of the *Student Assistance Act 1973*, in respect of the income year;
>
> (c) any amount the person is liable to pay under section 1061ZVHA of the *Social Security Act 1991* in respect of the income year;
>
> (d) any amount the person is liable to pay under section 10F of the *Student Assistance Act 1973* in respect of the income year.

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Part 2—Application provisions

4 Application of amendments

The amendments made by this Schedule apply in relation to the 2019-20 income year and later income years.

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Schedule 2A—The FEE-HELP limit

Higher Education Support Act 2003

1 Paragraph 104-20(a)

Omit “$80,000”, substitute “$104,440”.

2 Paragraph 104-20(b)

Omit “$100,000”, substitute “$150,000”.

3 Transitional—indexation

Despite anything in subsection 198-10(1) of the *Higher Education Support Act 2003*, the FEE-HELP limit is not to be indexed on 1 January 2019.

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Schedule 3—HELP loan limits etc.

Part 1—Amendments

Higher Education Support Act 2003

1 Subsection 36-21(2) (note)

Omit "subsection 104-30(2) (re-crediting a person's FEE-HELP balance)", substitute "subsections 97-30(2) and 104-30(2) (re-crediting a person's HELP balance)".

2 After paragraph 90-1(b)

Insert:

(ba) the student's *HELP balance is greater than zero; and

3 At the end of section 90-1

Add:

Note: For transitional provisions relating to paragraph (ba), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

4 At the end of section 93-1

Add:

Note: A lesser amount may be payable because of section 93-20.

5 At the end of Division 93

Add:

93-20 Amounts of HECS-HELP assistance, FEE-HELP assistance and VET FEE-HELP assistance must not exceed the HELP balance

Amount of HECS-HELP assistance for one unit

(1) The amount of *HECS-HELP assistance to which a student is entitled for a unit of study is an amount equal to the student's *HELP balance on the *census date for the unit if:

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(a) there is no other:
  (i) unit of study, with the same census date, for which the student is entitled to *HECS-HELP assistance; or
  (ii) unit of study, with the same census date, for which the student is entitled to *FEE-HELP assistance; or
  (iii) *VET unit of study, with the same census date, for which the student is entitled to *VET FEE-HELP assistance; and
(b) the amount of HECS-HELP assistance to which the student would be entitled under section 93-1 for the unit would exceed that HELP balance.

Note 1: For transitional provisions relating to subparagraph (a)(i), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

Amount of HECS-HELP assistance for more than one unit

(2) If the sum of:
(a) the amount of *HECS-HELP assistance to which a student would be entitled under section 93-1 for a unit of study; and
(b) any other amounts of:
  (i) HECS-HELP assistance to which the student would be entitled under that section for other units that have the same *census date as that unit; and
  (ii) *FEE-HELP assistance to which the student would be entitled under section 107-1 for other units that have the same census date as that unit; and
  (iii) *VET FEE-HELP assistance to which the student would be entitled under clause 52 of Schedule 1A for other units that have the same census date as that unit;

would exceed the student's *HELP balance on the census date for the unit, then, despite subsection (1) of this section, the total amount of HECS-HELP assistance, FEE-HELP assistance and

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VET FEE-HELP assistance to which the student is entitled for all of those units is an amount equal to that HELP balance.

Example: Kate has a HELP balance of $2,000, and is enrolled in 4 units with the same census date. The student contribution amount for each unit is $600. There are no up-front payments for the units. The total amount of HECS-HELP assistance to which Kate is entitled for the units is $2,000, even though the total amount of the student contribution amounts for the units is $2,400.

Note 1: For transitional provisions relating to subparagraph (b)(i), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

(3) If the student referred to in subsection (2) has enrolled in the units with more than one higher education provider or *VET provider, the student must notify each provider of the proportion of the total amount of *HECS-HELP assistance, *FEE-HELP assistance or *VET FEE-HELP assistance that is to be payable in relation to the units in which the student has enrolled with that provider.

6 At the end of Part 3-2

Add:

Division 97—Re-crediting of HELP balances in relation to HECS-HELP assistance

97-23 Purpose

The purpose of this Division is to set out the circumstances in which a person's *HELP balance is to be re-credited with an amount equal to the amounts of *HECS-HELP assistance that the person has received for a unit of study.

Note: For transitional provisions relating to this Division, see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

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97-25 Main case of re-crediting a person's HELP balance in relation to HECS-HELP assistance

(1) If section 97-42 applies to re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person has received for a unit of study, then this section does not apply in relation to that unit.

(2) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if:
   (a) the person has been enrolled in the unit with the provider; and
   (b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit; and
   (c) the provider is satisfied that special circumstances apply to the person (see section 97-30); and
   (d) the person applies in writing to the provider for re-crediting of the HELP balance; and
   (e) either:
      (i) the application is made before the end of the application period under section 97-35; or
      (ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

(3) If the higher education provider is unable to act for one or more of the purposes of subsection (2), or section 97-30, 97-35 or 97-40, the *Secretary may act as if one or more of the references in those provisions to the provider were a reference to the Secretary.

97-27 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—no tax file number

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the

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amounts of *HECS-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) subsection 193-5(1) applies to the person in relation to the unit.

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

97-30 Special circumstances

(1) For the purposes of paragraph 97-25(2)(c), special circumstances apply to the person if, and only if, the higher education provider receiving the application is satisfied that circumstances apply to the person that:

(a) are beyond the person's control; and

(b) do not make their full impact on the person until on or after the *census date for the unit of study in question; and

(c) make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook, or was to undertake, the unit.

(2) If the Administration Guidelines specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph 36-21(1)(a), (b) or (c), any decision of a higher education provider under this section must be in accordance with any such guidelines.

Note: The matters referred to in paragraphs 36-21(1)(a), (b) and (c) (which relate to special circumstances that apply to repaying an amount of student contribution or HECS-HELP) are identical to the matters referred to in paragraphs (1)(a), (b) and (c) of this section.

97-35 Application period

(1) If:

(a) the person applying under paragraph 97-25(2)(d) for the re-crediting of the person's *HELP balance in relation to a unit of study has withdrawn his or her enrolment in the unit; and

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(b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

(2) If subsection (1) does not apply, the application period for the application is the period of 12 months after the period during which the person undertook, or was to undertake, the unit.

97-40 Dealing with applications

(1) If:

(a) the application is made under paragraph 97-25(2)(d) before the end of the relevant application period; or

(b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;

the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.

(2) The notice must include a statement of the reasons for the decision.

Note: Refusals of applications are reviewable under Part 5-7.

97-42 Re-crediting a person's HELP balance in relation to HECS-HELP assistance—provider ceases to provide course of which unit forms part

(1) A higher education provider must, on the *Secretary's behalf, re-credit a person's *HELP balance with an amount equal to the amounts of *HECS-HELP assistance that the person received for a unit of study if:

(a) the person has been enrolled in the unit with the provider; and

(b) the person has not completed the requirements for the unit during the period during which the person undertook, or was to undertake, the unit because the provider ceased to provide

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the unit as a result of ceasing to provide the course of which the unit formed part; and

(c) the *tuition assurance requirements applied to the provider at the time the provider ceased to provide the unit; and

(d) the person chose the option designated under the tuition assurance requirements as student contribution/tuition fee repayment in relation to the unit.

Note: A HECS-HELP debt relating to a unit of study will be remitted if the HELP balance in relation to the unit is re-credited: see subsection 137-5(5).

(2) The *Secretary may re-credit the person's *HELP balance under subsection (1) if the provider is unable to do so.

7 Paragraph 104-1(1)(b)

Omit "*FEE-HELP balance", substitute "*HELP balance".

8 Subdivision 104-B (heading)

Repeal the heading, substitute:

Subdivision 104-B—Re-crediting HELP balances in relation to FEE-HELP assistance

9 Sections 104-15 and 104-20

Repeal the sections.

10 Section 104-25 (heading)

Repeal the heading, substitute:

104-25 Main case of re-crediting a person's HELP balance in relation to FEE-HELP assistance

11 Subsections 104-25(1A) and (1)

Omit "*FEE-HELP balance", substitute "*HELP balance".

12 Paragraph 104-25(1)(d)

Omit "FEE-HELP balance", substitute "HELP balance".

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13 Subsection 104-25(2)

Omit "*FEE-HELP balance", substitute "*HELP balance".

14 Paragraph 104-25(2)(d)

Omit "FEE-HELP balance", substitute "HELP balance".

15 Subsection 104-25(2) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

16 Subsection 104-25(3)

Omit "or (2)".

17 At the end of section 104-25

Add:

(4) If *Open Universities Australia is unable to act for one or more of the purposes of subsection (2), or section 104-30, 104-35 or 104-40, the *Secretary may act as if one or more of the references in those provisions to Open Universities Australia were a reference to the Secretary.

18 Section 104-27 (heading)

Repeal the heading, substitute:

104-27 Re-crediting a person's HELP balance in relation to FEE-HELP assistance—no tax file number

19 Subsections 104-27(1) and (2)

Omit "*FEE-HELP balance", substitute "*HELP balance".

20 Subsection 104-27(2) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

21 Subsection 104-27(3)

Omit "*FEE-HELP balance", substitute "*HELP balance".

22 Paragraphs 104-35(1)(a) and (1A)(a)

Omit "*FEE-HELP balance", substitute "*HELP balance".

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23 Section 104-42 (heading)

Repeal the heading, substitute:

104-42 Re-crediting a person's HELP balance in relation to FEE-HELP assistance if provider ceases to provide course of which unit forms part

24 Subsection 104-42(1)

Omit "*FEE-HELP balance", substitute "*HELP balance".

25 Subsection 104-42(1) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

26 Subsection 104-42(2)

Omit "*FEE-HELP balance", substitute "*HELP balance".

27 Section 104-43 (heading)

Repeal the heading, substitute:

104-43 Re-crediting a person's HELP balance in relation to FEE-HELP assistance if not a genuine student

28 Subsection 104-43(1)

Omit "*FEE-HELP balance", substitute "*HELP balance".

29 Subsection 104-43(1) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

30 Subsection 104-43(2)

Omit "*FEE-HELP balance", substitute "*HELP balance".

31 Section 104-44 (heading)

Repeal the heading, substitute:

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104-44 Re-crediting a person's HELP balance in relation to FEE-HELP assistance if provider completes request for assistance etc.

32 Subsection 104-44(1)

Omit "*FEE-HELP balance", substitute "*HELP balance".

33 Subsection 104-44(1) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

34 Subsections 104-44(2), (3) and (4)

Omit "*FEE-HELP balance", substitute "*HELP balance".

35 Section 107-10 (heading)

Repeal the heading, substitute:

107-10 Amounts of FEE-HELP assistance, HECS-HELP assistance and VET FEE-HELP assistance must not exceed the HELP balance

36 Subsection 107-10(1)

Omit "*FEE-HELP balance", substitute "*HELP balance".

37 After subparagraph 107-10(1)(a)(i)

Insert:

(ia) unit of study, with the same census date, for which the student is entitled to HECS-HELP assistance; or

38 Paragraph 107-10(1)(b)

Omit "that FEE-HELP balance", substitute "that HELP balance".

39 At the end of subsection 107-10(1)

Add:

Note 1: For transitional provisions relating to subparagraph (a)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

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Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

40 After subparagraph 107-10(2)(b)(i)

Insert:

(ia) *HECS-HELP assistance to which the student would be entitled under section 93-1 for other units that have the same census date as that unit; and

41 Subsection 107-10(2)

Omit "*FEE-HELP balance", substitute "*HELP balance".

42 Subsection 107-10(2)

After "of FEE-HELP assistance", insert ", HECS-HELP assistance".

43 Subsection 107-10(2)

Omit "that FEE-HELP balance", substitute "that HELP balance".

44 Subsection 107-10(2) (example)

Omit "FEE-HELP balance", substitute "HELP balance".

45 At the end of subsection 107-10(2)

Add:

Note 1: For transitional provisions relating to subparagraph (b)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

46 Subsection 107-10(3)

After "of *FEE-HELP assistance", insert ",*HECS-HELP assistance".

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47 Paragraph 107-10(4)(b)

After “of FEE-HELP assistance”, insert “,*HECS-HELP assistance”.

48 Section 110-5 (heading)

Repeal the heading, substitute:

110-5 Effect of HELP balance being re-credited

49 Subsection 110-5(1)

Omit “*FEE-HELP balance”, substitute “*HELP balance”.

50 Subsection 110-5(1) (note)

Omit “FEE-HELP balance”, substitute “HELP balance”.

51 Paragraph 110-5(1A)(a)

Omit “*FEE-HELP balance”, substitute “*HELP balance”.

52 Paragraph 110-5(1A)(a)

Omit “a person’s FEE-HELP balance”, substitute “a person’s HELP balance”.

53 Subsections 110-5(1B) and (2)

Omit “*FEE-HELP balance”, substitute “*HELP balance”.

54 At the end of Chapter 3

Add:

Part 3-6—HELP balances

128-7 What this Part is about

> A person’s HELP balance at a particular time is worked out by reference to:
>
> (a) the HELP loan limit in relation to the person at the time; and

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(b) the amounts of HECS-HELP assistance, FEE-HELP assistance, VET FEE-HELP assistance and VET student loans that that have previously been payable to the person; and

(c) amounts previously re-credited to the person's HELP balance (including repayments of HELP debts).

128-15 HELP balances

(1) A person's ***HELP balance*** at a particular time is:

(a) if the *HELP loan limit in relation to the person at the time exceeds the sum of all of the amounts of:

(i) *HECS-HELP assistance that has previously been payable to the person; and

(ii) *FEE-HELP assistance that has previously been payable to the person; and

(iii) *VET FEE-HELP assistance that has previously been payable to the person; and

(iv) *VET student loans that have previously been payable to the person;

being that sum as reduced by any amounts previously re-credited to the person's HELP balance under Division 97 of this Act, Subdivision 104-B of this Act, section 128-25 of this Act, Subdivision 7-B of Schedule 1A to this Act or Part 6 of the *VET Student Loans Act 2016*—that excess; and

(b) otherwise—zero.

Note 1: If an amount is to be re-credited to a HELP balance, the balance that is to be re-credited is worked out immediately before that re-crediting. The balance is worked out after the re-crediting by taking account of the amount re-credited. If a person's HELP loan limit has been reduced, the balance might not increase, or might not increase by the same amount as the amount re-credited.

Note 2: For transitional provisions relating to this section, see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*. Those transitional provisions mean that subparagraph (1)(a)(i) does not apply in relation to a unit of study if the census date for the unit is before 1 January 2020.

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(2) For the purposes of subparagraphs (1)(a)(i), (ii), (iii) and (iv), it is immaterial whether amounts of *HECS-HELP assistance, *FEE-HELP assistance, *VET FEE-HELP assistance and *VET student loans have been repaid.

(3) Subsection (2) is enacted for the avoidance of doubt.

128-20 HELP loan limit

The ***HELP loan limit*** is:

(a) the amount that would have been the FEE-HELP limit under repealed paragraph 104-20(a) on 1 January 2020 if it were assumed that section 104-20 had not been repealed, and section 198-5 had not been amended, by the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*; or

(b) in relation to a person who is enrolled in a *course of study in medicine, a *course of study in dentistry or a *course of study in veterinary science, while the person is enrolled in that course—the amount that would have been the FEE-HELP limit under repealed paragraph 104-20(b) on 1 January 2020 if it were assumed that section 104-20 had not been repealed, and section 198-5 had not been amended, by the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note: The HELP loan limit is indexed under Part 5-6.

128-25 Re-crediting HELP balance—discharge of HELP debt etc.

(1) If, during:

(a) the financial year starting on 1 July 2019; or

(b) a later financial year;

a payment was made in discharge of the whole or a part of a debt that a person owes to the Commonwealth under Chapter 4, the *Commissioner must:

(c) notify the payment to the Secretary; and

(d) do so as soon as practicable after the end of that financial year.

Note 1: The payment may be a voluntary repayment.

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Note 2: The payment may be in the form of the application of an amount against the debt.

(2) If the Secretary is so notified, the Secretary must re-credit the person's *HELP balance with an amount equal to the amount of the payment.

55 At the end of section 137-5

Add:

(5) A person's *HECS-HELP debt in relation to a unit of study is taken to be remitted if the person's *HELP balance is re-credited under section 97-25, 97-27 or 97-42 in relation to the unit.

Note: The debt is taken to be remitted even if the person's HELP balance is not increased by an amount equal to the amount re-credited.

56 Subsection 137-10(4)

Omit "*FEE-HELP balance", substitute "*HELP balance".

57 Subsection 137-10(4) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

58 Subsection 137-18(4)

Omit "*FEE-HELP balance", substitute "*HELP balance".

59 Subsection 137-18(4) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

60 Subsection 137-18(5)

Omit "*FEE-HELP balance", substitute "*HELP balance".

61 Subsection 137-19(4)

Omit "*FEE-HELP balance", substitute "*HELP balance".

62 Subsection 193-5(1) (note)

After "Note", insert "1".

63 At the end of subsection 193-5(1)

Add:

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Note 2: The person's HELP balance in relation to the unit is re-credited: see subsection 97-27(1).

64 Subsection 193-10(1) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

65 Subsection 193-10(2) (note)

Omit "FEE-HELP balance", substitute "HELP balance".

66 Subsection 198-5(1) (table item 4)

Repeal the item, substitute:

4	The *HELP loan limit	Section 128-20

67 Section 206-1 (after table item 1A)

Insert:

1B	Refusal to re-credit a person's *HELP balance	subsection 97-25(2)	(a) the higher education provider with whom the student is enrolled in the unit; or (b) if the *Secretary made the decision to refuse the re-crediting—the Secretary

68 Section 206-1 (cell at table item 2, column headed "Decision")

Omit "*FEE-HELP balance", substitute "*HELP balance".

69 Section 206-1 (cell at table item 2A, column headed "Decision")

Omit "*FEE-HELP balance", substitute "*HELP balance".

70 Section 206-1 (note 1)

After "1A", insert ", 1B".

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71 Paragraph 39GD(d) of Schedule 1A

Omit "FEE-HELP balances", substitute "*HELP balances".

72 Paragraph 43(1)(b) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

73 Subdivision 7-B of Schedule 1A (heading)

Repeal the heading, substitute:

Subdivision 7-B—Re-crediting HELP balances in relation to VET FEE-HELP assistance

74 Clause 46 of Schedule 1A (heading)

Repeal the heading, substitute:

46 Main case of re-crediting a person's HELP balance in relation to VET FEE-HELP assistance

75 Subclause 46(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

76 Subclause 46(1) of Schedule 1A (note)

Repeal the note, substitute:

Note: For ***HELP balance***, see section 128-15, and for ***HELP loan limit***, see section 128-20.

77 Subclause 46(2) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

78 Paragraph 46(2)(d) of Schedule 1A

Omit "FEE-HELP balance", substitute "HELP balance".

79 Subclause 46(2) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

80 Clause 46A of Schedule 1A (heading)

Repeal the heading, substitute:

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46A Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance—unacceptable conduct by provider or provider's agent

81 Subclause 46A(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

82 Paragraph 46A(1)(d) of Schedule 1A

Omit "FEE-HELP balance", substitute "HELP balance".

83 Subclause 46A(1) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

84 Subparagraph 46A(3)(c)(ii) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

85 Clause 46B of Schedule 1A (heading)

Repeal the heading, substitute:

46B Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance—VET FEE-HELP account in deficit at the end of a calendar year

86 Subclauses 46B(1), (3) and (4) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

87 Clause 47 of Schedule 1A (heading)

Repeal the heading, substitute:

47 Re-crediting a person's HELP balance—no tax file number

88 Subclause 47(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

89 Subclause 47(1) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

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90 Subclause 47(2) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

91 Paragraph 49(1)(a) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

92 Clause 51 of Schedule 1A (heading)

Repeal the heading, substitute:

51 Re-crediting a person's HELP balance in relation to VET FEE-HELP assistance if provider ceases to provide course of which unit forms part

93 Subclause 51(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

94 Subclause 51(1) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

95 Subclause 51(2) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

96 Clause 51A of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

97 Clause 54 of Schedule 1A (heading)

Repeal the heading, substitute:

54 Amounts of VET FEE-HELP assistance, HECS-HELP assistance and FEE-HELP assistance must not exceed the HELP balance

98 Subclause 54(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

99 After subparagraph 54(1)(a)(i) of Schedule 1A

Insert:

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(ia) unit of study, with the same census date, for which the student is entitled to *HECS-HELP assistance; or

100 Paragraph 54(1)(b) of Schedule 1A

Omit "that FEE-HELP balance", substitute "that HELP balance".

101 At the end of subclause 54(1) of Schedule 1A

Add:

Note 1: For transitional provisions relating to subparagraph (a)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

102 After subparagraph 54(2)(b)(i) of Schedule 1A

Insert:

(ia) *HECS-HELP assistance to which the student would be entitled under section 93-1 for other units that have the same census date as that unit; and

103 Subparagraph 54(2)(b)(ii) of Schedule 1A

Omit "clause 52", substitute "section 107-1".

104 Subclause 54(2) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

105 Subclause 54(2) of Schedule 1A

After "of VET FEE-HELP assistance", insert ", HECS-HELP assistance".

106 Subclause 54(2) of Schedule 1A

Omit "that FEE-HELP balance", substitute "that HELP balance".

107 Subclause 54(2) of Schedule 1A (example)

Omit "FEE-HELP balance", substitute "HELP balance".

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108 At the end of subclause 54(2) of Schedule 1A

Add:

Note 1: For transitional provisions relating to subparagraph (b)(ia), see Part 2 of Schedule 3 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018*.

Note 2: The amount of a *VET student loan is limited by reference to the student's HELP balance—see sections 8 and 20 of the *VET Student Loans Act 2016*. The student's HELP balance is reduced by the amount of any VET student loans that have previously been payable to the student—see section 128-15.

109 Subclause 54(3) of Schedule 1A

After "of *VET FEE-HELP assistance", insert ",*HECS-HELP assistance".

110 Clause 56 of Schedule 1A (heading)

Repeal the heading, substitute:

56 Effect of HELP balance being re-credited

111 Subclause 56(1) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

112 Subclause 56(1) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

113 Paragraph 56(2)(a) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

114 Paragraph 56(2)(a) of Schedule 1A

Omit "re-crediting a person's FEE-HELP balance", substitute "re-crediting a person's HELP balance".

115 Subclause 56(3) of Schedule 1A

Omit "*FEE-HELP balance", substitute "*HELP balance".

116 Subclause 89(1) of Schedule 1A (note)

Omit "FEE-HELP balance", substitute "HELP balance".

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117 Clause 91 of Schedule 1A (cell at table item 1, column headed "Decision")

Omit "*FEE-HELP balance", substitute "*HELP balance".

118 Clause 91 of Schedule 1A (cell at table item 2, column headed "Decision")

Omit "*FEE-HELP balance", substitute "*HELP balance".

119 Clause 91 of Schedule 1A (cell at table item 3, column headed "Decision")

Omit "*FEE-HELP balance", substitute "*HELP balance".

120 Subclause 1(1) of Schedule 1 (definitions of *FEE-HELP balance* and *FEE-HELP limit*)

Repeal the definitions.

121 Subclause 1(1) of Schedule 1

Insert:

> ***HELP balance*** has the meaning given by section 128-15.
>
> ***HELP loan limit*** has the meaning given by section 128-20.

VET Student Loans Act 2016

122 Section 5

Omit "FEE-HELP balance", substitute "HELP balance".

123 Section 6 (definition of *FEE-HELP balance*)

Repeal the definition.

124 Section 6

Insert:

> ***HELP balance*** has the same meaning as in the *Higher Education Support Act 2003*.

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125 Paragraph 8(b)

Omit “FEE-HELP balance”, substitute “HELP balance”.

126 Paragraph 20(e)

Omit “FEE-HELP balance”, substitute “HELP balance”.

127 Paragraph 22(1)(b)

Omit “FEE-HELP balance”, substitute “HELP balance”.

128 Subsection 22(1) (note 1)

Omit “FEE-HELP balances”, substitute “HELP balances”.

129 Subsection 22(1) (note 2)

Omit “FEE-HELP balance”, substitute “HELP balance”.

130 Paragraphs 23(a) and (b)

Omit “FEE-HELP balance”, substitute “HELP balance”.

131 Part 6 (heading)

Repeal the heading, substitute:

Part 6—Re-crediting HELP balances

132 Section 67 (note)

Omit “FEE-HELP balance”, substitute “HELP balance”.

133 Subsection 68(1)

Omit “FEE-HELP balance”, substitute “HELP balance”.

134 Paragraph 68(5)(a)

Omit “FEE-HELP balance”, substitute “HELP balance”.

135 Subsections 69(1) and (3)

Omit “FEE-HELP balance”, substitute “HELP balance”.

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136 Section 70

Omit “FEE-HELP balance”, substitute “HELP balance”.

137 Section 71 (heading)

Repeal the heading, substitute:

71 When Secretary may re-credit HELP balance

138 Subsections 71(1), (3) and (4)

Omit “FEE-HELP balance”, substitute “HELP balance”.

139 Subsection 72(1)

Omit “FEE-HELP balance”, substitute “HELP balance”.

140 Subsections 73(1) and (2)

Omit “FEE-HELP balance”, substitute “HELP balance”.

141 Section 74 (cell at table item 3, column headed “Decision”)

Omit “FEE-HELP balance”, substitute “HELP balance”.

142 Section 74 (cell at table item 4, column headed “Decision”)

Omit “FEE-HELP balances”, substitute “HELP balance”.

143 Section 74 (cell at table item 5, column headed “Decision”)

Omit “FEE-HELP balance” (wherever occurring), substitute “HELP balance”.

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Part 2—Application and transitional provisions

144 Application—HELP balance provisions

(1) For the purposes of this item, ***HELP balance provisions*** means the following provisions of the *Higher Education Support Act 2003* (as amended by this Schedule):

(a) paragraph 90-1(ba);

(b) section 93-20 so far as that section relates to an amount of HECS-HELP assistance to which a student is or would be entitled for a unit of study;

(c) subparagraph 128-15(1)(a)(i);

(d) Division 97;

(e) subparagraph 107-10(1)(a)(ia);

(f) subparagraph 107-10(2)(b)(ia);

(g) subparagraph 54(1)(a)(ia) of Schedule 1A;

(h) subparagraph 54(2)(b)(ia) of Schedule 1A.

(2) The HELP balance provisions apply in relation to a unit of study in which a student was or is enrolled with a higher education provider as part of a course of study if the census date for the unit is on or after 1 January 2020.

145 Transitional—re-credited amounts

If, before 1 January 2020, an amount was re-credited to a person's FEE-HELP balance under:

(a) Subdivision 104-B of the *Higher Education Support Act 2003*; or

(b) Subdivision 7-B of Schedule 1A to that Act; or

(c) Part 6 of the *VET Student Loans Act 2016*;

section 128-15 of the *Higher Education Support Act 2003* (as amended by this Schedule) has effect as if the amount had been re-credited to the person's HELP balance immediately after the start of 1 January 2020.

146 Transitional—pending decisions about re-credited amounts

If:

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(a) an application for the re-crediting of an amount to a person's FEE-HELP balance was made before 1 January 2020; and
(b) the application was made under:
  (i) section 104-25 of the *Higher Education Support Act 2003*; or
  (ii) clause 46 of Schedule 1A to that Act; or
  (iii) section 72 of the *VET Student Loans Act 2016*; and
(c) no decision was made on the application before the commencement of this item;

the application has effect, after the start of 1 January 2020, as if it were an application for the re-crediting of the amount to the person's HELP balance.

147 Transitional—indexation

Despite anything in subsection 198-10(1) of the *Higher Education Support Act 2003*, the HELP loan limit is not to be indexed on 1 January 2020.

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Schedule 4—FEE-HELP debts

Part 1—Amendments

Higher Education Support Act 2003

1 Subsection 137-10(2)

Repeal the subsection, substitute:

(2) The amount of the *FEE-HELP debt is:

(a) if the loan relates to *FEE-HELP assistance for a unit of study provided by a Table B provider—the amount of the loan; or

(b) if paragraph (a) does not apply and the loan relates to *FEE-HELP assistance that forms part of an *undergraduate course of study—an amount equal to 125% of the loan; or

(c) if neither paragraph (a) nor (b) applies—the amount of the loan.

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Part 2—Application of amendments

2 Application—FEE-HELP debts

The amendments of section 137-10 of the *Higher Education Support Act 2003* made by Part 1 of this Schedule apply in relation to a loan made on or after 1 January 2019.

[*Minister's second reading speech made in—*
House of Representatives on 14 February 2018
Senate on 28 March 2018]

(31/18)

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