

EXPLANATORY STATEMENT

Guidelines issued under subsection 238-10 of the Higher Education Support Act 2003

HECS-HELP Benefit Guidelines No.1

Issued by the authority of the Minister for Education

Subject:- *Higher Education Support Act 2003*
HECS-HELP Benefit Guidelines No.1

Authority

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make guidelines for the purposes of the Act. In particular, item 4A of the table at section 238-10 specifies that the Minister may make the HECS-HELP Benefit Guidelines to give effect to matters set out in Part 4-2 of the Act.

Purpose and operation

The purpose of this instrument is to revoke the *HECS-HELP Benefit Guidelines*, dated 21 November 2008 (F2008L04659) (the Previous Guidelines) and all subsequent amendments and to make the *HECS-HELP Benefit Guidelines No. 1* (the Guidelines).

The Guidelines provide for matters under Part 4-2 of the Act.

Background

On 21 November 2008, the Minister for Education, the Hon. Julia Gillard MP, made the Previous Guidelines which were registered on 11 December 2008 and commenced on 12 December 2008.

Commencement

The Guidelines take effect on the day after the day on which they are registered on the Federal Register of Legislative Instruments.

Consultation

The Guidelines give effect to a 2009–10 Budget Measure and reflects the Government's response to the Review of Australian Higher Education. The Review involved extensive consultation with the higher education sector, including higher education providers, peak bodies, state and territory governments and other key stakeholders.

The Guidelines are to be used by the Commissioner of Taxation in administering the HECS-HELP benefit. The Australian Taxation Office has been consulted extensively on development of the Guidelines.

Overview of the HECS-HELP Benefit Guidelines No. 1

Division 154 of the Act provides for the discharge of compulsory repayment of HELP debts.

Detail of provisions

Chapter 1 Introduction

Chapter 1 deals with purpose of the Guidelines and sets out its interpretation provisions.

Section 1.1 deals with the purpose of the Guidelines which is to specify:

- the eligibility requirements for the HECS-HELP benefit;
- how the amount of an eligible person's HECS-HELP benefit for an income year is worked out;
- the form, manner and time within which an eligible person must apply for the HECS-HELP benefit;
- the time within which the Commissioner of Taxation must notify an applicant of a determination of their HECS-HELP benefit.

Section 1.5 sets out the defined terms used in the Guidelines.

Chapter 2 Eligibility requirements

This chapter specifies the eligibility requirements for the HECS-HELP benefit for a person for an income year in accordance with section 157-1 of the Act.

Section 2.5 specifies that to be eligible as a mathematics or science graduate, a person must have completed an eligible course in the second half of 2008 or later, have a HELP debt at completion of that course and not have discharged their HELP debt in the intervening time, and be employed in a designated occupation listed in the Guidelines. The person must also have a requirement to make a compulsory repayment of their HELP debt for the income year in which they are claiming the HECS-HELP benefit.

Section 2.10 lists the eligible occupations for a mathematics or science graduate.

Section 2.15 specifies that to be eligible as an early childhood education teacher, a person must have completed an eligible course, have incurred a HECS or HELP debt at completion of that course and not have discharged their HECS/HELP debt in the intervening time, be employed as an early childhood education teacher (as defined in Chapter 1) in a location with a postcode listed in the Guidelines that lists postcodes for regional or remote areas, Indigenous Australian communities or areas of high socio-economic disadvantage

Grandfathering provisions through the inclusion of restricted non-ongoing postcode locations and ongoing postcode locations for the income year 2010–11 and any later income year ensures that a person who may have been eligible for the benefit prior to the Guidelines taking effect have not been disadvantaged.

To be eligible for the HECS-HELP benefit as an early childhood education teacher a person is not required to have a compulsory repayment amount for their HELP debt in the income year for which they are applying for the HECS-HELP benefit. If the person is not required to make a compulsory repayment of their HELP debt, the amount of their HECS-HELP benefit is deducted from the amount of their accumulated HELP debt.

2.20 specifies that to be eligible as an education graduate a person must have completed an eligible course in the second half of 2009 or later, have a HELP debt at completion of that course and not have discharged their HELP debt in the intervening time, and has been employed for at least one week in a designated occupation listed in the Guidelines. The person must also have a requirement to make a compulsory repayment of their HELP debt for the income year in which they are claiming the HECS-HELP benefit.

2.25 describes the eligible occupations for an education graduate.

2.30 specifies that to be eligible as a nursing/midwifery graduate, a person must have completed an eligible course in the second half of 2009 or later, have a HELP debt at completion of that course and not have discharged their HELP debt in the intervening time, and has been employed for at least one week in a designated occupation listed in the Guidelines. The person must also have a requirement to make a compulsory repayment of their HELP debt for the income year in which they are claiming the HECS-HELP benefit.

2.35 describes the eligible occupations for a nursing/midwifery graduate.

Chapter 3 Working out an eligible person's HECS-HELP benefit for an income year

This Chapter specifies how an eligible person's HECS-HELP benefit amount for an income year is worked out in accordance with section 157-15 of the Act.

Section 3.5 specifies that for the maximum HECS-HELP benefit for the first income year for a mathematics and science graduate will be \$1,500 (2008–09), for an early childhood education teacher will be \$1,600 (2008–09) and an education and nursing/midwifery graduate will be \$1558.50 (2009–10). These amounts represent around half on average of a person's compulsory repayment and are consistent with the Government's commitments to halve an eligible person's HELP repayments or debt. The chapter specifies the rules for the indexation of these amounts, consistent with other indexation arrangements in the Act.

Section 3.10 sets out the manner of calculation of the HECS-HELP benefit for a person who is a mathematics or science graduate and separately for a person who is eligible for the HECS-HELP benefit as an early childhood education teacher or as an education graduate or a nursing/midwifery graduate. It also addresses the circumstances where a person is eligible for the benefit as more than one of a mathematics or science graduate, an early childhood education teacher, an education graduate and a nursing/midwifery graduate.

3.15 provides examples of the calculation of the HECS-HELP benefit to assist in interpretation of the Guidelines.

Chapter 4 – Applying for the HECS-HELP benefit

This chapter specifies, for the purposes of subsection 157-5 of the Act, the manner in which a person must apply to the Commissioner of Taxation for the HECS-HELP benefit, the information that must be included in an application form and the time within which an application must be made.

Section 4.5 specifies that an application for the HECS-HELP benefit must be made in a form approved by the Commissioner of Taxation and in accordance with instructions issued by the Commissioner. This section also specifies that an application is valid only if the applicant lodges an income tax return for the income year or advises the Commissioner that they are not required to do so.

Section 4.10 specifies that the application form must contain enough information to identify the applicant and assess their eligibility for the HECS-HELP benefit and allows for other information to be required to be attached to the form.

Section 4.15 provides for a limit of two years from the end of an income year to apply for the HECS-HELP benefit for that year.

Chapter 5 – Notifications of determinations made by the Commissioner

This chapter specifies, for the purposes of subsection 157-25 of the Act, the time within which the Commissioner must notify an applicant in writing of the Commissioner's determination of the person's HECS-HELP benefit.