

Explanatory Statement

VET Student Loans (Courses and Loan Caps) Determination 2016

Summary

The *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination) specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts.

Background

The Courses and Loans Cap Determination forms part of the Australian Government's reform of the student loan arrangements for vocational education and training (VET) courses, the full policy context and background for which is set out in the Explanatory Memorandum to the VET Student Loans Bill 2016. The purpose of the VET Student Loans Act is to effectively replace the VET FEE-HELP loan scheme from 1 January 2017 and introduce a vastly improved student loans program for VET courses.

On 5 October 2016 Senator Simon Birmingham, the Minister for Education and Training, announced the new VET Student Loans program. With this announcement he also proposed that the program limit courses eligible for a loan. This ensures the focus will be on courses that align with industry needs and lead to employment outcomes.

The new program also helps to protect students from rapidly rising course costs by setting a ceiling on the maximum loan amount the Government is willing to loan to a student for a specific course. The courses and loan caps determination is the legislative instrument under the VET Student Loans Act which implements this element in the new program.

Consultation

On 10 October 2016, the Government publicly released the proposed list of eligible courses for consultation. Submissions closed on 23 October 2016. On 17 November 2016, Senator Simon Birmingham announced the provisional approval process, establishing a higher bar for entry for prospective providers from 1 January 2017. To give prospective providers information about the courses eligible for loans, the course list (informed by the submissions received) was also released at the same time.

The Government has since added eight additional courses leading to licenced occupations as identified by state and territory governments. The Government has also considered requests by Listed and Not-for-Profit providers to include additional courses in the Courses and Loans Caps Determination. In considering such applications, the Government required evidence from the provider of employment outcomes for that course, employer support for that course, and their track record of student progression and completion through that course.

To ensure the list remains current and robust, a comprehensive review of the approved course list and methodology will commence in February 2017. The review will include consultation with a range of stakeholders including state and territory governments, vocational education

and training providers and student advocacy groups. Following the initial review, the list will then be reviewed twice yearly from 2018.

Regulatory Impact Statement

The Courses and Loan Caps Determination gives effect to policies and proposals examined in the Regulatory Impact Statement for the VET Student Loans Bill 2016, entitled *VET FEE-HELP Redesign*.

Authority

The Courses and Loan Caps Determination is made under section 16 of the VET Student Loans Act.

Explanation of Provisions

Sections 1, 2 and 3 of the Courses and Loan Caps Determination are formal provisions setting out the name, date of commencement, and authority for making of the Determination.

Section 5 and **Schedules 1, 2 and 3** operate to:

- specify the courses for which VET student loans may be approved by the Secretary of the Department of Education and Training under the VET Student Loans Act; and
- specify the maximum loan amounts that may be approved for those courses.

The courses specified in the Schedules are specified by reference to their course codes. A vocational education and training (VET) course is generally assigned a unique code as part of its accreditation or endorsement process. Course codes for all VET courses are published on the National Register maintained by the Department of Education and Training; the National Register can be found at www.training.gov.au. Courses that may have names or lead to qualifications that are similar to the course names and qualifications listed in the Schedules, but which have different course codes, are not specified, and are not approved for VET student loans.

The majority of approved courses are subject to one of three loan caps, of \$5000, \$10,000 and \$15,000. These courses are listed in Parts 1, 2 and 3 of Schedule 1 to the Determination, respectively. These loan caps apply irrespective of the mode of delivery of the course (face-to-face, online, or mixed mode).

Courses listed in Schedule 2 have loan caps as specified by individual course in that Schedule. Currently, all courses specified in Schedule 2 to the Determination are from the aviation training package, and have loan caps of \$75,000.

Courses listed in Schedule 3 are only approved courses if provided by the approved course provider against which they are listed in that Schedule. Note that the approved course provider TAFE Queensland trades under a number of different names for its different campuses – TAFE Queensland Brisbane, TAFE Queensland East Coast, TAFE Queensland Gold Coast, TAFE Queensland North, TAFE Queensland South West, and TAFE Queensland SkillsTech.

Schedule 3 also sets out the loan cap for each such course, with those loan caps set in a manner consistent with the loan caps for the courses listed in Schedule 1.

The Notes to subsection 5(2) highlight that the loan caps are indexed annually under section 6, and that there are other limits in the VET Student Loans Act which may impact on the maximum amount that might be loaned to a student for a course.

Section 6 provides for the indexation of the loan caps specified in subsection 5(2), in a manner consistent with the indexation of amounts in accordance with Part 5-6 of the *Higher Education Support Act 2003* (the HESA). This means that, on 1 January 2018, and every subsequent 1 January, the loan caps will be indexed by the same indexation factor as applies under the HESA. **Section 4** defines *indexation factor* by reference to the HESA; the indexation factor for a particular year is worked out under sections 198-15 and 198-20 of the HESA.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination) specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts.

The Courses and Loans Cap Determination forms part of the Australian Government's reform of the student loan arrangements for vocational education and training (VET) courses, the full policy context and background for which is set out in the Explanatory Memorandum to the VET Student Loans Bill 2016. The purpose of the VET Student Loans Act is to effectively replace the VET FEE-HELP loan scheme from 1 January 2017 and introduce a vastly improved student loans program for VET courses.

Human Rights Implications

The Courses and Loan Caps Determination in isolation does not engage any of the applicable rights or freedoms. It contains mechanical provisions necessary to give effect to the Government's reforms to the VET student loan arrangements. The principal reforms are set out in the VET Student Loans Act, and the human rights implications associated with limiting the courses for which loans are available, and capping the amount of those loans, are dealt with the comprehensive Statement of Compatibility with Human Rights in relation to the reforms which is attached to the Explanatory Memorandum for the VET Student Loans Bill 2016.

In particular, in relation to the **right to work**, the Explanatory Memorandum states:

By enabling the Minister to make a loans and caps determination, this Bill also establishes a new framework to limit course eligibility for VET student loans to those courses approved by the Minister and introduces maximum loan amounts for eligible courses. While this measure may limit the right by limiting the scope of VET courses students might otherwise undertake and the amount of loans available, reform is justified as it ensures that the focus of the VET student loans program will be to provide support for students in respect to courses that have a high national priority, align with industry needs, contribute to addressing skills shortages and lead to employment outcomes.

And in relation to the **right to education**, the Explanatory Memorandum states:

To the extent that the new courses and loan caps determination may limit students' access to particular courses and confine course choice, this is justifiable to ensure fiscal accountability and quality output from providers. Although this measure limits the loan amount available to the student, the intent of the measure is to put downward pressure on rising tuition fees to make education more affordable to students. The limit on courses eligible for loan access will ensure students are undertaking courses that are more likely to result in an employment outcome. These limitations are necessary and proportionate to the policy objective as the measures are designed to protect students by enhancing educational and employment outcomes, ensuring they are receiving value for money, and that there is a high level of quality assurance and transparency in the training courses by ensuring all providers are suitably experienced and have met statutory suitability requirements in order to operate as approved course providers.

Conclusion

This Courses and Loan Caps Determination is compatible with human rights because it is part of the mechanisms in the VET Student Loans Act that promote the human rights to work and education.

Simon Birmingham
Minister for Education and Training