

## **EXPLANATORY STATEMENT**

Issued by the authority of Minister for Employment, Skills, Small and Family Business

### ***VET Student Loans Act 2016***

#### ***VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021***

#### **PURPOSE AND OPERATION**

The purpose of the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021 (Amendment Determination)* is to amend the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)*.

The Courses and Loan Caps Determination:

- specifies the courses for which vocational education and training (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 is set out in the publicly available [Explanatory Statement to the Courses and Loan Caps Determination](#), accessible on the Federal Register of Legislation.

The Courses and Loan Caps Determination is updated regularly to ensure courses eligible for a VET student loan retain currency, have a high national priority, align with industry and workforce needs, contribute to addressing skills shortages, lead to employment outcomes, and that course loan caps remain appropriate. Courses are eligible for a VET student loan if they are current, on at least two state or territory skills needs/subsidised courses lists, or are science, technology, engineering, agriculture or mathematics related, or are tied to licensing requirements for a particular occupation.

The Amendment Determination amends Schedule 1 – Approved courses – general (Schedule 1); Schedule 2 – Approved courses – specific (Schedule 2) and Schedule 3 – Approved courses for specified providers (Schedule 3) of the Courses and Loan Caps Determination.

More specifically the Amendment Determination:

- adds 6 courses to Schedule 1, Part 1 – Courses in loan cap band 1;
- adds 25 courses to Schedule 1, Part 2 – Courses in loan cap band 2 (Part 2);
- removes 3 courses from Part 2;
- moves 7 courses from Part 2 to Schedule 1, Part 3 – Courses in loan cap band 3 (Part 3);
- adds 82 courses to Part 3;

- removes 11 courses from Part 3;
- adds 7 courses approved for specific amounts to Schedule 2;
- removes 1 course approved for a specific amount from Schedule 2; and
- adds 7 courses for 12 specific providers to Schedule 3.

The Amendment Determination expands the list of courses for which VET student loans are available. Many of the courses added by the Amendment Determination are courses identified in the National Register of VET as courses that supersede courses already listed in the Courses and Loan Caps Determination. While paragraph 5(1)(b) of the Courses and Loan Caps Determination allows for a VET student loan to be approved for such courses, the addition of these courses to the Courses and Loan Caps Determination will make it easier for students and approved course providers to identify these courses as courses for which VET student loans are available.

### **AUTHORITY**

The Amendment Determination is made under section 16 of the VET Student Loans Act.

Subsection 16(1) provides that the Minister may, by legislative instrument, determine: courses of study for which VET student loans may be approved; and maximum loan amounts, or methods for working out maximum loan amounts, for those courses.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make an instrument of a legislative or administrative character, the power includes a power to amend or vary the instrument.

### **REGULATORY IMPACT**

The Office of Best Practice Regulation assessed that a Regulation Impact Statement was not required for the Amendment Determination due to the minor regulatory impact of the proposed changes (OBPR reference #43333).

### **CONSULTATION**

States and Territories provided their skills needs/subsidised training courses lists, course prices, subsidy amounts and courses with licensing requirements, to inform the Amendment Determination.

Given the established criteria for determining courses eligible for a VET student loan, broader consultation was not undertaken as part of this Amendment Determination. The methodology for determining courses eligible for a VET student loan is published, was developed in consultation with the VET sector, and has been utilised for previous updates to the Determination.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021 (Amendment Determination)* 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 Amendment Determination**

The Amendment Determination amends Schedule 1 – Approved courses – general (Schedule 1); Schedule 2 – Approved courses – specific (Schedule 2) and Schedule 3 – Approved courses for specified providers (Schedule 3) of the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)*. More specifically the Amendment Determination:

- adds 6 courses to Schedule 1, Part 1 – Courses in loan cap band 1;
- adds 25 courses to Schedule 1, Part 2 – Courses in loan cap band 2 (Part 2);
- removes 3 courses from Part 2;
- moves 7 courses from Part 2 to Schedule 1, Part 3 – Courses in loan cap band 3 (Part 3);
- adds 82 courses to Part 3;
- removes 11 courses from Part 3;
- adds 7 courses approved for specific amounts to Schedule 2;
- removes 1 course approved for a specific amount from Schedule 2; and
- adds 7 courses for 12 specific providers to Schedule 3.

The Amendment Determination expands the list of courses for which vocational education and training (VET) student loans are available. Many of the courses added by the Amendment Determination are identified in the National Register of VET as courses that supersede courses already listed in the Courses and Loan Caps Determination. While paragraph 5(1)(b) of the Courses and Loan Caps Determination allows for a VET student loan to be approved for such courses, the addition of these courses to the Courses and Loan Caps Determination will make it easier for students and approved course providers to identify these courses as courses for which VET student loans are available.

## Human rights implications

This Amendment Determination 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 as 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 interpreted in any way as 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 reasonable 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, and in furtherance of, the right to education.

### Right to Work

The Amendment Determination engages the right to work as set out in Articles 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 who undertake courses that have a high national priority, align with industry needs, contribute to addressing skills shortages and lead to employment outcomes.

This Amendment Determination 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 Amendment Determination is compatible with the right to work.

### **Conclusion**

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

**Minister for Employment, Skills, Small and Family Business**  
**Senator the Hon Michaelia Cash**

## ***VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021***

### **EXPLANATION OF PROVISIONS**

#### **Section 1: Name**

1. This is a formal provision specifying the name of the instrument to be the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2021*.

#### **Section 2: Commencement**

2. Subsection 2(1) contains a table that sets out the commencement information for the instrument. Each provision of the instrument is specified in column 1 of the table.

#### **Section 3: Authority**

3. Section 3 provides that the making of the instrument is authorised under section 16 of the *VET Student Loans Act 2016*.

#### **Section 4: Title of Section**

4. Section 4 provides that the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)* is amended as set out in Schedule 1 to the instrument.

#### **Schedule 1 – Amendments**

##### **Item 1**

5. Item 1 of Schedule 1 amends the table in Schedule 1, Part 1. It inserts six rows setting out the details of six additional approved courses for loan cap band 1. The rows are to be inserted into the table in ascending numerical order by course code.

##### **Item 2**

6. The insertion of the six rows mentioned in Item 1 above will disrupt the numeric order of the item numbers in the column headed 'Item' in the table in Schedule 1, Part 1 of the *Courses and Loan Caps Determination*. Item 2 therefore provides that all numbers and alphanumeric characters in the 'Item' column of the table in Schedule 1, Part 1 are renumbered into numerical order based on their row order, starting at number 0, with 0 becoming 1, and replacing alphanumeric characters with numbers. This means the item number for each row of the table is to be renumbered in

accordance with its numeric order, with alphanumeric characters replaced with numbers.

### Item 3

7. Item 3 of Schedule 1 provides that the table in Schedule 1, Part 2 of the Courses and Loan Caps Determination is amended by omitting 10 rows setting out the details of 10 approved courses. The course details in seven of the identified rows will be inserted into the table in Schedule 1, Part 3, as part of item 7 (see below). Therefore, these courses are effectively being moved from loan cap band 2 to loan cap band 3.

### Item 4

8. Item 4 of Schedule 1 amends the table in Schedule 1, Part 2 of the Courses and Loan Caps Determination. It inserts 25 rows setting out the details of 25 additional approved courses for loan cap band 2. The rows are to be inserted into the table in ascending numerical order by course code.

### Item 5

9. The omission of the 10 rows mentioned in Item 3 above and insertion of the 25 rows mentioned in Item 4 above will disrupt the numeric order of the item numbers in the column headed 'Item' in the table in Schedule 1, Part 2 of the Courses and Loan Caps Determination. Item 5 therefore renumbers all numbers and alphanumeric characters in the 'Item' column of the table in Schedule 1, Part 2 into numerical order based on their row order, starting at number 1, and replaces alphanumeric characters with numbers. This means the item number for each row of the table is to be renumbered in accordance with its numeric order, with alphanumeric characters replaced with numbers.

### Item 6

10. Item 6 of Schedule 1 provides that the table in Schedule 1, Part 3 of the Courses and Loan Caps Determination is amended by omitting 11 rows setting out the details of 11 approved courses.

### Item 7

11. Item 7 of Schedule 1 amends the table in Schedule 1, Part 3. It inserts 82 rows setting out the details of additional approved courses for loan cap band 3. The rows are to be inserted into the table in ascending numerical order by course code.

### Item 8

12. The omission of the 11 rows mentioned in Item 6 above and insertion of the 82 rows mentioned in Item 7 above will disrupt the numeric order of the item numbers in the column headed 'Item' in the table in Schedule 1, Part 3 of the Courses and Loan Caps Determination. Item 8 therefore renumbers all numbers and alphanumeric characters in the 'Item' column of the table in Schedule 1, Part 3 into numerical order based on their row order, starting at number 1, and replaces alphanumeric characters with numbers. This means the item number for each row of the table is to be renumbered in accordance with its numeric order, with alphanumeric characters replaced with numbers.

### Item 9

13. Item 9 of Schedule 1 provides that the table in Schedule 2 is amended by omitting one row setting out the details of one approved course.

### Item 10

14. Item 10 of Schedule 1 amends the table in Schedule 2. It inserts seven rows setting out the details of seven additional approved courses and their specific applicable loan caps into the table in Schedule 2. The rows are to be inserted into the table in ascending numerical order by course code.

### Item 11

15. The omission of one row mentioned in Item 9 above and the insertion of the seven rows mentioned in Item 10 above will disrupt the numeric order of the item numbers in the column headed 'Item' in the table in Schedule 2 of the Courses and Loan Caps Determination. Item 11 therefore renumbers all numbers and alphanumeric characters in the 'Item' column of the table in Schedule 2 into numerical order based on their row order, starting at number 1, and replaces alphanumeric characters with numbers. This means the item number for each row of



the table is to be renumbered in accordance with its numeric order, with alphanumeric characters replaced with numbers.

#### Item 12

16. Item 12 inserts 12 rows into the table in Schedule 3 of the Courses and Loan Caps Determination setting out the details of an additional 7 courses for 12 specific approved course providers (and the applicable loan caps for those courses). The rows are to be inserted into the table in alphabetical order by approved course provider.

#### Item 13

17. The insertion of the 12 rows mentioned in Item 12 above will disrupt the numeric order of the item numbers in the column headed 'Item' of the table in Schedule 3 of the Courses and Loan Caps Determination. Item 13 therefore provides that all numbers and alphanumeric characters in the column headed 'Item' in the table in Schedule 3 are to be renumbered by row order, starting at 1. This means the item number for each row of the table is to be renumbered in accordance with its numeric order, with alphanumeric characters replaced with numbers.