





# **Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018**

**No. 116, 2018**

**An Act to separate VET student loan debts from  
HELP debts, 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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# Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018

No. 116, 2018

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## **An Act to separate VET student loan debts from HELP debts, and for other purposes**

*[Assented to 25 September 2018]*

The Parliament of Australia enacts:

### **1 Short title**

This Act is the *Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018*.

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*No. 116, 2018    Education and Other Legislation Amendment (VET Student Loan Debt Separation) Act 2018    1*

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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.	25 September 2018
2. Schedule 1, items 1 to 25	1 July 2019.	1 July 2019
2A. Schedule 1, item 25A	Immediately after Schedule 3 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences.	1 January 2020
2B. Schedule 1, items 26 to 35	1 July 2019.	1 July 2019
3. Schedule 1, items 36 to 38	1 July 2019. However, the provisions do not commence at all if Schedule 2 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences on that day.	
4. Schedule 1, item 39	Immediately after the start of 1 July 2019. However, the provisions do not commence at all if Schedule 2 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> does not commence on that day.	
5. Schedule 1, item 40	Immediately after Schedule 1 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences.	1 July 2019

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
6. Schedule 1, items 41 to 43	1 July 2019.	1 July 2019
7. Schedule 1, item 44	1 July 2019. However, the provisions do not commence at all if Schedule 2 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences on that day.	
8. Schedule 1, item 45	Immediately after the start of 1 July 2019.	1 July 2019
9. Schedule 1, item 46	Immediately after Schedule 1 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences.	1 July 2019
10. Schedule 1, items 47 to 51	1 July 2019.	1 July 2019
11. Schedule 1, item 52	1 July 2019. However, the provisions do not commence at all if Schedule 2 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> does not commence on that day.	
12. Schedule 1, items 53 to 71	Immediately after the start of 1 July 2019.	1 July 2019
13. Schedule 1, items 71A to 76	Immediately after Schedule 3 to the <i>Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018</i> commences.	1 January 2020
14. Schedule 2	The day after this Act receives the Royal Assent.	26 September 2018
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—Separation of VET student loan debts from HELP debts**

### **Part 1—Main amendments**

#### ***Higher Education Support Act 2003***

##### **1 Section 129-1**

After “Schedule 1A or”, insert “(before 1 July 2019) under”.

##### **2 At the end of section 129-1**

Add:

Note: Loans that the Commonwealth makes to students under the *VET Student Loans Act 2016* on or after 1 July 2019 are repayable under that Act.

##### **3 Section 134-1**

Omit “also incurs a HELP debt if the Secretary uses”, substitute “will also have incurred a HELP debt if (before 1 July 2019) the Secretary used”.

##### **4 At the end of section 134-1**

Add:

Note: If the Secretary uses an amount of a VET student loan approved under the *VET Student Loans Act 2016* to pay tuition fees for a person on or after 1 July 2019, the person incurs a debt under that Act.

##### **5 Paragraph 137-1(e)**

Repeal the paragraph, substitute:

(e) \*pre-1 July 2019 VSL debts.

##### **6 Section 137-19 (heading)**

Repeal the heading, substitute:

## **137-19 Pre-1 July 2019 VSL debts**

### **7 Subsections 137-19(1), (2) and (3)**

Repeal the subsections, substitute:

- (1) A debt incurred under this section as in force at any time before 1 July 2019 is a *pre-1 July 2019 VSL debt*.

### **8 Subsection 137-19(4) (heading)**

Repeal the heading.

### **9 Subsection 137-19(4)**

Omit “\*VET student loan debt in relation to a loan amount”, substitute “\*pre-1 July 2019 VSL debt, in relation to a loan amount (within the meaning of this section as in force at the time the debt was incurred)”.

### **10 Paragraph 180-28(6)(c)**

After “Chapter 4”, insert “, or under the *VET Student Loans Act 2016*”.

### **11 Subclause 1(1) of Schedule 1**

Insert:

*pre-1 July 2019 VSL debt* has the meaning given by subsection 137-19(1).

### **12 Subclause 1(1) of Schedule 1 (definition of *VET student loan debt*)**

Repeal the definition.

## ***VET Student Loans Act 2016***

### **13 Section 5**

Omit “HELP debt. HELP debts are managed under the *Higher Education Support Act 2003*”, substitute “VETSL debt. These debts are generally repayable through the tax system once the person’s income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act”.

#### **14 Section 5**

Omit “and the approval of course providers”, substitute “, approval of course providers, and assessments involving repayment of VETSL debts,”.

#### **15 Section 6**

Insert:

**accumulated VETSL debt:** see subsection 23CC(1).

**approved form** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

**assessed worldwide income** has the same meaning as in the *Higher Education Support Act 2003*.

**compulsory VETSL repayment amount** means an amount that:

- (a) is required to be paid in respect of an accumulated VETSL debt under section 23EA or 23EC; and
- (b) is included in a notice of an assessment made under section 23EE.

**foreign resident** has the same meaning as in the *Income Tax Assessment Act 1997*.

**former accumulated VETSL debt:** see subsection 23CB(1).

**income tax** has the same meaning as in the *Income Tax Assessment Act 1997*.

**income year** has the same meaning as in the *Income Tax Assessment Act 1997*.

**Medicare levy** means Medicare levy imposed by the *Medicare Levy Act 1986*.

**minimum repayment income** has the same meaning as in the *Higher Education Support Act 2003*.

**repayable VETSL debt:** see subsection 23EB(1).

**repayment income** has the same meaning as in the *Higher Education Support Act 2003*.

**return** means an income tax return within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

**taxable income** has the same meaning as in the *Income Tax Assessment Act 1997*.

**VETSL debt**: see subsection 23BA(1).

## 16 Section 6 (definition of VET student loan debt)

Repeal the definition.

## 17 Section 6

Insert:

**voluntary repayment** means a payment made to the Commissioner in discharge of an accumulated VETSL debt or a VETSL debt. It does not include a payment made in discharge of a compulsory VETSL repayment amount.

## 18 Subsection 19(4) (note)

Repeal the note, substitute:

- Note 1: If the Secretary uses a loan amount to pay tuition fees for a student, the student incurs a VETSL debt under section 23BA.
- Note 2: If the Secretary used a loan amount to pay tuition fees for a student before 1 July 2019, the student will have incurred a debt under section 137-19 of the *Higher Education Support Act 2003* as then in force. Those debts are managed under that Act as HELP debts.

## 19 Subsection 22(1) (note 2)

Omit “VET student loan debt is taken to be remitted to the extent to which the VET student loan debt relates to the loan amount concerned: see section 137-19 of the *Higher Education Support Act 2003*”, substitute “VETSL debt is taken to be remitted to the extent to which the debt relates to the loan amount concerned: see section 23BA. (For remission of debts incurred before 1 July 2019, see section 137-19 of the *Higher Education Support Act 2003*)”.

## 20 After Part 3

Insert:

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## **Part 3A—VETSL debts**

### **Division 1—Simplified outline of this Part**

#### **23AA Simplified outline of this Part**

Loans that the Secretary approves and uses to pay tuition fees for a person are repayable under this Part.

A person incurs a debt (called a VETSL debt) each time a loan amount is used to pay tuition fees for the person. Each of those debts is then incorporated into a single debt called the person's accumulated VETSL debt.

An accumulated VETSL debt can be repaid in 2 ways:

- (a) by making voluntary repayments; or
- (b) by making compulsory repayments (based on the person's income) through the income tax system.

### **Division 2—VETSL debts**

#### **23BA VETSL debt**

- (1) A person incurs a debt to the Commonwealth if the Secretary:
- (a) approves a VET student loan for the person; and
  - (b) uses a loan amount covered by the VET student loan to pay tuition fees for the person for a course.

The debt is a *VETSL debt*.

- (2) The amount of the VETSL debt is:
- (a) 120% of the loan amount; or
  - (b) if the rules 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*.

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

- (4) A person's VETSL debt, in relation to a loan amount used to pay tuition fees for the person for a course, is taken to be remitted if the person's FEE-HELP balance is re-credited under Part 6 in relation to the loan amount.

### **23BB VETSL debt discharged by death**

Upon the death of a person who owes a VETSL debt to the Commonwealth, the debt is taken to have been paid.

Note: VETSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

### **23BC Notice to Commissioner**

- (1) If a person incurs a VETSL debt, the Secretary must give the Commissioner a notice specifying the amount of the debt incurred by the person.
- (2) The Secretary may include in the notice any other details the Commissioner requests for the purpose of ensuring the Commissioner has the information needed to exercise powers or perform functions of the Commissioner under or in relation to this Act.

## **Division 3—Accumulated VETSL debts**

### **23CA Simplified outline of this Division**

There are 2 stages to working out a person's accumulated VETSL debt for a financial year.

In stage 1, the person's former accumulated VETSL debt is worked out. This is done by adjusting the preceding financial year's accumulated VETSL debt to take account of:

- (a) changes in the Consumer Price Index; and
- (b) the VETSL debts the person incurs during the last 6 months of the preceding financial year; and
- (c) voluntary repayments of the debt; and

- (d) compulsory VETSL repayment amounts in respect of the debt.

In stage 2, the person's accumulated VETSL debt is worked out from:

- (a) the person's former accumulated VETSL debt; and  
(b) the VETSL debts the person incurs during the first 6 months of the financial year; and  
(c) voluntary repayments of those debts.

Note: Incurring that financial year's accumulated VETSL debt discharges the previous accumulated VETSL debt and VETSL debts: see section 23CE.

### **23CB Stage 1—working out a former accumulated VETSL debt**

- (1) A person's *former accumulated VETSL debt*, in relation to the person's accumulated VETSL debt for a financial year, is worked out by multiplying:
- (a) the amount worked out using the following method statement; by
- (b) the HELP debt indexation factor (within the meaning of the *Higher Education Support Act 2003*) for 1 June in that financial year.

#### *Method statement*

- Step 1. Take the person's accumulated VETSL debt for the immediately preceding financial year. (This amount is taken to be zero if the person has no accumulated VETSL debt for that financial year.)
- Step 2. Add the sum of all of the VETSL debts (if any) that the person incurred during the last 6 months of the immediately preceding financial year. If the total is a number of whole dollars and a number of cents, the total is taken to be the number of whole dollars. If the total is an amount of less than one dollar, the total is taken to be zero.

**Schedule 1** Separation of VET student loan debts from HELP debts

**Part 1** Main amendments

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- Step 3. Subtract the sum of the amounts by which the person's debts referred to in steps 1 and 2 are reduced because of any voluntary repayments that have been made during the period:
- (a) starting on 1 June in the immediately preceding financial year; and
  - (b) ending immediately before the next 1 June.
- Step 4. Subtract the sum of all of the person's compulsory VETSL repayment amounts that:
- (a) were assessed during that period (excluding any assessed as a result of a return given before that period); or
  - (b) were assessed after the end of that period as a result of a return given before the end of that period.
- Step 5. Subtract the sum of the amounts by which any compulsory VETSL repayment amount of the person is increased (whether as a result of an increase in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.
- Step 6. Add the sum of the amounts by which any compulsory VETSL repayment amount of the person is reduced (whether as a result of a reduction in the person's taxable income of an income year or otherwise) by an amendment of an assessment made during that period.

Example: Lorraine is studying part-time for a Diploma of Early Childhood Education and Care. On 1 June 2020, Lorraine had an accumulated VETSL debt of \$15,000. She incurred a VETSL debt of \$1,500 on 31 March 2020. She made a voluntary repayment of \$525 on 1 May 2021. Lorraine lodged her 2019-20 income tax return and a compulsory VETSL repayment amount of \$3,000 was assessed and notified on her income tax notice of assessment on 3 September 2020.

To work out Lorraine's former accumulated VETSL debt before indexation on 1 June 2021:

- Step 1: Take the previous accumulated VETSL debt of \$15,000 on 1 June 2020.
- Step 2: Add the VETSL debt of \$1,500 incurred on 31 March 2020.
- Step 3: Subtract the \$525 voluntary repayment made on 1 May 2021.
- Step 4: Subtract the \$3,000 compulsory repayment assessed on 3 September 2020.
- Step 5: Does not apply because since 1 June 2020 Lorraine had no amendments to any assessment.
- Step 6: Does not apply because since 1 June 2020 Lorraine had no amendments to any assessment.

Lorraine's former accumulated VETSL debt before indexation on 1 June 2021 is:

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

If, for example, the indexation factor for 1 June 2021 were 1.030, then the former accumulated VETSL debt would be:

$$\$12,975 \times 1.030 = \$13,364.25$$

- (2) For the purposes of this section, an assessment, or an amendment of an assessment, is taken to have been made on the day specified in the notice of assessment, or notice of amended assessment, as the date of issue of that notice.

### **23CC Stage 2—working out an accumulated VETSL debt**

- (1) A person's *accumulated VETSL debt*, for a financial year, is worked out as follows:

$$\text{Former accumulated VETSL debt} + \text{VETSL debts incurred} - \text{VETSL debt repayments}$$

where:

*former accumulated VETSL debt* means the person's former accumulated VETSL debt in relation to that accumulated VETSL debt.

**VETSL debt repayments** means the sum of all of the voluntary repayments (if any) paid, on or after 1 July in the financial year and before 1 June in that year, in reduction of the VETSL debts incurred in that year.

**VETSL debts incurred** means the sum of the amounts of all of the VETSL debts (if any) that the person incurred during the first 6 months of the financial year, with the total rounded down to the nearest whole dollar (and a total of less than one dollar taken to be zero).

Example: Paula is studying part-time for a Diploma of Nursing. On 1 June 2021, her former accumulated VETSL debt was worked out using section 23CB to be \$20,000. She incurred a VETSL debt of \$1,500 on 31 August 2020. No repayments have been made in the 12 months from 1 June 2020.

Paula's accumulated VETSL debt on 1 June 2021 is worked out by taking her former accumulated VETSL debt of \$20,000 and adding the \$1,500 VETSL debt incurred on 31 August 2020. That is:

$$\$20,000 + \$1,500 = \$21,500$$

- (2) The person incurs the accumulated VETSL debt on 1 June in the financial year.
- (3) The first financial year for which a person can have an accumulated VETSL debt is the financial year starting on 1 July 2019.

### **23CD Rounding of amounts**

- (1) If, apart from this section, a person's accumulated VETSL debt would be an amount consisting of a number of whole dollars and a number of cents, disregard the number of cents.
- (2) If, apart from this section, a person's accumulated VETSL debt would be an amount of less than one dollar, the person's accumulated VETSL debt is taken to be zero.

### **23CE Accumulated VETSL debt discharges earlier debts**

- (1) The accumulated VETSL debt that a person incurs on 1 June in a financial year discharges, or discharges the unpaid part of:
-

- (a) any VETSL debt that the person incurred during the calendar year immediately preceding that day; and
  - (b) any accumulated VETSL debt that the person incurred on the immediately preceding 1 June.
- (2) Nothing in subsection (1) affects the application of Division 2 or section 23CB or 23CC.

### **23CF Accumulated VETSL debt discharged by death**

- (1) Upon the death of a person who has an accumulated VETSL debt, the accumulated VETSL debt is taken to be discharged.
- (2) To avoid doubt, this section does not affect any compulsory VETSL repayment amounts required to be paid in respect of the accumulated VETSL debt, whether or not those amounts were assessed before the person's death.

Note: Accumulated VETSL debts are not provable in bankruptcy: see subsection 82(3AB) of the *Bankruptcy Act 1966*.

## **Division 4—Voluntary discharge of debt**

### **23DA Voluntary repayments**

- (1) A person may at any time make a payment in respect of a debt that the person owes to the Commonwealth under this Part.
- (2) The payment must be made to the Commissioner.

### **23DB Application of voluntary repayments**

- (1) Any money a person pays under this Division to meet the person's debts to the Commonwealth under this Part is to be applied in payment of those debts as the person directs at the time of the payment.
- (2) If the person has not given any directions, or the directions given do not adequately deal with the matter, any money available is to be applied as follows:
  - (a) first, in discharge or reduction of any accumulated VETSL debt of the person;

- (b) secondly, in discharge or reduction of:
  - (i) any VETSL debt of the person; or
  - (ii) if there is more than one such debt, those debts in the order in which they were incurred.

### 23DC Refunding of payments

If:

- (a) a person pays an amount to the Commonwealth under this Division; and
- (b) the amount exceeds the sum of:
  - (i) the amount required to discharge the total debt that the person owed to the Commonwealth under this Part; and
  - (ii) the total amount of the person's primary tax debts (within the meaning of Part IIB of the *Taxation Administration Act 1953*);

the Commonwealth must refund to the person an amount equal to that excess.

## Division 5—Compulsory discharge of debt

### Subdivision A—Compulsory repayments

#### 23EA Compulsory repayments

- (1) If:
  - (a) a person's repayment income for an income year exceeds the minimum 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 VETSL debt;

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

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

where:

***applicable percentage of repayment income*** means the amount that is the percentage of the person's 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) 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.
- (3) A person is not liable under this section to pay an amount for an income year if, under section 8 of the *Medicare Levy Act 1986*:
  - (a) no Medicare levy is payable by the person on the person's taxable income for the income year; or
  - (b) the amount of the Medicare levy payable by the person on the person's taxable income for the income year is reduced.

### **23EB Repayable VETSL debt for an income year**

- (1) A person's ***repayable VETSL debt*** for an income year is:
  - (a) the person's accumulated VETSL debt referred to in paragraph 23EA(1)(b) in relation to that income year; or
  - (b) if one or more amounts:
    - (i) have been paid in reduction of that debt; or
    - (ii) have been assessed under section 23EE to be payable in respect of that debt;the amount (if any) remaining after deducting from that debt the amount, or sum of the amounts, so paid or assessed to be payable.
- (2) A reference in paragraph (1)(b) to an amount assessed to be payable is, if the amount has been increased or reduced by an amendment of the relevant assessment, a reference to the increased amount or the reduced amount.

## Subdivision B—Levy for overseas debtors

### 23EC Liability of overseas debtors to repay amounts

- (1) If:
- (a) a person is a foreign resident during an income year; and
  - (b) the person's assessed worldwide income for the income year exceeds the minimum repayment income for the income year; and
  - (c) 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 VETSL debt;
- the person is liable to pay to the Commonwealth, in accordance with this Division, a levy of the amount worked out under subsection (2).

Note: An amount a person is liable to pay under this section is imposed as a levy under the *Student Loans (Overseas Debtors Repayment Levy) Act 2015*.

- (2) The amount of levy that a person is liable to pay under this section, in respect of an income year, is an amount equal to the difference between:
- (a) the amount that the person would have been liable to pay under section 23EA if:
    - (i) the person had a repayment income for the income year of an amount equal to the person's assessed worldwide income for the income year; and
    - (ii) subsection 23EA(3) did not apply to the person; and
  - (b) the amount (if any) the person is liable to pay under section 23EA, in respect of the income year.

### 23ED Notices to be given to the Commissioner

#### *Notice relating to leaving Australia*

- (1) A person who:
- (a) has an accumulated VETSL debt or otherwise has a VETSL debt that has not yet been discharged; and

- (b) leaves Australia (other than in circumstances specified in the rules) with the intention of remaining outside Australia for at least 183 days;

must, no later than 7 days after leaving Australia, give a notice to the Commissioner in the approved form.

*Notice relating to absence from Australia*

- (2) A person who:
  - (a) has an accumulated VETSL debt or otherwise has a VETSL debt that has not yet been discharged; and
  - (b) has been outside Australia for at least 183 days (other than in circumstances specified in the rules) in any 12 month period; and
  - (c) was not required under subsection (1) to give a notice to the Commissioner in connection with that absence from Australia;

must, no later than 7 days after the end of those 183 days, give a notice to the Commissioner in the approved form.

*Notice relating to income (including foreign-sourced income)*

- (3) A person who:
  - (a) is a foreign resident; and
  - (b) on 1 June immediately preceding an income year, had an accumulated VETSL debt;must (other than in circumstances specified in the rules) give to the Commissioner, in the approved form, a notice relating to the person's income (including foreign-sourced income) for the income year. The notice must be given within the period specified in the form.

Note: The Commissioner may defer the time for giving a notice: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

*Content of notices under this section*

- (4) The rules may provide for the content of notices under this section.

## **Subdivision C—Assessments**

### **23EE Commissioner may make assessments**

The Commissioner may, from any information in the Commissioner's possession, whether from a return or otherwise, make an assessment of:

- (a) a person's accumulated VETSL debt on 1 June immediately before the making of the assessment; and
- (b) the amount required to be paid in respect of that debt under section 23EA or 23EC.

### **23EF Notification of notices of assessment of tax**

If:

- (a) the Commissioner is required to serve on a person a notice of assessment in respect of the person's income of an income year under section 174 of the *Income Tax Assessment Act 1936*; and
- (b) the Commissioner has made, in respect of the person, an assessment under section 23EE of this Act of the amounts referred to in that section; and
- (c) notice of the assessment under that section has not been served on the person;

notice of the assessment under that section may be served by specifying the amounts concerned in the notice referred to in paragraph (a) of this section.

### **23EG Commissioner may defer making assessments**

- (1) A person may apply in the approved form to the Commissioner for deferral of the making of an assessment in respect of the person under section 23EE.
- (2) The application must specify:
  - (a) the income year for which the deferral is being sought; and
  - (b) the reasons for seeking the deferral.
- (3) The income year specified in the application must be:

- (a) the income year in which the person makes the application;  
or
  - (b) the immediately preceding income year; or
  - (c) the immediately succeeding income year.
- (4) The Commissioner may, on application by a person under this section, defer making an assessment in respect of the person under section 23EE if the Commissioner is of the opinion that:
- (a) if the assessment were made, payment of the assessed amount would cause serious hardship to the person; or
  - (b) there are other special reasons that make it fair and reasonable to defer making the assessment.
- (5) The Commissioner may defer making the assessment for any period the Commissioner thinks appropriate.
- (6) The Commissioner must, as soon as practicable after an application is made under this section:
- (a) consider the matter to which the application relates; and
  - (b) notify the applicant of the Commissioner's decision on the application.

Note: Deferrals of making assessments, or refusals of applications, are reviewable under Part 7.

### **23EH Commissioner may amend assessments**

- (1) A person may apply in the approved form to the Commissioner for an amendment of an assessment made in respect of the person under section 23EE so that:
- (a) the amount payable under the assessment is reduced; or
  - (b) no amount is payable under the assessment.
- (2) The application:
- (a) must be made within 2 years after the day on which the Commissioner gives notice of the assessment to the person;  
or
  - (b) must specify the reasons justifying a later application.

- (3) The Commissioner may, on application by a person under this section, amend an assessment made in respect of the person under section 23EE so that:
- (a) the amount payable under the assessment is reduced; or
  - (b) no amount is payable under the assessment;
- if the Commissioner is of the opinion that:
- (c) payment of the assessed amount has caused or would cause serious hardship to the person; or
  - (d) there are other special reasons that make it fair and reasonable to make the amendment.
- (4) The Commissioner must, as soon as practicable after an application is made under this section:
- (a) consider the matter to which the application relates; and
  - (b) notify the applicant of the Commissioner's decision on the application.

Note: Amendments of assessments, or refusals of applications, are reviewable under Part 7.

## **Division 6—Application of tax legislation**

### **23FA Returns, assessments, collection and recovery**

Subject to Divisions 4 and 5 and this Division:

- (a) Part IV of the *Income Tax Assessment Act 1936*; and
- (b) Division 5 of the *Income Tax Assessment Act 1997*; and
- (c) Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*;

apply, so far as they are capable of application, in relation to a compulsory VETSL repayment amount of a person as if it were income tax assessed to be payable by a taxpayer by an assessment made under Part IV of the *Income Tax Assessment Act 1936*.

### **23FB Charges and civil penalties for failing to meet obligations**

- (1) Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if:
- (a) any compulsory VETSL repayment amount of a person were income tax payable by the person in respect of the income

year in respect of which the assessment of that debt was made; and

- (b) paragraphs 17(1)(a) and 20(a), this Part and sections 97 and 107 of this Act were income tax laws (within the meaning of the *Income Tax Assessment Act 1997*).
- (2) Subsection (1) does not have the effect of making a person liable to a penalty for any act or omission that happened before the commencement of this subsection.

### **23FC Pay as you go (PAYG) withholding**

Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and 12-G) in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of amounts of a compulsory VETSL repayment amount of a person as if the compulsory VETSL repayment amount were income tax.

### **23FD Pay as you go (PAYG) instalments**

Division 45 in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of a compulsory VETSL repayment amount of a person as if the compulsory VETSL repayment amount were income tax.

### **23FE Failures to comply with section 23ED**

Part III of the *Taxation Administration Act 1953* applies in relation to a failure to comply with section 23ED of this Act as if that section were a taxation law (within the meaning of section 2 of that Act).

### **23FF Extent of Commissioner's general administration of this Act**

The Commissioner has the general administration of this Act to the following extent:

- (a) paragraphs 17(1)(a) and 20(a) (loan applications to include tax file numbers);
- (b) this Part;

**Schedule 1** Separation of VET student loan debts from HELP debts

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- (c) Part 7 so far as it relates to reviewable decisions for which the Commissioner is the decision maker;
- (d) section 97 (Commissioner may disclose VET information);
- (e) section 107 (verifying tax file numbers).

Note: One effect of this is that this Act is to that extent a taxation law for the purposes of the *Taxation Administration Act 1953*.

**21 Section 67 (note)**

Omit “VET student loan debt is taken to be remitted to the extent to which the VET student loan debt relates to the loan amount concerned: see section 137-19 of the *Higher Education Support Act 2003*”, substitute “VETSL debt is taken to be remitted to the extent to which the debt relates to the loan amount concerned: see section 23BA. (For remission of debts incurred before 1 July 2019, see section 137-19 of the *Higher Education Support Act 2003*)”.

**22 Section 74 (after table item 1)**

Insert:

1A	A decision to defer or refuse to defer the making of an assessment	Section 23EG	the Commissioner
1B	A decision to amend or refuse to amend an assessment	Section 23EH	the Commissioner

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**23 Subsections 78(1) and (2)**

After “the Secretary”, insert “or Commissioner”.

## **Part 2—Consequential and contingent amendments**

### ***A New Tax System (Family Assistance) (Administration) Act 1999***

#### **24 Subsection 3(1) (at the end of paragraph (c) of the definition of *income tax refund*)**

Add:

(iv) section 23FA of the *VET Student Loans Act 2016*; or

### ***Bankruptcy Act 1966***

#### **25 After paragraph 82(3AB)(a)**

Insert:

(aaa) Part 3A of the *VET Student Loans Act 2016* (VETSL debts);

### ***Higher Education Support Act 2003***

#### **25A At the end of subsection 137-19(4)**

Add:

Note: The person's HELP balance may also be re-credited under section 128-25 of this Act (re-crediting on discharge of HELP debt etc.), but in those circumstances there is no related remission of debt under this subsection.

### ***Income Tax Assessment Act 1936***

#### **26 Subsection 82A(2) (after paragraph (bb) of the definition of *expenses of self-education*)**

Insert:

(bba) a payment made in respect of, or in respect of the reduction or discharge of, any indebtedness to the Commonwealth under Part 3A of the *VET Student Loans Act 2016*; or

***Income Tax Assessment Act 1997***

**27 Section 12-5 (at the end of table item headed “education expenses”)**

Add:

see also *VET student loans*

**28 Section 12-5 (after table item headed “uranium mining”)**

Insert:

**VET student loans**

limit on deduction .....	82A
payment made to reduce a debt to the Commonwealth under Part 3A of the <i>VET Student Loans Act 2016</i> (VETSL debts), no deduction unless provided as fringe benefit .....	26-20

**29 After paragraph 26-20(1)(cb)**

Insert:

(cba) a payment made to reduce a debt to the Commonwealth  
under Part 3A of the *VET Student Loans Act 2016*; or

**30 After subparagraph 52-132(a)(xi)**

Insert:

(xia) discharging a compulsory VETSL repayment amount  
(within the meaning of the *VET Student Loans Act 2016*);

**31 After subparagraph 52-140(3)(a)(xa)**

Insert:

(xb) discharging a compulsory VETSL repayment amount  
(within the meaning of the *VET Student Loans Act 2016*);

**32 Subsection 995-1(1)**

Insert:

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*accumulated VETSL debt* has the same meaning as in the *VET Student Loans Act 2016*.

### ***Social Security Act 1991***

#### **33 Section 19AA (definition of *accumulated HELP debt*)**

Repeal the definition.

#### **34 Section 1061ZVAA**

Omit:

When the person's income reaches the minimum repayment income under the *Higher Education Support Act 2003*, and the person has finished repaying any debt under that Act, the person must start repaying student start-up loan debt.

substitute:

Once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes, the person must start repaying debt in relation to student start-up loans.

#### **35 Section 1061ZVFA**

Omit:

The person is required to make repayments, of amounts based on his or her income, if that income is above a particular amount and if the person has repaid the person's accumulated HELP debts arising under the *Higher Education Support Act 2003*. The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax and accumulated HELP debts.

substitute:

The person is required to make repayments once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes.

The amount of the repayments is based on the person's income.

The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax.

### **36 Subsection 1061ZVHA(1) (formula)**

Repeal the formula, substitute:

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

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* commences on 1 July 2019.

### **37 Subsection 1061ZVHA(1) (definition of *HELP liability*)**

Repeal the definition.

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* commences on 1 July 2019.

### **38 At the end of subsection 1061ZVHA(1)**

Add:

***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 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year.

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* commences on 1 July 2019.

**39 Subsection 1061ZVHA(1) (after paragraph (a) of the definition of *relevant income-contingent loans liability*)**

Insert:

- (aa) the sum of any amounts the person is liable to pay under section 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year;

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* does not commence on 1 July 2019.

**40 Subsection 1061ZZFD(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 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year.

***Student Assistance Act 1973***

**41 Subsection 3(1) (definition of *accumulated HELP debt*)**

Repeal the definition.

**42 Section 6A**

Omit:

When the person's income reaches the minimum repayment income under the <i>Higher Education Support Act 2003</i> , and the person has finished repaying any debt under that Act, or under the <i>Social Security Act 1991</i> in relation to a student start-up loan under
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**Schedule 1** Separation of VET student loan debts from HELP debts  
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Chapter 2AA of that Act, the person must start repaying ABSTUDY student start-up loan debt.

substitute:

Once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes, the person must start repaying debt in relation to ABSTUDY student start-up loans.

**43 Section 10A**

Omit:

The person is required to make repayments, of amounts based on his or her income, if that income is above a particular amount and if the person has repaid the person's accumulated HELP debts arising under the *Higher Education Support Act 2003* and accumulated SSL debts arising under Chapter 2AA of the *Social Security Act 1991*. The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax and those other income-contingent loan debts.

substitute:

The person is required to make repayments once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes.

The amount of the repayments is based on the person's income.

The Commissioner makes assessments of repayment amounts, which are collected in the same way as amounts of income tax.

**44 Subsection 10F(1) (paragraph (a) of the definition of relevant income-contingent loans liability)**

After “154-1”, insert “or 154-16”.

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* commences on 1 July 2019.

**45 Subsection 10F(1) (after paragraph (a) of the definition of relevant income-contingent loans liability)**

Insert:

- (aa) the sum of any amounts the person is liable to pay under section 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year;

**46 Subsection 12ZLC(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 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year.

***Taxation Administration Act 1953***

**47 Section 8AAZA**

Insert:

*compulsory VETSL repayment amount* has the same meaning as in the *VET Student Loans Act 2016*.

**48 After paragraph 8AAZLD(aa)**

Insert:

(aaa) then against any compulsory VETSL repayment amount of the entity; and

**49 After paragraph 11-1(ca) in Schedule 1**

Insert:

(caa) amounts of liabilities to the Commonwealth under Part 3A of the *VET Student Loans Act 2016*; and

**50 Subsection 15-25(1) in Schedule 1**

After “(ca),”, insert “(caa),”.

**51 After paragraph 15-30(ca) in Schedule 1**

Insert:

(caa) the percentage referred to in the definition of *applicable percentage of repayment income* in subsection 23EA(1) (about repayments of accumulated VETSL debts) of the *VET Student Loans Act 2016* for any financial year starting on or after 1 July 2019;

**52 Paragraph 15-30(cb) in Schedule 1**

Omit “*HELP*”.

Note: This item does not commence if Schedule 2 to the *Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018* does not commence on 1 July 2019.

**53 Paragraph 15-50(1)(b) in Schedule 1**

After “(ca),”, insert “(caa),”.

**54 After paragraph 45-5(1)(ca) in Schedule 1**

Insert:

(caa) amounts of liabilities to the Commonwealth under Part 3A of the *VET Student Loans Act 2016*; and

**55 Section 45-340 in Schedule 1 (method statement, after step 3)**

Insert:

Step 3AAA. The amount (if any) that you would have been liable to pay for the \*base year in respect of an \*accumulated VETSL debt if your taxable income for the base year had been your \*adjusted taxable income, or your \*adjusted withholding income, for that year is worked out.

**56 Section 45-340 in Schedule 1 (method statement, step 4)**

After “3,”, insert “3AAA,”.

**57 Section 45-375 in Schedule 1 (method statement, after step 3)**

Insert:

Step 3AAA. The amount (if any) that you would have been liable to pay for the variation year in respect of an \*accumulated VETSL debt if your taxable income for that year had been your \*adjusted assessed taxable income for that year is worked out.

**58 Section 45-375 in Schedule 1 (method statement, step 4)**

After “3,”, insert “3AAA,”.

**59 Subsection 250-10(2) in Schedule 1 (after table item 36A)**

Insert:

36AA	compulsory VETSL repayment amount under the <i>VET Student Loans Act 2016</i>	5-5	<i>Income Tax Assessment Act 1997</i>
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**60 Subsection 355-65(2) in Schedule 1 (at the end of the cell at table item 5, column headed “The record is made for or the disclosure is to ...”)**

Add:

; or (c) the Secretary of the Department administered by the Minister administering the *VET Student Loans Act 2016*

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***Taxation (Interest on Overpayments and Early Payments)  
Act 1983***

**61 Subsection 3(1)**

Insert:

*compulsory VETSL repayment amount* has the same meaning as in the *VET Student Loans Act 2016*.

**62 Section 3C (after table item 45)**

Insert:

45A Amounts that are treated under Division 6 of Part 3A of the *VET Student Loans Act 2016* as if they were income tax

**63 After subparagraph 8A(1)(a)(ia)**

Insert:

(iaa) compulsory VETSL repayment amount; or

**64 After paragraph 8A(2)(ba)**

Insert:

(baa) compulsory VETSL repayment amount; or

**65 After subparagraph 8E(1)(d)(iii)**

Insert:

(iiiaa) a compulsory VETSL repayment amount that is notified in the notice of assessment;

**66 After subparagraph 8E(2)(d)(iii)**

Insert:

(iiiaa) a compulsory VETSL repayment amount, worked out by reference to the person's taxable income of the year of income, payable by the person immediately before the post-notice crediting;

**67 After paragraph 12A(1A)(b)**

Insert:

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(baa) compulsory VETSL repayment amount;

### ***Trade Support Loans Act 2014***

#### **68 Section 5 (definition of *accumulated HELP debt*)**

Repeal the definition.

#### **69 Section 39**

Omit:

Trade support loan that is paid to a person must be repaid. Compulsory repayments start once the person's income reaches the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any accumulated HELP debt under that Act and any debts under certain other income-contingent loan schemes.

substitute:

Trade support loan that is paid to a person must be repaid. Once the person's income exceeds the minimum repayment income under the *Higher Education Support Act 2003* and the person has finished repaying any debt under that Act and certain other income-contingent loan schemes, the person must start repaying debt in relation to trade support loan.

#### **70 Section 39**

Omit "and compulsory repayments of accumulated HELP debts".

#### **71 Subsection 46(1) (after paragraph (a) of the definition of *relevant income-contingent loans liability*)**

Insert:

- (aa) the sum of any amounts the person is liable to pay under section 23EA or 23EC of the *VET Student Loans Act 2016* in respect of the income year;

***VET Student Loans Act 2016***

**71A At the end of paragraph 22(1)(b)**

Add “under Division 2 or 3 of Part 6”.

**71B Subsection 22(1) (note 1)**

Repeal the note.

**71C Subsection 22(1) (note 2)**

Omit “Note 2”, substitute “Note”.

**71D Subsection 22(1) (note 2)**

After “is re-credited”, insert “under Division 2 or 3 of Part 6”.

**72 Subsection 23BA(4)**

Omit “FEE-HELP”, substitute “HELP”.

**73 Subsection 23BA(4)**

After “under”, insert “Division 2 or 3 of”.

**74 Section 67 (note)**

After “under”, insert “Division 2 or 3 of”.

**75 Division 3 of Part 6 (at the end of the heading)**

Add “other than on discharge of debt”.

**76 At the end of Part 6**

Add:

**Division 4—Re-crediting by Secretary on discharge of debt**

**73A When Secretary must re-credit HELP balance—discharge of debt**

(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 Part 3A, 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.

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.

Note: Re-crediting under this Division does not have the same effect as re-crediting under Division 2 or 3 (re-crediting under those Divisions results in remission of the debt concerned: see section 23BA). For debts incurred before 1 July 2019, see section 137-19 of the *Higher Education Support Act 2003* (which applies unless an amount is re-credited under section 128-25 of that Act).

## Schedule 2—Courses and loan caps determination

### *VET Student Loans Act 2016*

#### **1 At the end of section 16**

Add:

- (4) Despite subsection 14(2) of the *Legislation Act 2003*, a determination made under subsection (1) may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

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*[Minister's second reading speech made in—  
House of Representatives on 28 March 2018  
Senate on 10 September 2018]*

(72/18)

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