

Explanatory Statement

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 3) 2018

Summary

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 3) 2018* (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:

- adds 2 courses to Schedule 1, Part 2 – Courses in loan cap band 2
- adds 2 courses to Schedule 1, Part 3 – Courses in loan cap band 3
- moves 2 courses to Schedule 1, Part 3 – Courses in loan cap band 3
- omits 3 courses from Schedule 1, Part 2 and Part 3

Background

The Courses and Loan Caps Determination specifies the courses for which VET student loans may be approved 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 publicly available [Explanatory Statement to the Courses and Loan Caps Determination](#), accessed on the Federal Register of Legislation. The methodology used to determine course eligibility is that: courses are current (in other words, not superseded); and are on at least two state and territory subsidy/skills lists, or are science, technology, engineering, agriculture or mathematics (STEM) related, or are tied to licensing requirements for a particular occupation.

The Amendment Determination adds three courses, of which the current versions were not current at the point at which the Courses and Loan Caps Determination was previously assessed. Adding these courses reduces the gap between timing of access to VET Student Loans for courses that meet the approved course methodology. Failure to list these courses on the Courses and Loan Caps Determination would have adverse impacts on students because a VET Student Loan could not be approved for their study. These courses are the Diploma of Engineering Technology (22478VIC); the Advanced Diploma of Engineering Technology (22479VIC) and the Advanced Diploma of Professional Game Development (10702NAT).

The Amendment Determination omits the superseded version of the aforementioned courses from Part 2 and Part 3 of the Courses and Loan Caps Determination. For Part 2, this is the Advanced Diploma of Professional Game Development (10343NAT). For Part 3, these are the Advanced Diploma of Engineering Technology (22228VIC) and the Diploma of Engineering Technology (22229VIC).

The Amendment Determination also adds one course (of which its previous version was removed from by the *VET Student Loans (Courses and Loans Caps) Amendment Determination (No. 2) 2018*) that did not meet the approved course methodology at the time of the previous Courses and Loan Caps Determination assessment, but now does. This course is the Diploma of Animal Technology (ACM50117), which on 1 July 2018 (after the previous assessment process for the Courses and Loan Caps Determination), became subsidised by two more state or territories, as identified on their state skills lists. Reinstating the Diploma of Animal Technology (ACM50117) to the Amendment Determination will provide consistency for students and potential students and reduces the gap between timing of access to VET Student Loans for this course and fulfils the Government intention for the Course and Loan Caps Determination.

The Amendment Determination also moves two courses from Part 2 of the Courses and Loan Caps Determination to Part 3 of the Courses and Loan Caps Determination to reflect cost of delivery. This reflects a change in the loan cap allocation for the Diploma of Screen and Media (CUA51015) and the Advanced Diploma of Screen and Media (CUA60615).

Consultation

Consultation on courses eligible for VET Student Loans occurred with states and territories, and key stakeholders throughout the VET Student Loans courses and loan caps methodology review. In particular, the review included the release of a public discussion paper, receipt of over 300 submissions, and extensive consultations.

Information on previous consultation undertaken in the development of the *VET Student Loans (Courses and Loan Caps) Determination 2016*, including in relation to the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2017* is set out in the [Explanatory Statement](#) to the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 2) 2017*.

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* (reference #29451).

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 Schedule 1 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 4 of Schedule 1 to the Amendment Determination (courses that are non-current or deleted and are being removed from the Courses and Loan Caps Determination from the day the instrument commences).

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 of three approved courses.

Item 2 of Schedule 1 provides that the table in Schedule 1, Part 2 is amended through adding two additional rows setting out the details for two additional approved courses. The rows are to be added to the table in ascending numerical order, ordered by course code.

Item 3 of Schedule 1 provides that all items in the table in Schedule 1, Part 2 are to be renumbered starting at 1.

Item 4 of Schedule 1 provides that the table in Schedule 1, Part 3 is amended through omitting rows setting out the details of two approved courses.

Item 5 of Schedule 1 provides that the table in Schedule 1, Part 3 is amended through adding four additional rows setting out the details for four additional approved courses. The rows are to be added to the table in ascending numerical order, ordered by course code.

Item 6 of Schedule 1 provides that all items in the table in Schedule 1, Part 3 are to be renumbered starting at 1.

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. 3) (2018)* (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). The Courses and Loan Caps Determination sets out the courses of study for which VET student loans can be approved and the maximum loan amounts for those courses, which is subject to annual indexation. Schedule 1 sets out general Approved Courses. The courses at Parts 1, 2 and 3 of Schedule 1 are subject to different maximum loan amounts. Specifically, the Amendment Determination removes three courses from Schedule 1, adds four courses to Schedule 1 and moves two courses from one loan cap band in Schedule 1 to another.

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.

Human Rights Implications

This instrument engages the following human rights:

- *Right to Education* – Article 13, International Covenant on Economic, Social and Cultural Rights (ICESR)
- *Right to Work* – Article 6(1) and 7 of the ICESCR.

Right to Education

The Amendment Determination engages the right to education, set out in Article 13 of the ICESR. The right to education recognises the important personal, societal, economic and intellectual benefits of education and provides that higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.

The right to education is positively engaged by the measures contained in the Amendment Determination because these amendments will ensure that students have access to educational opportunities in courses that prepare students to meet industry needs within the VET sector, thereby providing students with educational opportunities in relevant fields that lead to genuine employment opportunities.

To the extent that the Amendment Determination is seen in any way to limit students' access to particular courses and confine course choice, this is justifiable to ensure fiscal accountability and quality output from providers. The limit on which courses are eligible for loan access ensures that students are undertaking courses that are more likely to result in an

employment outcome. This limitation is 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.

The Amendment Determination is compatible with the right to education.

Right to Work

The Amendment Determination engages the right to work, set out in Article 6 and 7 of the ICESCR. The right to work recognises the right of everyone to the opportunity to gain their living by work, which they freely choose or accept and under conditions where their fundamental political and economic freedoms are safeguarded.

VET equips students with workplace specific skills, designed by industry, for a wide range of occupations. It also represents an important economic and social opportunity for those seeking new employment opportunities, or those seeking to retrain.

Courses, which are eligible for a VET student loan, must be current and on at least two state or territory skills needs lists; or science, technology, engineering, agriculture or mathematics related; or tied to licensing requirements for a particular occupation. The Amendment Determination is intended to keep the focus of the VET student loans program on providing 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.

This instrument allows the Courses and Loan Caps Determination to be updated with approved courses to ensure that Commonwealth income contingent loans are available to support students in VET training courses where genuine employment opportunities exist.

The instrument is compatible with the right to work.

Conclusion

This Amendment Determination is compatible with human rights.

Michaelia Cash

Minister for Small and Family Business, Skills and Vocational Education