



Student Identifiers Amendment (Enhanced Student Permissions) Act 2020

No. 46, 2020

**An Act to amend the *Student Identifiers Act 2014*,
and for related purposes**

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

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Student Identifiers Amendment (Enhanced Student Permissions) Act 2020

No. 46, 2020

**An Act to amend the *Student Identifiers Act 2014*,
and for related purposes**

[Assented to 25 May 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Student Identifiers Amendment (Enhanced Student Permissions) Act 2020*.

No. 46, 2020

Student Identifiers Amendment (Enhanced Student Permissions) Act
2020

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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. The whole of this Act	The day after this Act receives the Royal Assent.	26 May 2020

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Student Identifiers Act 2014

1 Section 3

Omit “, a registered training organisation or a VET-related body. This is subject to access controls set by the individual.”, substitute “or a registered training organisation, VET-related body or other entity. However, access by such an organisation, body or entity is subject to access controls set by the individual.”.

2 At the end of section 3

Add:

There are civil penalty provisions for certain conduct relating to:

- (a) applying for student identifiers; or
- (b) altering an authenticated VET transcript or an extract from such a transcript; or
- (c) making a document purporting to be an authenticated VET transcript or an extract from such a transcript.

Those civil penalty provisions are enforceable under the Regulatory Powers Act. Infringement notices may be given under that Act for contraventions of those civil penalty provisions.

3 Subsection 4(1)

Insert:

civil penalty provision has the same meaning as in the Regulatory Powers Act.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

4 Section 26

Omit “, a registered training organisation or a VET-related body. However, access by such an organisation or body is subject to access controls set by the individual.”, substitute “or a registered training organisation, VET-related body or other entity. However, access by such an organisation, body or entity is subject to access controls set by the individual.”.

5 Section 28 (heading)

Repeal the heading, substitute:

28 Entities that may be given access to an authenticated VET transcript etc.

6 Subsection 28(1)

Omit “or VET-related body”, substitute “, VET-related body or other entity”.

7 At the end of subsection 28(1)

Add:

Note: The Registrar may also disclose personal information in an authenticated VET transcript in accordance with Australian Privacy Principle 6.

8 Subsection 28(4)

Omit “or VET-related body”, substitute “, VET-related body or other entity”.

9 After Part 3

Insert:

Part 3A—Civil penalties and infringement notices

29A Simplified outline of this Part

<p>There are civil penalty provisions for certain conduct relating to:</p> <p>(a) applying for student identifiers; or</p>
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- (b) altering an authenticated VET transcript or an extract from such a transcript; or
- (c) making a document purporting to be an authenticated VET transcript or an extract from such a transcript.

Those civil penalty provisions are enforceable under the Regulatory Powers Act. Infringement notices may be given under that Act for contraventions of those civil penalty provisions.

29B Civil penalties—applications for student identifiers

- (1) An individual is liable to a civil penalty if:
- (a) the individual has been assigned a student identifier under this Act; and
 - (b) the identifier has not been revoked; and
 - (c) either:
 - (i) the individual applies under section 9 to the Registrar for an identifier to be assigned to the individual; or
 - (ii) the individual authorises an entity to make an application under section 9 for an identifier to be assigned to the individual.

Note: Section 95 of the Regulatory Powers Act deals with mistake of fact.

Civil penalty: 60 penalty units.

- (2) A person is liable to a civil penalty if:
- (a) the person applies to the Registrar for an identifier to be assigned to an individual; and
 - (b) the person has not been authorised by the individual to make the application.

Civil penalty: 60 penalty units.

29C Civil penalties—authenticated VET transcripts etc.

- (1) A person is liable to a civil penalty if the person alters:
- (a) an authenticated VET transcript of an individual; or
 - (b) an extract, prepared by the Registrar, from an authenticated VET transcript of an individual.

Civil penalty: 60 penalty units.

- (2) A person is liable to a civil penalty if:
- (a) the person makes a document; and
 - (b) either:
 - (i) the document is not an authenticated VET transcript of an individual, but purports to be such an authenticated VET transcript; or
 - (ii) the document is not an extract, prepared by the Registrar, from an authenticated VET transcript of an individual, but purports to be such an extract.

Civil penalty: 60 penalty units.

29D Enforcement under Regulatory Powers Act—civil penalty provisions

Enforceable civil penalty provisions

- (1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the Registrar is an authorised applicant in relation to the civil penalty provisions of this Act.

Relevant court

- (3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:
- (a) the Federal Court of Australia;
 - (b) the Federal Circuit Court of Australia.

Extension to external Territories

- (4) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

29E Enforcement under Regulatory Powers Act—infringement notices*Provisions subject to an infringement notice*

- (1) A civil penalty provision of this Act is subject to an infringement notice under Part 5 of the Regulatory Powers Act.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

- (2) For the purposes of Part 5 of the Regulatory Powers Act, the Registrar is an infringement officer in relation to the provisions mentioned in subsection (1).

Relevant chief executive

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Registrar is the relevant chief executive in relation to the provisions mentioned in subsection (1).

Delegation by Registrar

- (4) The Registrar may, in writing, delegate to the following the Registrar's powers and functions under Part 5 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1):
- (a) an SES employee, or acting SES employee, in the Department;
 - (b) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.
- (5) A delegate must comply with any written directions of the Registrar.

Extension to external Territories

- (6) Part 5 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

10 Subparagraphs 32(1)(f)(i) and (ii)

Omit “and VET-related bodies”, substitute “, VET-related bodies and other entities”.

11 After paragraph 32(1)(f)

Insert:

- (fa) managing the Account in a way that ensures that the balance of the Account is sufficient to cover debits of amounts for the purposes of the Account;

12 Paragraph 50(a)

After “functions”, insert “or the exercise of the Registrar’s powers”.

13 After paragraph 50(b)

Insert:

- (ba) reimbursing an appropriate authority of a State or Territory as mentioned in subsection 46(3);
(bb) making payments to consultants in accordance with engagements under section 47;

14 Before subsection 53(2)

Insert:

Exemptions given by Commonwealth Minister

15 Subsection 53(4)

Repeal the subsection, substitute:

Exemptions given by Registrar

- (4) Subsection (1) does not apply in relation to an individual if a determination under subsection (6) is in force in relation to the individual.
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- (5) An individual may request the Registrar to make a determination that subsection (1) does not apply in relation to the individual. The request must:
- (a) be made in a manner and form approved by the Registrar; and
 - (b) include any information required by the Registrar.
- (6) If an individual makes a request under subsection (5), the Registrar must, by writing, make, or refuse to make, the determination requested.
- (7) The Registrar must, in making a decision on the request, have regard to the matters (if any) determined in an instrument under subsection (9).
- (8) The Registrar must give the individual notice of the Registrar's decision on the request. If the Registrar refuses to make the determination requested, the notice must include reasons for the refusal.
- (9) The Commonwealth Minister may, by legislative instrument, determine matters for the purposes of subsection (7).
- (10) An instrument under subsection (6) is not a legislative instrument.
- (11) If:
- (a) the Registrar assigns a student identifier to an individual; and
 - (b) immediately before the assignment, a determination under subsection (6) is in force in relation to the individual;
- then that determination is taken to be revoked immediately after the assignment.

Agreement of Ministerial Council required for instruments

- (12) The Commonwealth Minister must, before making an instrument of a kind referred to in subsection (3) or (9), obtain the agreement of the Ministerial Council to the making of the instrument.

Single instrument

- (13) The matters covered by subsections (3) and (9) may be included in the same instrument.

16 Application provisions

- (1) The amendments made by items 6, 8 and 10 apply in relation to authenticated VET transcripts prepared by the Registrar on or after the commencement of this item.
- (2) Subsection 29B(1) of the *Student Identifiers Act 2014*, as inserted by this Schedule, applies in relation to an application referred to in subparagraph 29B(1)(c)(i) of that Act that is made, or an authorisation referred to in subparagraph 29B(1)(c)(ii) of that Act that is given, on or after the commencement of this item, whether the student identifier referred to in paragraph 29B(1)(a) of that Act was assigned before, on or after that commencement.
- (3) Subsection 29B(2) of the *Student Identifiers Act 2014*, as inserted by this Schedule, applies in relation to an application referred to in paragraph 29B(2)(a) of that Act that is made on or after the commencement of this item.
- (4) Subsection 29C(1) of the *Student Identifiers Act 2014*, as inserted by this Schedule, applies in relation to an alteration made on or after the commencement of this item, whether the authenticated VET transcript or extract was prepared before, on or after that commencement.
- (5) Subsection 29C(2) of the *Student Identifiers Act 2014*, as inserted by this Schedule, applies in relation to a document that is made on or after the commencement of this item.

[Minister's second reading speech made in—
House of Representatives on 28 November 2019
Senate on 11 February 2020]

(214/19)
