



VET Student Loans Rules 2016

made under section 116 of the *VET Student Loans Act 2016*.

Compilation No. 11

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Includes amendments up to: F2020L01270

Prepared by the Department of Education, Skills and Employment, Canberra

About this compilation

This compilation

This is a compilation of the *VET Student Loans Rules 2016* that shows the text of the law as amended and in force on 2 October 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Prepared by the Department of Education, Skills and Employment, Canberra

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Part 1—Preliminary

1 Name

This instrument is the *VET Student Loans Rules 2016*.

3 Authority

This instrument is made under the *VET Student Loans Act 2016*.

4 Definitions

In this instrument:

accounting standard has the same meaning as in the *Corporations Act 2001*.

Act means the *VET Student Loans Act 2016*.

ADI means an authorised deposit-taking institution within the meaning of the *Banking Act 1959*.

approved course provider charge has the same meaning as in the *VET Student Loans (Charges) Act 2016*.

Australian Quality Training Framework has the same meaning as in the *Higher Education Support Act 2003*.

consolidated entity has the same meaning as in the *Corporations Act 2001*.

financially viable has a meaning affected by subsection 23(3).

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

higher education provider has the same meaning as in the *Higher Education Support Act 2003*.

key personnel of a course provider – see section 16.

listed course provider has the same meaning as in section 27 of the Act.

National Register has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

NVR registered training organisation has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

provider: see section 13.

qualified accountant has the same meaning as in the *Corporations Act 2001*.

qualified auditor means:

- (a) the Auditor-General of a State or Territory; or
- (b) a registered company auditor (within the meaning of section 9 of the *Corporations Act 2001*); or

(c) a person approved by the Secretary in writing.

Quality Standards has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

registered higher education provider has the same meaning as in the *Tertiary Education Quality and Standards Agency Act 2011*.

registration code has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

related body corporate has the same meaning as in the *Corporations Act 2001*.

replacement provider means an approved course provider who provides a replacement course.

Special admissions test means a test to determine the suitability of a person seeking admission into a specialist approved course that is necessary to establish the suitability of the person for admission into that approved course, and includes specialist auditions, tests and interviews that are different from the normal requirements for admissions.

Standards for NVR Registered Training Organisations has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

State or Territory subsidised course: see subsection 7(2).

Student Identifiers Registrar has the same meaning as in the *Student Identifiers Act 2014*.

VET Provider has the same meaning as in the *Higher Education Support Act 2003*.

VET student loans cap: see subsection 39(2).

5 Meaning of *genuine student*

- (1) This section is made for the purposes of the definition of ***genuine student*** in section 6 of the Act.
- (2) The following may be taken into account for the purposes of determining whether a student is a ***genuine student*** in relation to a course:
 - (a) the student is reasonably engaged in the course;
 - (b) the student has knowledge of the course requirements for the course, and the cost and duration of the course;
 - (c) the student has satisfied course requirements for the course or participated in assessment activities for the course;
 - (d) if the course is an online course—the number of occasions on which the student has logged in to the course is not insignificant;
 - (e) the student has provided up-to-date contact details that enable the Department to contact the student to verify the student's enrolment in the course;

- (f) if the student is enrolled in another course—the number of the enrolments and associated course loads would not make successful completion of a course by the student impossible or highly improbable;
- (g) when required to do so, the student has communicated his or her agreement for the Secretary to continue to use the VET student loan to pay tuition fees for the course;
- (h) for the purposes of paragraph 43(4)(d) of Schedule 1A to the *Higher Education Support Act 2003*—if required to do so, the student has communicated his or her agreement for the Secretary to continue to use VET FEE-HELP assistance to pay tuition fees for a VET unit of study.

Part 2—Loans to students

Division 1—Courses

6 Purpose of this Division

This Division is made for the purposes of paragraph 14(2)(b) of the Act.

7 Kinds of courses

- (1) If the course provider receives funding from a State or Territory for enrolments in the course, the course must lead to a qualification of diploma or advanced diploma in the Australian Qualifications Framework.
- (2) If the course meets the requirements set out in subsection (1), the course is a *State or Territory subsidised course*.

8 Course content and activities must be necessary

The course must not include content or activities that do not contribute to achieving the qualification concerned.

Division 2—Applications for loans

9 Purpose of this Division

This Division is made for the purposes of paragraphs 17(2)(b) and (c) of the Act.

10 Applications for loans

- (1) The application must not be made before the end of the period of 2 business days after the student enrolls in the course.
- (2) The application must be made on or before the census day for the course, or the part of the course.
- (3) The application must be signed by the student.

Note 1: Most applications made by students under 18 years of age will also have to be signed by a responsible parent: see subsection 17(3) of the Act.

Note 2: An application made by electronic communication will be treated as having been signed by the student if certain requirements are met: see section 152 of this instrument.

Part 3A—VETSL debts

Division 1—VETSL debts

11 Purpose of this Division

This Division is made for the purposes of paragraph 23BA(2)(b) of the Act.

12 Amount of a VETSL debt

- (1) If the course to which the VETSL debt relates is a State or Territory subsidised course, the percentage for the person is 100% of the loan amount.
- (2) If the part of the course to which the VETSL debt relates has a census date between 1 April 2020 and 30 June 2021, the percentage for the person is 100% of the loan amount.

Division 2—Notices to be given to the Commissioner

12A Purpose of this Division

This Division sets out matters relating to the notices that must be given to the Commissioner under section 23ED of the Act.

12B Notices relating to leaving Australia

- (1) A notice under subsection 23ED(1) of the Act relating to a person leaving Australia must contain:
 - (a) the person's name; and
 - (b) the person's date of birth; and
 - (c) the person's intended country of residence; and
 - (d) the person's contact details, including email address and telephone number.
- (2) For the purposes of paragraph 23ED(1)(b) of the Act, a person is not required to give a notice under subsection 23ED(1) of the Act relating to the person leaving Australia if:
 - (a) the person gave a notice under that subsection in relation to a previous departure from Australia; and
 - (b) since giving that notice, the person has not been an Australian resident.

12C Notices relating to absence from Australia

A notice under subsection 23ED(2) of the Act relating to a person being outside Australia must contain:

- (a) the person's name; and
- (b) the person's date of birth; and
- (c) the person's country of residence; and
- (d) the person's contact details, including email address and telephone number.

12D Notices relating to income (including foreign-sourced income)

- (1) A notice under subsection 23ED(3) of the Act relating to a person's income for an income year must contain:
 - (a) the person's name; and
 - (b) the person's date of birth; and
 - (c) the person's country of residence; and
 - (d) the person's occupation; and
 - (e) the amount of the person's income (including foreign-sourced income) for the income year; and
 - (f) the method used to work out that foreign-sourced income; and
 - (g) if the overseas assessed method was used—the person's identification number used for tax purposes by the taxation authority of a foreign country that made the assessment of the person's income.

Note: The Overseas Debtors Repayment Guidelines provides for how to work out a person's foreign-sourced income for an income year, including the overseas assessed method. It

also provides how to convert a person's foreign-sourced income into Australian currency.

- (2) However, paragraphs (1)(d) to (g) do not apply if:
- (a) the person's income (including foreign-sourced income) for the income year does not exceed 25% of the minimum repayment income for the income year; and
 - (b) the notice includes a declaration to that effect.

Note: *Minimum repayment income* is defined in section 6 of the Act.

12E Approved forms

This Part does not affect the Commissioner's power under section 388-50 in Schedule 1 to the *Taxation Administration Act 1953* to require additional content to be included in the approved form of a notice under section 23ED of the Act.

Part 4—Course provider requirements

Division 1—Meaning of provider

13 Meaning of *provider*

In this Part:

- (a) for the purposes of deciding whether to approve a body as an approved course provider under section 25 of the Act, *provider* means the body; and
- (b) for the purposes of deciding whether an approved course provider continues to meet the course provider requirements as required by subsection 47(2) of the Act, *provider* means the approved course provider.

Division 2—Fit and proper person requirements

14 Purpose of this Division

For the purposes of paragraph 25(2)(f) of the Act, this Division sets out matters that the Secretary may have regard to in deciding whether a provider is a fit and proper person.

15 Compliance with the law

- (1) The Secretary may have regard to whether the provider or any of its key personnel has been convicted of an offence against, or ordered to pay a pecuniary penalty under, a law of the Commonwealth or a State or Territory.

Note: Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

- (2) If the provider or any of its key personnel has been so convicted or ordered, the Secretary may have regard to the seriousness of the offence or contravention concerned.
- (3) The Secretary may have regard to whether the provider or any of its key personnel is currently involved in proceedings before a court or tribunal.

16 Meaning of *key personnel*

Each of the following is one of a provider's *key personnel*:

- (a) a director, officer or member of the provider's governing body;
- (b) a person or body that is concerned with, or takes part in, the executive or senior management of the provider, or that exercises control or influence over the management or direction of the provider;
- (c) a person who exercises control or influence over the allocation of the resources of the provider.

17 Financial record

The Secretary may have regard to whether the provider or any of its key personnel:

- (a) has been insolvent or bankrupt; or
- (b) has taken steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (c) has compounded with one or more creditors; or
- (d) has assigned remuneration for the benefit of one or more creditors; or
- (e) has been under external administration (within the meaning of subsection 600H(2) of the *Corporations Act 2001*); or
- (f) has outstanding debts to the Commonwealth.

18 Management record

- (1) The Secretary may have regard to whether one or more of the following has been cancelled, revoked or suspended:
 - (a) the provider's registration as a registered training organisation or registered higher education provider;
 - (b) the provider's approval as an approved course provider, VET provider or higher education provider;
 - (c) subsidy funding arrangements with a State or Territory for the provision of education by the provider.
- (2) The Secretary may have regard to whether the provider has:
 - (a) had a condition imposed on a registration, approval or arrangement mentioned in subsection (1); or
 - (b) breached such a condition.
- (3) The Secretary may have regard to whether any of the provider's key personnel has been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*.

19 Provision of information

The Secretary may have regard to whether the provider or any of its key personnel has provided false or misleading information to any of the following in circumstances where it is reasonable to assume that the provider or key personnel knew that the information was false or misleading:

- (a) a body of a State or Territory that registers educational providers;
- (b) the National VET Regulator;
- (c) the Minister, the Department or the Secretary;
- (d) an authority of a State or Territory that deals with subsidy funding arrangements for education.

20 Previous conduct and involvements

- (1) The Secretary may have regard to whether the provider or any of its key personnel has previously been found not to be a fit and proper person for the purposes of one or more of the following:
 - (a) the Act;
 - (b) the *Australian Education Act 2013*;
 - (c) the *Education Services for Overseas Students Act 2000*;
 - (d) the *Higher Education Support Act 2003*;
 - (e) the *National Vocational Education and Training Regulator Act 2011*;
 - (f) the *Tertiary Education Quality and Standards Agency Act 2011*;
 - (g) subsidy funding arrangements with a State or Territory for the provision of education.

- (2) The Secretary may have regard to whether one or more of the following has engaged in conduct that reasonably suggests a deliberate pattern of unethical behaviour, or of acting inconsistently with laws of the Commonwealth, a State or a Territory, in relation to the provision of education or training:
 - (a) the provider;
 - (b) any of the provider's key personnel;
 - (c) any person engaged to act for, or on behalf of, the provider.
- (3) The Secretary may have regard to:
 - (a) whether the provider or any of its key personnel has previously been involved in a business that provided education; and
 - (b) whether, at the time of that involvement, the business would have been a fit and proper person for the purposes of paragraph 25(2)(f) of the Act.
- (4) The Secretary may have regard to any other matter relevant to the honesty, knowledge or ability of the provider and its key personnel.

Division 3—Provider suitability requirements

Subdivision A—Purpose of this Division

21 Purpose of this Division

For the purposes of subsection 26(1) of the Act, this Division sets out provider suitability requirements for the purposes of ensuring that loan amounts are paid to suitable course providers.

Note 1: To approve a body as an approved course provider, the Secretary must be satisfied that the body meets the course provider requirements. Provider suitability requirements form part of the course provider requirements: see paragraph 25(2)(e) of the Act

Note 2: An approved course provider must also continue to meet the course provider requirements: see subsection 47(2).

Subdivision B—General requirements

22 General requirements

The provider must:

- (a) be committed to:
 - (i) the delivery of high quality vocational education and training; and
 - (ii) achieving the best outcomes for students; and
- (b) act efficiently, honestly and fairly in all dealings with students, stakeholders and the Commonwealth (including the National VET Regulator); and
- (c) have a record of satisfactory conduct in relation to any previous vocational education and training:
 - (i) provided by the provider; and
 - (ii) for which the Commonwealth, a State or a Territory provided funding (including by way of loans to students).

Subdivision C—Financial performance

23 Financial performance

- (1) The provider must be able to pay its debts as and when they are due and payable.
- (2) The provider must be financially viable.
- (3) Each of the following is an indicator that a provider is *financially viable*:
 - (a) the provider generates sufficient income to meet operating payments, debt commitments and, where applicable, to allow growth while delivering quality training, assessment services and outcomes;
 - (b) the provider's total assets exceed the provider's total liabilities (the provider has a positive equity position), and there is no evidence to suggest that this might change;
 - (c) if the provider is not a charitable or not-for-profit organisation registered with the Australian Charities and Not-for-profits Commission, and has been operating for 3 years or more—the provider has operated at a profit for at least 2 of the 3 most recent financial years for the provider;

- (d) if the provider has at least 100 enrolments in courses leading to awards of qualifications in the Australian Qualifications Framework—at least 20% of the provider's revenue for the previous financial year came from sources other than payments that gave rise to HELP debts or VETSL debts;
- (e) the provider has a net positive cash position from operating activities (determined in accordance with the accounting standards);
- (f) the provider is not providing guarantees or loans that could have a material effect on the provider's finances;
- (g) the provider is not providing its assets as security other than under a commercial loan arrangement with an ADI.

24 Dividends and related party transactions

- (1) The provider's total dividend distributions during a financial year must not exceed the provider's after tax profit for the previous financial year.
- (2) The provider's payments to key personnel and related parties for the provision of goods or services must be made:
 - (a) only for goods and services that are reasonably necessary for the operations of the provider; and
 - (b) on terms that comply with the accounting standards, including in relation to arm's length transactions.

25 Insurance

The provider must have:

- (a) workers' compensation insurance as required by law; and
- (b) adequate public liability insurance.

Subdivision D—Management and governance

26 Management and governance

- (1) The provider must have:
 - (a) robust and appropriate management and governance structures; and
 - (b) clearly defined decision-making processes that will ensure accountability for decisions and actions; and
 - (c) the resources necessary to support its employees and students.
- (2) The provider must:
 - (a) maintain the integrity of student records and data; and
 - (b) report data consistently, accurately and on time to the Commonwealth in accordance with the Act and any instruments made under the Act.

27 Key personnel and advisers

- (1) The provider's key personnel and advisers must have the experience and expertise necessary to perform their duties and responsibilities.
- (2) The combined experience and expertise of the provider's key personnel and advisers must include experience and expertise in the following:
 - (a) the delivery of education;

- (b) management, including financial management and the management of human resources;
- (c) administration.

(3) Subsection (2) does not limit subsection (1).

28 Paying commissions to staff

The provider must not pay its staff commissions, benefits or bonuses (however described) that have any connection (whether direct or indirect) with the number of students who are enrolled by the provider and whose tuition fees are paid (whether wholly or partly) using VET student loans.

29 Compliance with laws

- (1) The provider must comply with the following:
 - (a) the *Australian Education Act 2013*;
 - (b) the *Education Services for Overseas Students Act 2000*;
 - (c) the *Higher Education Support Act 2003*;
 - (d) the *National Vocational Education and Training Regulator Act 2011*;
 - (e) the *Tertiary Education Quality and Standards Agency Act 2011*;
 - (f) the *Corporations Act 2001*;
 - (g) the *Crimes Act 1914*;
 - (h) the *Criminal Code Act 1995*;
 - (i) the *Privacy Act 1988*;
 - (j) any other law of the Commonwealth that relates to:
 - (i) the regulation or funding of education; or
 - (ii) trade practices or consumer protection;
 - (k) any law of a State or Territory that:
 - (i) applies to the provider; and
 - (ii) relates to a matter covered by a law mentioned in paragraphs (a) to (j).
- (2) The provider must have the organisational capacity and administrative resources to:
 - (a) ensure that it is able to meet its responsibilities under the laws covered by subsection (1); and
 - (b) review on a regular basis its compliance with, and effectiveness of its operations in relation to, those laws.

30 Provider must meet certain standards

- (1) If the provider is an NVR registered training organisation, or is registered with the Western Australia Training Accreditation Council, the provider must comply with:
 - (a) the Standards for NVR Registered Training Organisations; and
 - (b) the Quality Standards (unless the provider is registered with the Western Australia Training Accreditation Council); and
 - (c) the Australian Qualifications Framework.
- (2) If the provider is registered with the Victorian Registration and Qualifications Authority, the provider must comply with:
 - (a) the Australian Quality Training Framework; and

- (b) the Victorian Registration and Qualifications Authority Guidelines for VET Providers; and
 - (c) the Australian Qualifications Framework.
- (3) A reference in subsection (1) or (2) to standards, a framework or guidelines is a reference to the standards, framework or guidelines as in force from time to time.

Subdivision E—Experience and course offerings

31 Experience in providing vocational education and training

- (1) The provider must have experience in providing vocational education and training as a registered training organisation.
- (2) For the purposes of deciding whether a provider has such experience, the Secretary may have regard to the following:
 - (a) whether the provider has been registered as a registered training organisation for 3 or more years;
 - (b) the history of the provider and its key personnel in delivering vocational education and training to genuine students;
 - (c) the history of the provider and its key personnel in delivering education through subsidy funding arrangements with a State or Territory;
 - (d) the scope of courses the provider and its key personnel have experience in providing and the levels of qualification provided by those courses.

32 Minimum course offerings

- (1) For the purposes of deciding whether to approve the provider as an approved course provider, the provider must be providing at least one course set out in the courses and loan caps determination.
- (2) For the purposes of deciding whether an approved course provider continues to meet the course provider requirements, the provider must be providing an approved course.

Subdivision F—Student outcomes

33 Completion rates

- (1) The Secretary must be satisfied that the provider has (or will have) adequate completion rates for each of its courses (or parts of courses) that lead to a diploma, advanced diploma, graduate certificate or graduate diploma as set out in the Australian Qualifications Framework.
- (2) For the purposes of deciding whether an approved course provider continues to meet the course provider requirements, the Secretary must be satisfied that, from the time the provider was approved as an approved course provider, the provider has met the completion rate benchmarks for courses or parts of courses:
 - (a) determined by the Secretary; and
 - (b) published on the Department's website.

34 Student support

- (1) The Secretary must be satisfied that the provider has genuine students with satisfactory levels of student engagement and student satisfaction.
- (2) The provider must assess student satisfaction in relation to each of its courses at least annually.

Subdivision G—Workplace relevance

35 Workplace relevance

- (1) The provider must have established and maintained material, relevant and appropriate links with industry and other bodies to ensure that its approved courses:
 - (a) meet workplace needs; and
 - (b) improve employment outcomes.
- (2) The other bodies include the following, as appropriate:
 - (a) employers;
 - (b) employer or employee bodies;
 - (c) professional associations;
 - (d) industry regulators;
 - (e) registered higher education providers.
- (3) Subsection (2) does not limit subsection (1).

Division 4—Listed course providers taken to meet certain requirements

36 Purpose of this Division

This Division is made for the purposes of subsection 27(1) of the Act.

37 Listed course providers taken to meet certain requirements

A listed course provider is taken to meet the following course provider requirements:

- (a) the requirement in paragraph 25(2)(a) of the Act to be a body corporate that is not a trustee;
- (b) the provider suitability requirements set out in sections 23, 24 and 31 of this instrument.

Part 5—Approving course providers

38 Purpose of this Part

This Part is made for the purposes of paragraph 32(1)(b) of the Act.

39 Applications that will be considered

- (1) The Secretary is not required to consider or decide an application for approval as an approved course provider if:
 - (a) the application is made outside the period notified on the Department's website as the period in which such applications can be made; or
 - (b) approval by the Secretary of additional VET student loans during the calendar year would result in the VET student loans cap for the calendar year being exceeded.
- (2) The *VET student loans cap* for each of the calendar years 2017, 2018 and 2019 is the amount specified in section 155.

Part 6 – Tuition Protection

Division 1 – VSL tuition protection levy

40 Purpose of this Division

This Division is made for the purposes of subsection 49A(2) of the Act.

41 Notice of amount of VSL tuition protection levy

- (1) The VSL Tuition Protection Director must specify in a written notice given to each approved course provider who is liable to pay VSL tuition protection levy:
 - (a) the amount of each component of the provider's levy;
 - (b) the total amount of the provider's levy;
 - (c) an explanation of how each component of the provider's levy was calculated; and
 - (d) the business day by which the levy is due and payable by the provider.
- (2) The day mentioned in paragraph (1)(d) of this section must be at least 14 days after the day the notice is given.
- (3) A failure to give a provider the notice under subsection (1) does not affect the liability of the provider to pay a VSL tuition protection levy.
- (4) Subsections (1) and (3) do not apply if the liability to pay the VSL tuition protection levy is waived under section 41A.

Note 1: VSL tuition protection levy is imposed on approved course providers to whom Part 5A of the Act applies under the VET Student Loans (VSL Tuition Protection Levy) Act 2019.

Note 2: Section 49A of the Act requires an approved course provider to pay the VSL tuition protection levy when it is due and payable. Section 36 of the Act enables the Secretary to suspend or revoke a provider if satisfied the provider is not complying with the Act.

41A Waiver of VSL tuition protection levy

Payment of the VSL tuition protection levy is waived for all approved course providers for the calendar year 2020.

42 Extension notices

The VSL Tuition Protection Director may, at any time after giving an approved course provider the notice mentioned in subsection 41(1), give the provider a written notice (*extension notice*) that specifies a day that is later than the day specified in the notice issued under subsection 41(1) as the day on which the levy is due and payable. The extension notice has effect, and is taken to have always had effect, according to its terms.

Note: The VSL Tuition Protection Director may give a provider more than one extension notice.

43 Recovery of VSL tuition protection levy

An amount of VSL tuition protection levy that is due and payable by an approved course provider may be recovered by the VSL Tuition Protection Director, on behalf of the Commonwealth, as a debt due to the Commonwealth.

Division 2 – Providers to whom Part 5A of the Act does not apply

44 Purpose of this division

This Division is made for the purposes of paragraph 66A(1)(b) of the Act.

45 Providers to whom Part 5A of the Act does not apply

- (1) Part 5A of the Act does not apply to a registered training organisation that is:
- (a) owned by the Commonwealth, a State or a Territory; or
 - (b) established to provide vocational education or training under one of the following:
 - (i) the *Technical and Further Education Commission Act 1990* (NSW);
 - (ii) the *Education and Training Reform Act 2006* (Vic.);
 - (iii) the *TAFE Queensland Act 2013* (Qld);
 - (iv) the *Vocational Education and Training Act 1996* (WA);
 - (v) the *TAFE SA Act 2012* (SA);
 - (vi) the *Training and Workforce Development Act 2013* (Tas.);
 - (vii) the *Canberra Institute of Technology Act 1987* (ACT).

Note: Subsection 66A(2) of the VET Student Loans Act 2016 provides that despite subsection 66A(1), sections 66F and 66G apply to all approved course providers. Section 66F deals with provider obligations to provide information about replacement courses and section 66G deals with obligations of providers who provide replacement courses.

Division 3 – Notifying the Director of the details of a default

46 Purpose of this division

This Division is made for the purposes of paragraph 66C(3)(b) of the Act.

47 Additional details of default

- (1) The written notice provided to the VSL Tuition Protection Director within 3 business days of the default occurring must specify for each student the provider has defaulted in relation to:
 - (a) whether the student was studying part-time or full-time;
 - (b) the mode of delivery of the original course;
 - (c) if the student did not study online, the location where the original course was primarily delivered;
 - (d) whether the student has withdrawn from the course or part of the course and the date of withdrawal;
 - (e) any part of the course for which the student has deferred study, the date of the deferral and the date the student is expected to re-commence study;
 - (f) the completion status for each part of the course the student has enrolled in, including whether the student's status is ongoing, passed or failed.
- (2) The written notice provided to the VSL Tuition Protection Director must specify for each course the provider has defaulted in relation to a student the name and code of each unit of competency as it appears on the National Register for each part of the course.

Note: The National Register is defined in section 4 to have the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

Division 4 – Requirements of notice to VSL Tuition Protection Director

48 Purpose of this division

This Division is made from the purposes of subsection 66C(5) of the Act

49 Requirements of notice

The information required under section 66C of the Act must be given to the VSL Tuition Protection Director in a manner and form approved by the Director.

Division 5 – Requirements of notice to student

50 Purpose of this division

This Division is made for the purposes of subsection 66D(3) of the Act.

51 Requirements of notice

- (1) The approved course provider must specify in its written notice of default to students in relation to whom it has defaulted:
 - (a) the name of the course, or part or parts of the course that the student was enrolled in at the time of the default;
 - (b) the date of the default;
 - (c) a website specified by the VSL Tuition Protection Director where the student can get further information about tuition protection.
- (2) The provider must send the notice:
 - (a) to the student's personal email address as advised by the student; or
 - (b) to the student's postal address as advised by the student; or
 - (c) to the student by another method agreed to by the student.

Note: Section 66D of the Act requires an approved course provider to give a student in relation to whom the provider has defaulted, written notice of the default within 24 hours of the default occurring.

Division 6 – Payments to replacement providers and others

52 Purpose of this division

This Division is made for the purposes of subsection 66L(2) of the Act.

53 Payments in connection with tuition protection

- (1) If a student accepts an offer of a replacement course, the VSL Tuition Protection Director may make payment of such amounts that the Director considers appropriate to:
 - (a) the replacement provider; or
 - (b) another person in order to facilitate a student's placement in a replacement course.
- (2) In deciding whether to make a payment, and the amount of such a payment, the Director:
 - (a) must have regard to the sustainability of the VSL Tuition Protection Fund, and:
 - (b) may have regard to any other matters the Director considers relevant.

Part 7—Other requirements for approved course providers

Division 1—Processes and procedures

Subdivision A—Preliminary

75 Purpose of this Division

This Division is made for the purposes of section 48 of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsection 48(5) of the Act.

76 Processes and procedures an approved course provider must have in place

An approved course provider must have in place processes and procedures that accord with the other Subdivisions of this Division.

77 Approved course provider must act in accordance with processes and procedures

An approved course provider must act in accordance with the processes and procedures it has in place.

78 Approved course provider must train officers on processes and procedures

An approved course provider must train each officer of the approved course provider on the processes and procedures that the provider has in place and that are relevant to the officer's duties and responsibilities.

79 Approved course provider must publish processes and procedures on its website

- (1) An approved course provider must publish prominently on its website the processes and procedures it has in place.
- (2) The published processes and procedures must be easily accessible without provision of login information.

Subdivision B—Student entry

80 Academic suitability

- (1) An approved course provider's student entry procedure must specify that a student is academically suited to undertake a particular approved course if:
 - (a) one of the requirements in subsection (2) is met in relation to the student;
and
 - (b) the student meets any other specified entry requirements for the course; and

- (c) the provider believes on reasonable grounds that the student is academically suited to undertake the course.

Note: The other specified entry requirements could include any prior education qualifications the provider considers are needed for a student to be academically suited to undertake the course.

- (2) For the purposes of paragraph (1)(a), the requirements are that:
 - (a) the provider obtains a copy of a Senior Secondary Certificate of Education that has been awarded to the student by an agency or authority of a State or Territory for the student's completion of year 12; or
 - (aa) the provider obtains a copy of a diploma that has been awarded to the student for the student's completion of the International Baccalaureate Diploma Programme; or
 - (b) both:
 - (i) the student is assessed as displaying competence at or above Exit Level 3 in the Australian Core Skills Framework in both reading and numeracy using an assessment tool approved under section 82; and
 - (ii) the provider reasonably believes that the student displays that competence; or
 - (c) both:
 - (i) the provider obtains a copy of a certificate (however described) that the student has been awarded a qualification, either:
 - A. at level 4 or above in the Australian Qualifications Framework or at a level in a framework that preceded the Australian Qualifications Framework that is equivalent to level 4 or above in the Australian Qualifications Framework; or
 - B. that has been assessed by a Federal, State or Territory government agency which assesses overseas qualifications (or an organisation contracted by such an agency to undertake such assessments) as equivalent or comparable to a qualification referred to in sub-subparagraph (2)(c)(i)(A).
 - (ii) the course for the qualification was delivered in English.

81 Results of assessments of competence in reading and numeracy for the purposes of paragraph 80(2)(b)

An approved course provider's student entry procedure must specify that the results of assessing a student's competence in reading and numeracy under the procedure must be reported:

- (a) to the student as soon as practicable after the assessment; and
- (b) to the Secretary in the form, manner and by the time requested by the Secretary.

82 Assessment of competence in reading and numeracy for the purposes of paragraph 80(2)(b)

- (1) An approved course provider's student entry procedure must:
 - (a) describe the process (including the tools) for validly and reliably assessing a student's competence in reading and numeracy against the Australian Core Skills Framework; and

- (b) specify as a tool to be used as part of that process a tool that is approved by the Secretary under this section and published on the Department's website; and
 - (c) require that process to be conducted with honesty and integrity.
 - (2) The Secretary may, on application by an approved course provider or a Commonwealth, State or Territory government agency, approve a tool for assessing a student's competence in reading and numeracy if the Secretary is satisfied that:
 - (a) the tool is a valid, reliable, fair and well-constructed way of assessing whether that competence is at or above Exit Level 3 in the Australian Core Skills Framework; and
 - (b) the tool has been appropriately verified and evaluated using evidence-based assessment.
 - (3) In approving a tool under subsection (2), the Secretary must have regard to a document that is published on the Department's website and sets out:
 - (a) criteria for approval of tools for testing competence in reading and numeracy against the Australian Core Skills Framework; and
 - (b) measures for quality assurance of such tools.
- Note: A person or body verifying and evaluating a tool as described in paragraph (2)(b) will also need to have regard to this document.
- (4) The Secretary must, as soon as practicable after making a decision under subsection 82(2), give the applicant written notice of the decision.
 - (5) The following are taken to have been approved under subsection (2) of this section:
 - (a) *Core Skills Profile for Adults* as mentioned in subparagraph 38(1)(b)(i) of the *Higher Education Support (VET) Guideline 2015*;
 - (b) a tool for assessing a student's competence in reading and numeracy that is approved under subsection 38(2) of the *Higher Education Support (VET) Guideline 2015*.

83 Review of Secretary's decision

- (1) If the Secretary decides not to approve a tool for assessing a student's competence in reading and numeracy, the notice to the applicant must set out:
 - (a) the reasons for the decision; and
 - (b) a statement that the applicant may apply to have the decision reviewed:
 - (i) if the reviewable decision was made by a delegate of the Secretary—by the Secretary; or
 - (ii) if the reviewable decision was made by the Secretary personally—by the Administrative Appeals Tribunal.
- (2) If the decision (the **original decision**) was made by a delegate of the Secretary, the application to the Secretary must be made:
 - (a) in a form approved by the Secretary; and
 - (b) within 30 days after the day on which the written notice of the original decision was given to the applicant, or within such further period as the Secretary allows.
- (3) The Secretary must:
 - (a) review the original decision; and
 - (b) vary or revoke the original decision; and

- (c) if the Secretary revokes the original decision—make such other decision as the Secretary thinks appropriate.
- (4) The review must be done by:
 - (a) a delegate of the Secretary who holds a position that is higher than the position held by the delegate who made the original decision; or
 - (b) the Secretary personally.
- (5) The decision on review of the original decision has effect as if it were made under subsection 82(2).
- (6) The Secretary must, within 30 days after the decision on review is made, give a written notice to the applicant that includes:
 - (a) details of the decision on review; and
 - (b) the reasons for the decision on review; and
 - (c) a statement that the applicant may apply to have the decision on review reviewed by the Administrative Appeals Tribunal.
- (7) Applications may be made to the Administrative Appeals Tribunal for review of:
 - (a) decisions on review made under subsection (3); or
 - (b) original decisions made by the Secretary personally.

Subdivision C—Course enrolment

84 Equal and fair treatment of students seeking to enrol

- (1) An approved course provider's processes and procedures must provide for equal and fair treatment of all students seeking to enrol in an approved course.
- (2) An approved course provider must have open, fair and transparent procedures that the provider reasonably believes are based on merit for making decisions about:
 - (a) the selection of students seeking to enrol in approved courses; and
 - (b) the treatment of such students.This does not limit subsection (1).
- (3) Subsection (2) does not prevent the procedures from allowing the approved course provider to take into account that a student may be enrolled in an approved course in accordance with an arrangement that:
 - (a) was entered into between the provider and an employer or industry body; and
 - (b) limits or restricts enrolments in some or all of the places in the course

Subdivision D—Information relating to applications for VET student loans

85 Processes and procedures for information relating to applications for VET student loans

- (1) An approved course provider must have processes and procedures relating to the collection and verification of information for the purposes of, or in relation to, applications by students for VET student loans.

- (2) The processes and procedures must require the collection and verification of the following information and documents relating to a student applying for a VET student loan:
 - (a) information about the student's identity and date of birth;
 - (b) if the student is under 18, information that:
 - (i) one of the signatories to the application is a responsible parent of the student; or
 - (ii) the student has received youth allowance (within the meaning of the *Social Security Act 1991*) on the basis that the student is independent (within the meaning of Part 2.11 of that Act);
 - (c) information and documents to establish that the student meets the requirements of section 11 of the Act;
 - (d) if the student has applied for, but not been issued with, a tax file number—a certificate from the Commissioner that the student has applied for a tax file number.

Subdivision E—Withdrawal from courses and cancellation of enrolment

86 Processes and procedures for student to withdraw from approved course

- (1) An approved course provider's processes and procedures must include:
 - (a) procedures for a student to withdraw from an approved course, or a part of an approved course; and
 - (b) a procedure for a student to enrol in a part of an approved course with the provider in circumstances where the student had earlier withdrawn from a part of the course undertaken with the provider.
- (2) The procedures for a student to withdraw from an approved course, or a part of an approved course, before a census day for the course, or the part of the course, must not involve financial, administrative or other barriers to the withdrawal.
- (3) If a student withdraws from an approved course, or a part of an approved course, the course provider must not, after the withdrawal, enrol the student in an approved course or a part of an approved course without the written permission of the student (which must be given after the withdrawal).

87 Processes and procedures for cancellation of enrolment

- (1) An approved course provider's processes and procedures must include processes and procedures for the provider to cancel a student's enrolment in an approved course, or a part of an approved course, after the census day for the course.
- (2) The processes and procedures for cancelling a student's enrolment must:
 - (a) require the provider to inform the student concerned of a proposed cancellation; and
 - (b) provide the student with at least 28 days to initiate grievance procedures before the cancellation takes final effect; and
 - (c) provide for the cancellation to take final effect only after any grievance procedures initiated by the student have been completed; and
 - (d) set out the circumstances in which fees for the course, or the part of the course, concerned will, or will not be, refunded.

Subdivision F—Dealing with complaints

88 Grievance procedure

- (1) An approved course provider must have a grievance procedure to deal with complaints from its students about:
 - (a) academic matters (including matters relating to student progress, assessment, curriculum and awards for an approved course); and
 - (b) non-academic matters (including matters relating to enrolment in a course and personal information held by the provider).
- (2) The grievance procedure must:
 - (a) clearly set out the stages of the procedure; and
 - (b) encourage the timely resolution of complaints, including by specifying reasonable periods for dealing with each stage of the procedure; and
 - (c) contain the internal and external stages referred to in subsections (3) and (4); and
 - (d) clearly provide that there is no charge for either the internal stage or the external stage; and
 - (e) provide for implementation of decisions made in following the grievance procedure; and
 - (f) provide for due consideration of recommendations arising from the external stage of the grievance procedure; and
 - (g) require the provider to allow parties who have used the procedure to access the records of that use, but otherwise keep the records confidential.
- (3) The internal stage of the grievance procedure must include:
 - (a) a process for the lodging and hearing of a formal complaint; and
 - (b) a requirement for the complainant to be given written notice of a decision on the formal complaint, including:
 - (i) the reasons for the decision; and
 - (ii) advice about how to appeal the decision; and
 - (c) a process for appealing the decision to an independent senior officer of the approved course provider, or to an internal committee or unit with appropriate expertise; and
 - (d) a requirement for the appellant to be given written notice of the decision on appeal, including:
 - (i) the reasons for the decision; and
 - (ii) advice about how to have the decision reviewed; and
 - (e) provision for each party to this stage of the procedure to be accompanied or assisted by another person, at that party's cost.
- (4) The external stage of the grievance procedure must include:
 - (a) a process for having a decision on appeal reviewed by an external and independent person or body with appropriate expertise; and
 - (b) provision for each party to the review to be accompanied or assisted by another person at the review, at that party's cost; and
 - (c) a requirement for each party to be given written notice of the decision on review, include the reasons for the decision.

Subdivision G—Re-crediting HELP balances

89 Explaining re-crediting

- (1) An approved course provider must have processes and procedures for explaining the re-crediting of students' HELP balances under Division 2 or 3 of Part 6 of the Act.
- (2) The processes and procedures must explain the following:
 - (a) that a student's HELP balance can be re-credited under Division 2 or 3 of Part 6 of the Act;
 - (b) that a student may apply to the provider for the student's HELP balance to be re-credited under section 68 of the Act because of special circumstances;
 - (c) that a student may apply to the Secretary for the student's HELP balance to be re-credited under section 71 of the Act because:
 - (i) the provider, or a person acting on the provider's behalf, engaged in unacceptable conduct in relation to the student's application for the VET student loan; or
 - (ii) the provider has failed to comply with the Act or an instrument under the Act and the failure has adversely affected the student;
 - (d) that special circumstances are circumstances that:
 - (i) are beyond the student's control; and
 - (ii) do not make their full impact on the student until on or after the census day for a course, or the part of a course; and
 - (iii) make it impracticable for the student to complete the requirements for the course, or the part of the course, during the student's enrolment in the course, or the part of the course;
 - (e) that applications for re-crediting under section 68 of the Act must be made within 12 months after the census day for the course, or the part of the course, concerned, or within that period as extended by the provider;
 - (f) that applications for re-crediting under section 71 of the Act must be made within 5 years after the census day for the course, or the part of the course, concerned, or within that period as extended by the Secretary;
 - (g) the processes available to students in relation to reconsideration and review of decisions whether or not to re-credit HELP balances;
 - (h) that there is no charge for reconsideration or review of decisions, other than review by the Administrative Appeals Tribunal;
 - (i) that the Secretary may re-credit a student's HELP balance in relation to special circumstances if a course provider:
 - (i) is unable to act or is being wound up or has been dissolved; or
 - (ii) has failed to act and the Secretary is satisfied that the failure is unreasonable.

Subdivision H—Treatment of students seeking review etc.

90 No victimisation or discrimination of students for seeking review etc.

An approved course provider's processes and procedures must ensure that a student is not victimised or discriminated against for:

- (a) seeking review or reconsideration of a decision; or

- (b) using the provider's processes or procedures about dealing with grievances;
or
- (c) making an application for re-crediting of the student's HELP balance under Division 2 or 3 of Part 6 of the Act.

Subdivision J—Tuition protection

91 Action when provider defaults in relation to a student

An approved course provider must have a procedure to ensure that the provider performs the following actions after the provider defaults in relation to a student:

- (a) within 24 hours of the default occurring:
 - (i) notify students enrolled in the course, in writing, that the course is no longer being provided, and;
 - (ii) give written notice to the VSL Tuition Protection Director of the circumstances of the default;
- (b) as soon as practicable, update the provider's website to reflect that the course is no longer being provided and to give tuition protection information;
- (c) within 3 business days of the default occurring, give the VSL Tuition Protection Director the information required under subsection 66C(3) of the Act

Note: Section 66B of the *VET Student Loans Act 2016* describes when an approved course provider defaults in relation to a student.

92 Procedures as a replacement provider

An approved course provider must have a procedure to ensure that if a student accepts an offer of a place in a replacement course:

- (a) the student is granted course credits for parts of the original course successfully completed by the student, as evidenced by:
 - (i) a statement of attainment or other Australian Qualifications Framework certification documentation issued in accordance with the Australian Qualification Framework; or
 - (ii) an authenticated VET transcript prepared by the Registrar (within the meaning of the *Student Identifiers Act 2014*);
- (b) the student is not charged tuition fees for a replacement component of the replacement course – if tuition fees have been paid for the affected part of the original course;
- (c) the student is enrolled in the replacement course as soon as practicable; and
- (d) the VSL Tuition Protection Director is given written notice of the acceptance within 14 days of the acceptance.

Note: The procedure an approved course provider must have for the purposes of section 92 reflects obligations on approved course providers under section 66G of the *VET Student Loans Act 2016*.

Subdivision K—Fees

93 Fees other than tuition fees

- (1) An approved course provider must not charge fees other than tuition fees unless the provider has processes and procedures for ensuring that students understand the following:
 - (a) that the fees are not for tuition;
 - (b) the purpose of the fees;
 - (c) the student's total liability for the fees;
 - (d) when and how the fees are to be paid.
- (2) Subject to subsection (3), an approved course provider's processes and procedures in relation to fees other than tuition fees must not require fees to be paid for the following:
 - (a) assessments to determine whether a student is academically suited to undertake a course;
 - (b) applying for enrolment, or enrolling in, an approved course.
- (3) An approved course provider's processes and procedures in relation to fees other than tuition fees may allow fees to be paid for a Special admissions test.

Subdivision L—Handling information

94 Handling information

- (1) An approved course provider must have processes and procedures for handling information.
- (2) The processes and procedures must:
 - (a) provide for the management of students' personal information in accordance with the Australian Privacy Principles; and
 - (b) provide for students to access their personal information; and
 - (c) provide for students to have incorrect personal information corrected; and
 - (d) provide accurate information about the use and disclosure of personal information collected by the provider, including that the information may be disclosed to the Commonwealth and the VSL Tuition Protection Director.

Division 2—Specified broker arrangements

95 Purpose of this Division

This Division is made for the purposes of paragraph 49(2)(b) of the Act.

96 Specified broker arrangements

Subsection 49(1) of the Act does not apply in relation to an arrangement with a member of the Australasian Conference of Tertiary Admission Centres.

Division 3—Information for students

Subdivision A—Purpose of this Division

97 Purpose of this Division

This Division is made for the purposes of subsection 50(1) of the Act.

Note 1: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsection 50(2) of the Act.

Note 2: An approved course provider commits an offence of strict liability if the provider fails to comply with a requirement under this Division: see subsection 50(3) of the Act.

Subdivision B—General information

98 Providing information before enrolment

- (1) The purpose of this section is to ensure that students seeking to enrol in an approved course:
 - (a) are fully informed of the tuition fees and any other fees that apply to the course; and
 - (b) are clear about their responsibilities, obligations and rights if they enrol in the course; and
 - (c) are clear about their responsibilities, obligations and rights if they apply for a VET student loan.
- (2) Before enrolling a student in an approved course, an approved course provider must give the student the following information:
 - (a) all information required to be provided under the Standards for NVR Registered Training Organisations that relates to ensuring that each student is properly informed and protected;
 - (b) the tuition fees for the approved course;
 - (c) any fees other than tuition fees that are payable for the course;
 - (d) the student's options for paying tuition fees, including:
 - (i) payment by the student as fees become due; and
 - (ii) a VET student loan;
 - (e) information about VET student loans, including that:
 - (i) it is a loan from the Commonwealth; and
 - (ii) the loan will remain a personal debt until it is repaid to the Commonwealth; and
 - (iii) the loan may, until the debt is repaid, reduce a student's take-home (after-tax) wage or salary and may reduce the student's borrowing capacity; and
 - (iv) a student may wish to seek independent financial advice before applying for a loan;
 - (f) the criteria for being an eligible student for a VET student loan;
 - (g) the application process for a VET student loan;
 - (h) an explanation that the student may be required during the course to communicate his or her agreement that the Secretary continue to use the VET student loan to pay tuition fees for the course;

- (i) the maximum amount of a VET student loan that may be available for the course under section 8 of the Act (not taking into account the effect of paragraph (b) of that section), and an explanation that the amount of the loan cannot be greater than the student's remaining HELP balance;
- (j) the amount of VETSL debt the student would accrue if the student received the maximum amount of VET student loan for the course (the debt could be up to 120% of the loan);
- (k) an explanation that the tuition fees will be reasonably apportioned across a specified number of sequential fee periods and that each fee period will contain at least one census day;
- (l) information about census days, including:
 - (i) the meaning of a census day (in accordance with the definition of *census day* in the Act); and
 - (ii) that a student may cancel the student's enrolment in the course or part of the course using the provider's procedure for withdrawal; and
 - (iii) if a student withdraws before the census day for a course or part of a course, the student will not incur a VETSL debt for the course or part of the course and will receive a refund for any tuition fees already paid for the course or part of the course;
- (m) how to access the following on the approved course provider's website:
 - (i) the tuition fees for the course;
 - (ii) the census days for the course;
 - (iii) the provider's procedures for withdrawal from the course and cancellation of enrolment;
 - (iv) other procedures the provider is required to have by this instrument.
- (n) advice that it is important for an enrolled student to notify the provider of any change of contact details.

99 VET student loan fee notice

- (1) An approved course provider must give a student enrolled in an approved course a notice that complies with this section in relation to each fee period.
- (2) The notice is a *VET student loan fee notice*.
- (3) The notice must include the title "VET Student Loan Fee Notice".
- (4) The notice must include the following information:
 - (a) the student's name, residential address, phone number and email address;
 - (b) the provider's name;
 - (c) any other business name that the provider uses;
 - (d) the provider's registration code;
 - (e) the date of the notice;
 - (f) the student's student identification number as issued by the provider;
 - (g) the student's Commonwealth Higher Education Student Support Number, if available;
 - (h) the student's student identifier;
 - (i) the name of the course;
 - (j) the names of the parts of the course included in the fee period;
 - (k) an identifying code for each part of the course included in the fee period;
 - (l) the census day for each part of the course included in the fee period;

- (m) for each part of the course included in the fee period:
 - (i) the amount of the tuition fees that are to be covered by a VET student loan; and
 - (ii) the amount of VETSL debt the student will accrue (which could be up to 120% of the loan amount concerned); and
 - (iii) the amount of the tuition fees that is to be paid by the student, and when the amount must be paid;
 - (n) a statement that:
 - (i) withdrawal of the student's enrolment in a part of the course before the census day for the part of the course must be in accordance with the provider's procedure; and
 - (ii) if the student withdraws from a part of the course before the census day for the part of the course, the student will not incur a VETSL debt for the part of the course and will receive a refund for any up-front payment of tuition fees;
 - (o) information about how to withdraw, including where to find a copy of the provider's procedure for withdrawal;
 - (p) information on the student's right to request the correction of information contained in the notice in accordance with the provider's information handling procedure;
 - (q) advice that the student may be required to communicate the student's agreement for the Secretary to continue to use a VET student loan to pay tuition fees for the course;
 - (r) advice that a VET student loan will not be used to pay the covered fees for a part of the course if the student advises the provider before the census day for the part of the course that the student does not want the tuition fees to be paid using a loan;
 - (s) advice that any VETSL debt will remain a personal debt until it is repaid to the Commonwealth.
- (5) However, a Table A provider is not required to include the information in paragraphs (4)(n) to (s) in the notice if the Table A provider has already given the student that information.
- (6) The provider must give the notice to the student at least 14 days before the first census day in the fee period.
- (7) If the provider is not a Table A provider, the provider must not give the notice to the student more than 42 days before the beginning of the fee period.
- (8) The provider must send the notice:
 - (a) to the student's personal email address as advised by the student; or
 - (b) to the student's postal address as advised by the student; or
 - (c) to the student by another method agreed to by the student.

100 Commonwealth assistance notice

- (1) An approved course provider must give a notice that complies with this section to each student that:
- (a) is enrolled in a part of a course on the census day for the part of the course; and
 - (b) has a VET student loan for the course.

- (2) The notice is a *Commonwealth assistance notice*.
- (3) The notice must include the title “Commonwealth Assistance Notice”.
- (4) The notice must include the following information:
 - (a) the student’s name, residential address, phone number and email address;
 - (b) the provider’s name;
 - (c) any other business name that the provider uses;
 - (d) the date of the notice;
 - (e) the student’s student identification number as issued by the provider;
 - (f) the student’s Commonwealth Higher Education Student Support Number;
 - (g) the student’s student identifier;
 - (h) the name of the course;
 - (i) the name of the part of the course;
 - (j) an identifying code for the part of the course;
 - (k) the census day for the part of the course;
 - (l) the student’s tuition fees for the part of the course;
 - (m) the amount of the student’s tuition fees that are covered by a VET student loan;
 - (n) the amount of VETSL debt the student will accrue (which could be up to 120% of the loan amount);
 - (o) the amounts of any payments of the tuition fees made by the student;
 - (p) information on the student’s right to request the correction of information contained in the notice in accordance with the provider’s information handling procedure.
- (5) The provider must give the notice to the student within the period:
 - (a) starting on the census day for the part of the course; and
 - (b) ending 28 days after the census day.
- (6) A notice may relate to more than one part of the course so long as subsection (5) is complied with for each part included in the notice.
- (7) The provider must send the notice:
 - (a) to the student’s personal email address as advised by the student; or
 - (b) to the student’s postal address as advised by the student; or
 - (c) to the student by another method agreed to by the student.

Division 4—Retaining information and documents

104 Purpose of this Division

This Division is made for the purposes of section 51 of the Act.

Note 1: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsection 51(3) of the Act.

Note 2: An approved course provider commits an offence of strict liability if the provider fails to comply with a requirement under this Division: see subsection 51(4) of the Act.

105 Information and documents to be retained for 5 years

The following information and documents must be retained by an approved course provider for a period of 5 years:

- (a) the information provided to a student under section 98 before the student enrolled in an approved course;
- (b) documents obtained or assessments undertaken for the purposes of determining a student's academic suitability;
- (c) records of the student's enrolment, including the day and time the student enrolls in the course or a part of the course;
- (d) information and documents collected for the purposes of, or in relation to, an application by a student for a VET student loan;
- (e) if applicable, the day and time the student gives the provider an application for a VET student loan;
- (f) all correspondence between the provider and the student (or the student's parent or guardian) in relation to the course, including notices issued to the student;
- (g) records of each use of the provider's grievance procedure;
- (h) the census days and tuition fees for approved courses;
- (i) a copy of each version of a process or procedure required under this instrument, and the dates when the version was current;
- (j) marketing and promotional material relating to approved courses.

Division 5—Ongoing information requirements

Subdivision A—Purpose of this Division

106 Purpose of this Division

This Division is made for the purposes of section 52 of the Act.

Note 1: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsection 52(4) of the Act.

Note 2: An approved course provider commits an offence of strict liability if the provider fails to comply with a requirement under this Division: see subsection 52(5) of the Act.

Subdivision B—Notice of events

107 Student does not want fees to be paid using loan

If a student advises an approved course provider, before the census day for a part of a course, that the student does not want the student's VET student loan to be used to pay tuition fees for the part of the course, the provider must inform the Secretary as soon as practicable.

109 Event affecting capacity to comply with Act

An approved course provider must, as soon as practicable, notify the Secretary in writing of any event affecting the provider, any of its key personnel or a related body corporate of the provider that is likely to affect the provider's capacity to comply with the Act or any instrument made under the Act.

110 Changes to provider

An approved course provider must, as soon as practicable, notify the Secretary in writing of any of the following:

- (a) a change to the provider's legal name, or to the business name the provider uses for delivering vocational education and training;
- (b) a change to the provider's key personnel and the reason for the change;
- (c) planned changes to the ownership of the provider or the corporate structure of the provider;
- (d) any major projects undertaken by the provider;
- (e) any major purchases of assets by the provider.

111 Other events

- (1) An approved course provider must give written notice to the Secretary of any of the following events within 24 hours of the event occurring:
 - (a) the provider defaults in relation to a student;
 - (b) notice is served on the provider, or proceedings are taken, to:
 - (i) cancel the provider's incorporation or registration under the *Corporations Act 2001* or similar legislation; or
 - (ii) dissolve the provider as a legal entity;

- (c) the provider comes under a form of external administration referred to in subsection 600H(2) of the *Corporations Act 2001* or an equivalent arrangement;
 - (d) the provider fails to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*;
 - (e) the provider is unable to pay all of its debts when they become due;
 - (f) proceedings are initiated for an order for the provider's winding up;
 - (g) at a meeting of the provider, a resolution is made to wind up the provider.
- (2) If an approved course provider intends to default in relation to a student, the provider must give the Secretary written notice of the intention as soon as practicable.

Note: Section 66B of the *VET Student Loans Act 2016* describes when an approved course provider defaults in relation to a student.

Subdivision C—Other information

113 Annual financial statements

- (1) An approved provider (other than a listed course provider) must give the Secretary general purpose financial statements for each financial year of the provider (within the meaning of section 323D of the *Corporations Act 2001*), within 3 months after the end of the financial year.
- (2) The financial statements must be:
 - (a) prepared by a qualified accountant (within the meaning of the *Corporations Act 2001*) in accordance with applicable accounting standards; and
 - (b) audited by a qualified auditor who is independent of the provider.
- (3) The financial statements must be accompanied by the following:
 - (a) a report by the auditor;
 - (b) a copy of the auditor's independence declaration required under section 307C of the *Corporations Act 2001*;
 - (c) a declaration by a qualified accountant or auditor that the provider has, as at the date of the declaration, complied with all statutory obligations relating to the payment of the following:
 - (i) company tax;
 - (ii) goods and services tax;
 - (iii) withholding tax, including withholding tax for employees;
 - (iv) payroll tax;
 - (v) superannuation guarantee for employees.
- (4) If the provider is part of a consolidated entity, the financial statements must be accompanied by:
 - (a) a copy of the most recent consolidated financial statements for the entity prepared in accordance with applicable accounting standards; and
 - (b) such additional information related to the consolidated entity as determined by the Secretary.
- (5) The financial statements and accompanying documents and information must be given to the Secretary in a manner and form approved by the Secretary.

114 Copies of notices given to other regulators

- (1) An approved course provider must give the Secretary a copy of a notice given to the National VET Regulator under section 25 of the *National Vocational Education and Training Regulator Act 2011*, at the same time as the notice is given to the Regulator.
- (2) An approved course provider must give the Secretary a copy of a notice given to the Commissioner of the Australian Charities and Not-for-profits Commission under section 65-5 of the *Australian Charities and Not-for-profits Commission Act 2012*, at the same time as the notice is given to the Commissioner.

115 Fees for approved courses

- (1) An approved course provider must give to the Secretary, in relation to each approved course offered by the provider, a list of the fees charged for the course including the tuition fees for each part of the course.
- (2) The provider must update the list whenever there is a change to the fees charged for the course.
- (3) The list must be given to the Secretary in a manner and form approved by the Secretary.

116 Annual forecasts

- (1) An approved course provider must give the following information to the Secretary each year:
 - (a) a list of the approved courses offered by the provider;
 - (b) the mode of delivery for each approved course;
 - (c) the duration of each approved course;
 - (f) the proposed census days for each of the approved courses offered by the provider;
 - (g) the expected number of students for each approved course to be offered by the provider in the next financial year;
 - (h) the expected amounts of VET student loans to be used for each approved course to be offered by the provider in the next financial year, based on the expected number of students and the courses and loan caps determination;
 - (i) the tuition fees for each approved course to be offered by the provider in the next financial year;
 - (j) information about the links the provider has with industry and other bodies as required under section 35;
 - (l) any other information determined by the Secretary.
- (2) For the purposes of paragraph (1)(l), the Secretary may determine different information that must be given by different approved course providers.
- (3) The Secretary may, by notice in writing, specify the date by when the information required under subsection (1) must be given.

Division 6—Tuition fees

Subdivision A—Determining tuition fees

117 Purpose of this Subdivision

This Subdivision is made for the purposes of paragraph 55(2)(a) of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Subdivision: see subsection 55(3) of the Act.

118 Matters an approved course provider must not have regard to in determining tuition fees

- (1) In determining tuition fees for an approved course, an approved course provider must not have regard to any of the following:
 - (a) a matter related to the manner or timing of:
 - (i) payment of tuition fees by students; or
 - (ii) payment of loan amounts by the Secretary to the provider;
 - (b) fees payable for anything other than:
 - (i) assessing whether a student is academically suited to undertake the course; and
 - (ii) enrolment in the course; and
 - (iii) tuition for the course; and
 - (iv) examination for the course; and
 - (v) award of a qualification for completion of the course;
 - (c) fees payable for a particular form of access to a good or service that is essential for all or part of the course and access to which in another form is provided by the approved course provider without additional charge;
 - (d) fees paid by a student enrolled in the course directly to the approved course provider for the supply of a good or service that is either:
 - (i) equipment or physical items that become the student's property and are not consumed during the course; or
 - (ii) food, transport or accommodation associated with the provision of field trips that form part of the course;and that the student could have acquired, but chose not to acquire, from another supplier;
 - (e) a fine or penalty imposed by the provider as a disincentive for something other than withdrawing from all or part of the course, and not to raise revenue or cover administrative costs;
 - (f) the provision to a student enrolled in the course of a good or service that is not essential for all or part of the course;
 - (g) fees payable for a Special admissions test.
- (2) The paragraphs of subsection (1) do not limit one another.

Subdivision B—Charging of tuition fees by Table A providers

119 Purpose of this Subdivision

This Subdivision is made for the purposes of paragraph 55(2)(c) of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Subdivision: see subsection 55(3) of the Act.

120 Charging of tuition fees by Table A providers

An approved course provider that is a Table A provider may charge the tuition fees for a student for an approved course provided by the provider only in a way that is consistent with:

- (a) the delivery of the course; and
- (b) the student's participation in the course.

Subdivision C—Charging of tuition fees by other approved course providers

121 Purpose and application of this Subdivision

This Subdivision:

- (a) is made for the purposes of paragraph 55(2)(c) of the Act; and
- (b) applies to an approved course provider, other than a Table A provider.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Subdivision: see subsection 55(3) of the Act.

122 Proportionately spreading tuition fees over periods of the course

- (1) An approved course provider must only charge tuition fees for an approved course as follows:
 - (a) the fees to be covered by VET student loans, and any other tuition fees, are to be reasonably apportioned over:
 - (i) the fee periods for the course; and
 - (ii) the parts of the course included in the fee periods;
 - (b) none of the tuition fees for the course are to be payable outside a fee period for the course.
- (2) For the purposes of subsection (1), the provider may act on the basis of an estimate of tuition fees for the course if, when the course begins, the provider does not know:
 - (a) the total of the tuition fees for the course; or
 - (b) the duration of the course; or
 - (c) whether a student will need to pay all of the tuition fees usually payable for the course.
- (3) The estimate must not exceed the maximum tuition fees for the course mentioned in marketing of the course.

Note: Paragraph 140(c) requires all marketing of a course to mention the maximum tuition fees for the course.

- (4) If the actual total of the tuition fees for the course exceeds the estimate, the provider may charge the excess only during the final fee period for the course.

123 Fee periods

- (1) The approved course provider:
 - (a) must choose 3 or more fee periods for an approved course; and
 - (b) may choose different fee periods for different students.

Example: The fee periods may be longer for a student undertaking the course part-time.
- (2) The fee periods for the course must:
 - (a) be sequential and together equal the duration of the course; and
 - (b) be of equal, or approximately equal, length based on the estimated duration of the course; and
 - (c) each contain at least one census day for the course.

Note: The precise length of the fee periods need not be known when they are chosen.

Example: When the student begins the course, the provider is still deciding whether the student should get some recognition for prior learning (which would reduce the duration of the course). The provider could choose for the course to have 3 fee periods of equal length based on the estimated duration of the course.

- (3) However, the length of any fee periods that are yet to start at a particular time may be changed in proportion to a change at that time to the duration of the course. The changed fee periods must be of equal, or approximately equal, length.

Example: If the student changes from studying full-time to part-time during the course, the duration of the course may increase. The length of the remaining fee periods could be similarly increased.

124 Exemption from complying with this Subdivision to comply with State or Territory subsidy funding arrangements

The approved course provider need not comply with this Subdivision, to the extent that compliance would be inconsistent with an arrangement the provider made with an authority of a State or Territory, if:

- (a) the provider is fully complying with the arrangement; and
- (b) the provider has given a written notice to the Secretary describing:
 - (i) the arrangement; and
 - (ii) the provider's full compliance with the arrangement; and
 - (iii) how the arrangement prevents the provider from fully complying with this Subdivision; and
 - (iv) the extent of the provider's non-compliance with this Subdivision.

Note: Compliance with this Subdivision is still required to the extent that this is consistent with the arrangement.

Subdivision D—Varying tuition fees

125 Purpose of this Subdivision

This Subdivision is made for the purposes of paragraph 55(2)(d) of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Subdivision: see subsection 55(3) of the Act.

126 Varying tuition fees

- (1) An approved course provider may vary the tuition fees for an approved course, or a part of an approved course, only if:
 - (a) the Secretary has given the provider written approval of the proposed variation; or
 - (b) the variation:
 - (i) occurs before the published census day for the course, or the part of the course; and
 - (ii) does not disadvantage a student enrolled in, or seeking to enrol in the course, or the part of the course; and
 - (iii) is necessary to correct an administrative error or to deal with a change in circumstances.
- (2) A student enrolled in, or seeking to enrol in a course, or a part of a course, is taken for the purposes of subparagraph (1)(b)(ii) to be disadvantaged by a variation that increases the tuition fees for the course, or the part of the course. This does not limit that subparagraph.
- (3) Subsection (1) does not apply to a course offered under an arrangement that:
 - (a) was entered into between the provider and an employer or industry body; and
 - (b) limits or restricts enrolments in some or all of the places in the course.

127 Publishing variation of tuition fees

- (1) If an approved course provider varies the tuition fees for an approved course, or a part of an approved course, the provider must publish as soon as practicable the tuition fees as varied.

Note: Section 50 of the Act provides for rules in relation to giving information to students.
- (2) The approved course provider must publish prominently on its website the tuition fees as varied, so that the fees are easily accessible without provision of login information.

Subdivision E—Statement about covered fees

128 Purpose of this Subdivision

This Subdivision is made for the purposes of section 56 of the Act.

129 Requirements for statement about covered fees

- (1) The statement required by section 56 of the Act:
 - (a) must include the title “VET Student Loan Statement of Covered Fees”; and
 - (b) in addition to the information required by section 56 of the Act, must also include the information mentioned in paragraphs 99(4)(a) to (i) of this instrument.
- (2) The statement must be given to the student after the student enrolls in the course and before the first census day for the course.
- (3) The statement may be given to the student along with the VET student loan fee notice for the first fee period of the course.

Division 7—Census days

Subdivision A—Purpose of this division

130 Purpose of this Division

This Division is made for the purposes of section 58 of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsections 58(6) and (7) of the Act.

Subdivision B—Determining census days

131 Determining census days

An approved course provider offering an approved course for a particular period must determine census days for the course so that:

- (a) there are at least 3 census days for the course; and
- (b) each census day for a part of the course is at least 20% of the way through the period:
 - (i) starting when that part of the course starts to be provided; and
 - (ii) ending on the day a student would reasonably be expected to complete that part of the course.

132 Publishing determination of census days

- (1) An approved course provider must publish the census days determined for a course, or a part of a course, before the earliest day for enrolment in the course or part.
- (2) An approved course provider must publish prominently on its website the census days the provider determines, so that the census days are easily accessible without provision of login information.

Subdivision C—Varying census days

133 Varying census days

- (1) An approved course provider may vary a census day determined for a course, or a part of a course, if:
 - (a) the Secretary has given the provider written approval of the proposed variation; or
 - (b) the variation:
 - (i) occurs before the census day; and
 - (ii) does not disadvantage a student enrolled in, or seeking to enrol in the course, or the part of the course; and
 - (iii) is necessary to correct an administrative error or to deal with a change in circumstances.
- (2) A student enrolled in, or seeking to enrol in a course, or a part of a course, is taken for the purposes of subparagraph (1)(b)(ii) to be disadvantaged by a variation that makes a census day for the course, or the part of the course, earlier. This does not limit that subparagraph.

- (3) Subsection (1) does not apply in relation to a course offered under an arrangement that:
- (a) was entered into between the provider and an employer or industry body;
and
 - (b) limits or restricts enrolments in some or all of the places in the course.

134 Publishing variation of census days

- (1) If an approved course provider varies a census day for an approved course, or a part of an approved course, the provider must as soon as practicable publish the census day as varied.
- (2) The approved course provider must publish prominently on its website the census day as varied, so that the day is easily accessible without provision of login information.

Division 8—Marketing

Subdivision A—Offering certain inducements

135 Purpose of this Subdivision

This Subdivision is made for the purposes of subsection 61(2) of the Act.

136 Benefits that may be offered

The following benefits are specified:

- (a) the content and quality of the course;
- (b) the amount of the tuition fees for the course;
- (c) the availability of a VET student loan for the course;
- (d) marketing merchandise up to the total value of \$30 per person.

Subdivision B—Use of third party contact lists

137 Purpose of this Subdivision

This Subdivision is made for the purposes of subsection 63(2) of the Act.

138 Use of third party contact lists

- (1) Subsection 63(1) of the Act does not apply if the student has given express consent to being contacted by the provider.
- (2) The student is taken to have provided express consent if:
 - (a) information in the request was presented clearly, and set out the specific purpose for which the student's personal information would be used if consent were given; and
 - (b) the request was prominent; and
 - (c) the student was able to give consent in a separate optional tick box from other consents; and
 - (d) the request was not a required field to be answered in order for a person to submit other information; and
 - (e) the request did not include a default tick for consent; and
 - (f) the request named the provider; and
 - (g) the request detailed any referral fee or other fee that would be paid to the person who made the request and any other benefit that would be provided to the person who made the request.
- (3) The student is taken to have provided express consent if the student initiates contact with a third party for the purpose of:
 - (a) giving information relating to education and training to the provider; or
 - (b) getting information relating to education and training from the provider.

Subdivision C—Other marketing requirements

139 Purpose of this Subdivision

This Subdivision is made for the purposes of subsection 64(1) of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Subdivision: see subsection 64(2) of the Act.

140 Information that must be provided

An approved course provider must ensure that any marketing of its approved courses prominently mentions:

- (a) the provider's name and any registered business name or other business name that the provider uses; and
- (b) the provider's registration code; and
- (c) the maximum tuition fees for the course.

141 Information about fees

An approved course must not be marketed unless the tuition fees for the course:

- (a) have been published on the provider's website in a way that is readily accessible by the public; and
- (b) have been given to the Secretary in accordance with section 115.

142 Marketing that mentions VET student loans

An approved course provider must ensure that any marketing in which the provider mentions the possible availability of a VET student loan (however described) for students undertaking a course:

- (a) prominently mentions:
 - (i) the provider's name and any registered business name or other business name that the provider uses; and
 - (ii) the provider's registration code; and
 - (iii) that VET student loans will not be approved for students who do not meet eligibility requirements; and
 - (iv) that a VET student loan gives rise to a VETSL debt that continues to be a debt due to the Commonwealth until it is repaid; and
- (b) presents the information covered by paragraph (a) in a font size that is approximately the same as any other marketing information that accompanies it; and
- (c) if the marketing is online—presents the information covered by paragraph (a) on the same webpage as the other marketing of the course; and
- (d) if the marketing uses the VET student loans logo—presents the logo in accordance with the style guide for the use of the logo published on the Department's website.

143 Marketing through social media

An approved course provider must ensure that any marketing of the provider or its courses through social media does not mention the possible availability of a VET student loan (however described) for students undertaking a course.

Part 8—Re-crediting HELP balances

Division 1—Re-crediting by course provider

144 Purpose of this Division

This Division is made for the purposes of section 68 of the Act.

145 Circumstances to which the provider must have regard

In determining whether circumstances are special circumstances because they make it impracticable for the student to complete the requirements for the course, or the part of the course, during the student's enrolment in the course, or the part of the course, the provider must have regard to the following:

- (a) whether the student could do enough of the following to meet course requirements:
 - (i) private study;
 - (ii) attending training sessions and other activities;
 - (iii) engaging online;
- (b) whether the student could complete any assessments, or demonstrate any competencies, required;
- (c) whether the student could complete any other requirements arising because of the student's inability to do things described in paragraphs (a) and (b).

146 Circumstances to which the provider may have regard

- (1) In determining whether circumstances are special circumstances because they make it impracticable for the student to complete the requirements for the course, or the part of the course, during the student's enrolment in the course, or the part of the course, the provider may have regard to one or more of the following:
 - (a) medical circumstances of the student;
 - (b) circumstances that relate to the student personally or to the student's family;
 - (c) circumstances relating to the student's employment.
- (2) Subsection (1) does not limit the circumstances to which the provider may have regard.

147 Special circumstances application in relation to replacement component of replacement course

If a student applies under section 68 of the Act for a re-credit of the student's HELP balance in relation to a replacement component of a replacement course, the tuition fees paid for the affected part of the original course are taken to have been paid for the replacement component.

Division 2—Re-crediting by Secretary

148 Unacceptable conduct relating to an application for a VET student loan

- (1) For the purposes of subsection 71(2) of the Act, the following is **unacceptable conduct** in relation to an application for a VET student loan for an approved course provided, or to be provided, by an approved course provider:
 - (a) unconscionable conduct (whether or not a particular individual is identified as having been disadvantaged by the conduct);
 - (b) misleading or deceptive conduct;
 - (c) the making of a representation with respect to any future matter, such as the doing of, or the refusing to do, any act, if the maker of the representation does not have reasonable grounds for making the representation;
 - (d) advertising tuition fees for the course where there are reasonable grounds for believing that the provider will not be able to provide the course for those fees;
 - (e) use of physical force, or harassment or coercion, in connection with the application or enrolment in the course.
- (2) Paragraphs (1)(a), (b), (c), (d) and (e) do not limit one another.
- (3) In deciding for the purposes of paragraph (1)(a) whether conduct is unconscionable, the Secretary may have regard to the following:
 - (a) the relative strengths of the bargaining positions of the persons concerned;
 - (b) whether the student was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of another person;
 - (c) whether the student was able to understand any documents related to the application for the VET student loan;
 - (d) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the student or a person acting on behalf of the student;
 - (e) whether the provider, or person acting on the provider's behalf, failed to disclose anything to the student;
 - (f) the extent to which the provider, or person acting on the provider's behalf, acted in good faith.

149 Requirements for application to Secretary to re-credit student's HELP balance

- (1) For the purposes of subsection 72(2) of the Act, this section sets out requirements for an application for the Secretary to re-credit a student's HELP balance to be re-credited under section 71 of the Act.
- (2) The application must be made within 5 years after the census day for the course, or the part of the course, concerned.
- (3) The Secretary may extend the period of 5 years mentioned in subsection (2).
- (4) The application must set out the grounds on which the applicant's HELP balance is to be re-credited under section 71 of the Act.

- (5) The application must include the following to the extent that they are known to the applicant:
- (a) details of the course to which the application relates;
 - (b) details of the provider of that course;
 - (c) the loan amount that is to be re-credited;
 - (d) the applicant's student identifier (if any);
 - (e) any documents supporting the application.

Part 9—General provisions

Division 1—Electronic communication

150 Purpose of this Division

This Division is made for the purposes of subsection 102(1) of the Act.

Note: An approved course provider may be liable for a civil penalty if the provider fails to comply with this Division: see subsection 102(2) of the Act.

151 Electronic communication—identification requirements

- (1) If a student is required or permitted to sign an electronic communication to an approved course provider, the provider must have in place a method the student can use to identify himself or herself in the communication and to indicate his or her approval of the information communicated.
- (2) If an approved course provider has such a method in place, a student who uses the method in a communication to the provider is taken to have signed the communication, and indicated his or her approval of the information communicated.
- (3) Without limiting subsection (1), the method may involve the student using a student identification number issued by the provider.
- (4) If the provider puts in place a method that uses student identification numbers, the provider must:
 - (a) verify the identity of each student to whom a student identification number is to be issued; and
 - (b) take all reasonable precautions to ensure that there is no unauthorised access to, or use of, a student identification number issued by the provider; and
 - (c) ensure that each student to whom a student identification number is issued is advised that the student is personally responsible for protecting the student identification number.

152 Electronic communication between students and the Commonwealth

The Secretary must treat an application by a student for a VET student loan made by electronic communication as having been signed by the student if the communication contains:

- (a) the student's student identifier; and
- (b) the student's tax file number (or certificate from the Commissioner stating that the student has applied for a tax file number); and
- (c) an acknowledgement by the student that he or she has read and understood the application; and
- (d) a confirmation by the student of the accuracy of the information in the application.

153 Electronic communication between students and approved course providers

- (1) If a student is required or permitted to give information or a document to an approved course provider by way of fax, email, web-based communication or any other form of electronic communication specified by the provider, the provider must ensure that the information technology system to be used for giving the information or document is:
 - (a) accessible, in the sense that the provider has:
 - (i) informed the student that the information or document is to be given using the system; and
 - (ii) authorised the student to use the system; and
 - (b) secure, so that the student's information or document can be accessed only by persons authorised by the student; and
 - (c) able to store the information or document so that it is readily accessible by the student; and
 - (d) accessible in respect of applications for VET student loans; and
 - (e) for a student who makes such an application electronically:
 - (i) accessible by the student using a student identifier; and
 - (ii) able to automatically generate a date field on the request; and
 - (f) able to generate printable receipts for the student.
- (2) If an approved course provider is required or permitted to give information or a document to a student by way of fax, email, web-based communication or any other form of electronic communication specified by the provider, the provider must ensure that:
 - (a) the student is directly informed that the information or document will be communicated by electronic means; and
 - (b) the student is authorised to use an information system for receiving, storing or otherwise processing the information or document; and
 - (c) the information system stores the information or document sent to the student so that it is readily accessible by the student.

154 Communication systems requirements

Electronic communication between approved course providers and students, or between approved course providers and the Commonwealth, must be conducted by means of systems that:

- (a) are secure; and
- (b) provide for disaster recovery; and
- (c) are sufficiently up to date.

Division 2—Cap on amount of VET student loans

155 Cap on amount of VET student loans

For the purposes of subsection 116(7) of the Act, the cap on the total amount of VET student loans that can be approved for each of the calendar years 2017, 2018 and 2019 is \$2,070,000,000.

Division 3—Collection and recovery of approved course provider charge

156 Purpose of this Division

This Division is made for the purposes of subsection 116(6) of the Act.

157 Liability to pay approved course provider charge

An approved course provider on which an amount of approved course provider charge is imposed for a financial year is liable for that charge.

Note: Approved course provider charge is imposed on approved course providers under the *VET Student Loans (Charges) Act 2016*. The amount of the charge is worked out on a financial year basis under the *VET Student Loans (Charges) Regulation 2017*.

158 When approved course provider charge due for payment

- (1) The amount of approved course provider charge for a financial year for which an approved course provider is liable is due and payable by the provider on a business day that is:
 - (a) specified in a written notice that the Secretary gives to the provider in relation to the charge; and
 - (b) subject to subsection (3), not earlier than the end of the financial year to which it relates; and
 - (c) not earlier than 30 days after the day on which the notice is given.
- (2) The Secretary may, at any time after giving a provider the notice mentioned in paragraph (1)(a), give the provider a written notice (*extension notice*) that specifies a day that is later than the day specified in subsection (1) as the day on which the charge is due and payable. The extension notice has effect, and is taken always to have had effect, according to its terms.

Note: The Secretary may give a provider more than one extension notice.

- (3) If, before the end of the financial year to which approved course provider charge relates, the provider's approval is revoked under Division 3 of Part 4 of the Act, then the amount of approved course provider charge may be due and payable on a business day that is after the date that the revocation takes effect and either before or after the end of the financial year.

159 Late payment penalty

- (1) If an amount of approved course provider charge payable by an approved course provider remains unpaid after the day on which it is due and payable, the provider is liable to pay a penalty worked out using the following formula:

$$\frac{0.2 \times \text{unpaid amount} \times \text{days overdue}}{365}$$

where:

unpaid amount is the amount of approved course provider charge that has not been paid.

days overdue is the number of days after the approved course provider charge is due and payable that elapse before the day on which the charge is paid.

- (2) A late payment penalty that a provider is liable to pay is due and payable immediately.

160 Waiver of approved course provider charge and late payment penalty

- (1) The Secretary may, on behalf of the Commonwealth, waive the payment of the whole or a part of an amount of approved course provider charge or late payment penalty (or both) that is payable by an approved course provider.
- (2) The Secretary may do so on his or her own initiative or on written application by a person.

161 Recovery of approved course provider charge and late payment penalty

- (1) The following amounts may be recovered by the Secretary, on behalf of the Commonwealth, from an approved course provider as debts due to the Commonwealth:
 - (a) an amount of approved course provider charge that is due and payable by the provider;
 - (b) a late payment penalty that is due and payable by the provider.
- (2) The Commonwealth may recover the debts referred to in subsection (1) from one or more loan amounts that would otherwise be payable to the course provider in relation to a student.
- (3) If a debt is recovered from a loan amount that is otherwise payable in relation to a student, the amount recovered is taken to have been paid to the course provider in relation to the student.

Endnotes

Endnote 1 – About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2 – Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have Effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given Effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 2 – Abbreviation key

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
VET Student Loans Rules 2016	21 December 2016 (F2016L02030)	1 January 2017	
VET Student Loans Amendment Rules (No. 1) 2017	29 June 2017 (F2017L00793)	30 June 2017	—
VET Student Loans Amendment Rules (No. 2) 2017	1 September 2017 (F2017L01121)	2 September 2017	—
VET Student Loans Amendment Rules (No. 1) 2018	14 December 2018 (F2018L01762)	15 December 2018 (Schedule 1, Part 3) 1 July 2019 (Schedule 1, Part 1) 1 January 2020 (Schedule 1, Part 2)	—
VET Student Loans Amendment Rules (No. 1) 2019	31 July 2019 (F2019L01026)	1 August 2019 (Schedule 1, Part 2) 1 September 2019 (Schedule 1, Part 1)	—
VET Student Loans Amendment Rules (No. 2) 2019	19 December 2019 (F2019L01676)	1 January 2020	—
VET Student Loans Amendment Rules (No.1) 2020	12 May 2020 (F2020L00569)	1 April 2020	—
VET Student Loans Amendment Rules (No.3) 2020	30 September 2020 (F2020L01269)	1 October 2020	—
VET Student Loans Amendment Rules (No.2) 2020	1 October 2020 (F2020L01270)	2 October 2020	

Endnotes

Endnote 4 – Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s. 2	rep LA s48D
s. 4	ad. No 1, 2017; ad No 2, 2019 am. No 1, 2017; am. No 2, 2017; am No 2, 2019
Pt 3, s. 11	rep No 1, 2018
Pt. 3, s. 12	rep No 1, 2018
Pt. 3A, s. 11	ad No 1, 2018
Pt. 3A, s. 12	ad No 1, 2018; am No 1, 2020
s. 12(2)	am No 3, 2020
Pt. 3A, s. 12A	ad No 1, 2018
Pt. 3A, s. 12B	ad No 1, 2018
Pt. 3A, s. 12C	ad No 1, 2018
Pt. 3A, s. 12D	ad No 1, 2018
Pt. 3A, s. 12E	ad No 1, 2018
s. 23(3)	am No. 1, 2019
Pt 6	rs No 2, 2019
s. 41(4)	ad No 2, 2020
s. 41(4A)	ad. No 1, 2017
s. 41A	ad. No 1, 2017; ad No 2, 2020
s. 53(2)	am. No 1, 2017
s. 54(1)	am. No 1, 2017
s. 54(4)	am No.1, 2018
s. 58(3)	am. No 1, 2017
s. 62(1)	am. No 1, 2017
s. 62(2)	am. No 1, 2017
s. 62A	ad. No 1, 2017
s. 68	am. No 1, 2017
s. 68(2)	ad. No 1, 2017
s. 69(1)	am. No 1, 2017; am No 1, 2018
s. 69(3)	am. No 1, 2017
s. 70(4)	ad. No 1, 2017
s. 71	am No 1, 2018
s. 73(2)	am No 1, 2018
s. 80(2)	am. No 1, 2018; am No. 1, 2019
Pt 7, Div 1, Sdiv G (heading)	rs No 1, 2018
s. 89(1)	am No 1, 2018
s. 89(2)	am No 1, 2018

Endnotes

Endnote 4 – Amendment history

Provision affected	How affected
Pt 7, Div 1, Sdiv J	rs No 2, 2019
s. 90	am No 1, 2018
s. 91	am No 1, 2018
s. 93(2)	am No 1, 2018
s. 94(2)	am No 2, 2019
s. 98(2)	am No 1, 2018
s. 99(4)	am No 1, 2018; am No. 1, 2019
s. 100(4)	am No. 1, 2019
s. 102(3)	am No. 1, 2019 am No 1, 2018
Pt 7, Div 3, Sdiv C	rep No 2, 2019
s. 108	rep No 2, 2019
s. 111(1)	am No 2, 2019
s. 111(2)	am No 2, 2019
s. 112	rep No 2, 2019
s. 116(1)	am. No 1, 2017; am No. 1, 2019
s. 116(3)	ad. No 1, 2017
s. 118(1)	am No 2, 2019
s. 142	am No. 1, 2019
Pt 8 (heading)	am No 1, 2018
s. 147	am No 1, 2018
s. 149 (heading)	am No 1, 2018
s. 149(1)	am No 1, 2018
s. 149(4)	am No 1, 2018
s. 156	ad. No 2, 2017
s. 157	ad. No 2, 2017
s. 158	ad. No 2, 2017
s. 158(1)	am. No 1, 2018
s. 158(3)	ad. No 1, 2018
s. 159	ad. No 2, 2017
s. 160	ad. No 2, 2017
s. 161	ad. No 2, 2017 am No 2, 2019
