

Explanatory Statement

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2017

Summary

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2017* (Amendment Determination) amends Schedule 1 – Approved Courses – general (Schedule 1) of the *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination). More specifically, the Amendment Determination removes 4 courses from Part 2 – Courses in loan cap band 2, removes 10 courses from Part 3 – Courses in loan cap band 3 and adds 9 courses to Part 3 – Courses in loan cap band 3.

Background

The Courses and Loan Caps Determination specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts. The full policy context and background for the Courses and Loan Caps Determination was set out in the [Explanatory Statement to the Courses and Loan Caps Determination](#).

The Courses and Loan Caps Determination was developed, in consultation with States and Territories education authorities and the vocational education and training (VET) sector, in the second half of 2016. During this process, the Government agreed to include specific courses for public and not-for-profit providers in the Determination (that is to say, VET student loans would only be available to students studying those specified courses at the specified public and not-for-profit providers). These were included in Schedule 3 to the Determination, which came into operation on 1 January 2017.

Subsequently, another 11 courses were identified as appropriate to include in Schedule 3, and were added to Schedule 3 by the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017*.

A comprehensive review of the approved course list, methodology used to determine course eligibility and loan caps is underway. In the meantime, the Government has assessed the Courses and Loan Caps Determination, to ensure that the list of courses is current and includes all courses that meet the current methodology used to determine course eligibility, with a focus on courses that align with industry needs and lead to employment outcomes. As a result of this assessment, 14 courses were identified as suitable for removal as they are no longer current and 9 courses, which meet the current methodology, were identified as being eligible for inclusion.

The current methodology used to determine course eligibility is that: courses are current (in other words, not superseded); and are on at least two state and territory subsidy/skills lists, or are science, technology, engineering or mathematics (STEM) related, or are tied to licensing requirements for a particular occupation.

The Amendment Determination updates the list of courses for which VET student loans are available, by removing courses which are no longer current and adding additional courses that meet the current methodology. This provides stability and consistency as the courses and loan caps review takes place, and upholds the objective of the Courses and Loan Caps Determination – to align VET Student Loans with courses that meet industry needs and skills shortages.

Consultation

On 10 October 2016, the Government released the proposed list of courses for which VET student loans would be available for public consultation. Submissions closed on 23 October 2016, and a further list of approved courses was publicly released on 17 November 2016.

Following release of the list on 17 November 2016, the department received further submissions from state and territory education authorities, and the Government agreed to consider additions to that list for specific public VET providers (so-called “listed course providers”) and specific not-for-profit VET providers. In considering the addition of such courses, the Government required evidence from the provider of employment outcomes for that course, employer support for that course, and their track record of student progression and completion through that course.

The final Courses and Loans Caps Determination included these courses in Schedule 3.

Listed course providers and not-for-profit VET providers who were unsuccessful in their applications to have additional courses added to the Courses and Loan Caps Determination in December 2016 were invited to submit additional evidence to support their applications. The Government had regard to the further evidence in assessing the courses against the same considerations of: employment outcomes, employer support, and track record of student progression and completion. As a result, 11 additional courses were approved for specified providers and were added to Schedule 3 of the Courses and Loan Caps Determination under the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017*.

The Government has assessed the Courses and Loan Caps Determination to ensure that the list of courses is current and includes all courses that meet the current methodology. This assessment involved submissions from state and territory education authorities and an analysis of current courses approved by the national regulator, to determine whether any other courses were suitable for inclusion. As a result, under this Amendment Determination, 14 courses are being removed as they are no longer current and 9 courses are being included.

The Government intends for the list of approved courses in the Courses and Loan Caps Determination to be reviewed and updated twice yearly from 2018.

Regulatory Impact Statement

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

Authority

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

Explanation of Provisions

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

Section 4 of the Amendment Determination provides that the Courses and Loan Caps Determination is amended as set out in the Schedule to the Amendment Determination.

Section 5 of the Amendment Determination clarifies the transitional arrangements for the courses, which are removed.

Once a VET student loan for an approved course has been approved by the Secretary, the loan remains approved even if the course is later removed from the approved course list in the Courses and Loan Caps Determination (for example, because the course is no longer current). This means that, if the full loan amount has not been paid by the Secretary to the approved course provider at the time a course is removed from the Determination, the Secretary can continue to make loan payments to the provider for the course, which has been removed.

Section 5 of the Amendment Determination makes it clear that this can occur for the courses that are listed in items 1 and 2 of Schedule 1 to the Determination (courses that are non-current or deleted and are being removed from the Courses and Loan Caps Determination from 1 July 2017).

Schedule 1 sets out the amendments to the Courses and Loan Caps Determination.

Item 1 of Schedule 1 provides that the table in Schedule 1, Part 2 is amended through omitting rows setting out the details for 4 approved courses. The rows are to be omitted and then all item numbers are to be renumbered.

Item 2 of Schedule 1 provides that the table in Schedule 1, Part 3 is amended through omitting rows setting out the details for 10 approved courses. The rows are to be omitted.

Item 3 of Schedule 1 provides that the table in Schedule 1, Part 3 is amended through adding additional rows setting out the details for additional approved courses. The rows are to be added in ascending numerical order, ordered by course code.

Item 4 of Schedule 1 provides that all item numbers in the table in Schedule 1, Part 3 are to be renumbered starting at 1.

The background to the approval of these courses is set out in the Background to the Explanatory Statement.

Statement of Compatibility with Human Rights

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

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

Overview of the Legislative Instrument

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2017* (Amendment Determination) amends Schedule 1 – Approved Courses – general (Schedule 1) of the *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination). More specifically, the Amendment Determination removes 4 courses from Part 2 – Courses in loan cap band 2, removes 10 courses from Part 3 – Courses in loan cap band 3 and adds 9 courses to Part 3 – Courses in loan cap band 3.

The Courses and Loans Cap Determination forms part of the Australian Government's reform of the student loan arrangements for vocational education and training (VET) courses, the full policy context and background for which is set out in the Explanatory Memorandum to the VET Student Loans Bill 2016. The Courses and Loan Caps Determination specifies the courses for which VET student loans may be granted under the *VET Student Loans Act 2016* (VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts.

Human Rights Implications

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

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

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

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

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

It should be noted that the Amendment Determination adds 9 courses to the list of courses for which VET student loans may be granted, thereby expanding students' access to loans.

In addition, although 14 courses have been removed from the list of courses for which VET student loans may be granted, these courses were identified for removal on the basis that they are no longer current or have been deleted from registered offerings. Moreover, the Amendment Determination provides transitional arrangements for students currently enrolled in and accessing a VET student loan for these courses. If such students have not completed the course before 1 July 2017, then after 1 July 2017 they are allowed to continue to access VET student loans for the remainder of the course. Therefore any negative impact on students' access to loans has been mitigated.

Conclusion

This Amendment Determination is compatible with human rights because it merely amends the Courses and Loans Cap Determination, which in turn is part of the mechanisms in the VET Student Loans Act that promote the human rights to work and education.

Simon Birmingham
Minister for Education and Training