

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Education

Higher Education Support Act 2003

FEE-HELP Guidelines Amendment (No. 1) 2020

Purpose

The purpose of the *FEE-HELP Guidelines Amendment (No. 1) 2020* (the **Amendment Instrument**) is to amend the *FEE-HELP Guidelines 2017* (the **Guidelines**) to specify additional aviation courses that are subject to the higher Higher Education Loan Program (**HELP**) loan limit in section 128-20 of the *Higher Education Support Act 2003* (**HESA**).

Background

Schedule 1 of the *Education Legislation Amendment (2019 Measures No. 1) Act 2019* (the **ELA Act**) introduced a measure to increase the combined HELP loan limit for students undertaking eligible aviation courses on or after 1 January 2020 at higher education providers approved under HESA and vocational education and training (**VET**) providers approved under the *VET Student Loans Act 2016* (**VSL Act**). This measure enables students undertaking eligible aviation courses that lead to certification as a Commercial Pilot at higher education providers and VSL Act approved course providers to access the higher of the two HELP loan limits (the same limit that applies to students studying medicine, dentistry and veterinary science courses). The higher HELP loan limit is currently \$152,700.

The purpose of increasing the combined HELP loan limit for students undertaking eligible aviation courses was to reduce students' barriers to enrolling in aviation courses through increased loan assistance to defer tuition fees for their aviation study. The increased HELP loan limit enables student pilots to defer all of their tuition fees in order to obtain the licenses and ratings required by the Civil Aviation Safety Authority for most practical commercial employment.

The *FEE-HELP Guidelines Amendment (No. 1) 2019* (**2019 Instrument**) specified the aviation courses that are subject to the higher HELP loan limit. The purpose of the Amendment Instrument is to specify additional aviation courses that are subject to the higher HELP loan limit.

Consultation

Informal consultation with VSL providers delivering courses that lead to certification as a Commercial Pilot occurred during the development of this Amendment Instrument. VSL providers were also able to provide direct feedback from impacted students through this consultation.

Regulatory Impact Statement

The Office of Best Practice Regulation (OBPR) was consulted in relation to the 2019 Instrument. Based on its advice that the proposal affected by the 2019 Instrument did not appear to have a more than minor regulatory impact on business, community organisations or individuals, only a short form Regulation Impact Statement (RIS) was required (OBPR ID No. 24747). This short form RIS was completed and approved by OBPR. The Amendment Instrument makes minor adjustments to the original proposal and therefore no further RIS was prepared.

EXPLANATION OF PROVISIONS

Sections 1, 2 and 3 of the Amendment Instrument are technical provisions that set out the name, commencement, and authority for the Instrument.

Since the commencement of the 2019 Instrument on 1 January 2020, feedback received from VSL providers has indicated that the diploma level courses listed in that instrument do not allow existing aviation students, in five superseded aviation courses, to access the higher HELP loan limit.

Although these courses are superseded, they are still being taught to existing and new students in 2020. Therefore a number of students would be disadvantaged by not having access to the higher HELP loan limit.

The *Standards for Registered Training Organisations (RTOs) 2015*, a legislative instrument made under *National Vocational Education and Training Regulator Act 2011*, allows Registered Training Organisations to take up to 12 months to update curriculum and teaching resources before they are required to teach out or transition students to the new courses.

The Amendment Instrument commences retrospectively on 1 January 2020. This aligns with the commencement of the amendments that were made to the Guidelines by the 2019 Instrument which introduced the higher HELP loan limit for aviation courses. It was not intended that current students studying in superseded aviation courses would be excluded from the higher HELP loan limit. The retrospective commencement of the Amendment Instrument is beneficial to students undertaking the superseded aviation courses, without impacting or otherwise altering the rights of the students that already had access to the higher HELP loan limit, or any other students. The amendments will ensure all students undertaking relevant aviation courses will have equitable access to the same higher HELP loan limit of \$152,700 as it applied from 1 January 2020. This is consistent with the legitimate policy objective of reducing all students' barriers to enrolling in aviation courses through increased loan assistance under HESA.

The Amendment Instrument is made by the Minister for Education under section 238-10 of HESA, and sets out the courses of study in aviation as authorised by subsection 128-20(2) of HESA.

Section 4 of the Amendment Instrument provides that each instrument that is specified in a Schedule to the legislative instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the legislative instrument has effect according to its terms.

Schedule 1 – Amendments

Schedule 1 amends the Guidelines.

Item 1 makes a minor editorial amendment to paragraph 1.2.2(e) of the Guidelines.

Item 2 adds the following courses to the list of aviation courses provided by VSL providers that are subject to the higher HELP loan limit in section 1.2.2 of the Guidelines:

- Diploma of Aviation (Commercial Pilot Licence – Aeroplane) (course code AVI50215);
- Diploma of Aviation (Commercial Pilot Licence – Helicopter) (course code AVI50315);
- Diploma of Aviation (Instrument Rating) (course code AVI50415);
- Diploma of Aviation (Flight Instructor) (course code AVI50516);
- Advanced Diploma of Aviation (Pilot in Command) (course code AVI60216).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

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Human rights implications

The Amendment Instrument provides the administrative detail to support the higher HELP loan limit for the eligible aviation courses measure introduced by Schedule 1 to the ELA Act. Therefore, this Instrument engages the same human rights to those engaged by the enabling legislation.

A Statement of Compatibility with Humans Rights was prepared for the Education Legislation Amendment (2019 Measures No. 1) Bill 2019 and appended to the Explanatory Memorandum for that Bill. The Explanatory Memorandum can be found at:

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6428

In summary, providing aviation students with access to the higher HELP loan limit:

- promotes the right to work in Article 6(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by improving employment outcomes and opportunities for aviation students;
- promotes the right to education in Article 13 of ICESCR by ensuring that aviation students have sufficient loan entitlements to defer tuition costs for aviation courses required to meet the licencing requirements to obtain a Commercial Pilot Licence, and by ensuring that these students have the highest level of choice and control over their education options;
- helps ensure the HELP loan limit does not become a barrier or a deterrent to prospective students considering a career as a commercial pilot, and is legitimate, proportionate and compatible with the right to equality and non-discrimination in Article 26 of the International Covenant on Civil and Political Rights.

Conclusion

The Amendment Instrument is compatible with human rights because it promotes those rights or, to the extent that it may limit human rights, the limitations are reasonable, necessary and proportionate.