

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Skills and Training

VET Student Loans Act 2016

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2023

AUTHORITY

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No.1) 2023* (Amendment Determination) is made under section 16 of the *VET Student Loans Act 2016* (VET Student Loans Act). Subsection 16(1) of that Act provides that the Minister may, by legislative instrument, determine: courses of study for which vocational education and training (VET) Student Loans (VSL) 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, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

PURPOSE AND OPERATION

The *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination) specifies the courses for which VSL may be approved under the VET Student Loans Act; sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts.

In order for courses to be approved for VSL they must be:

- on at least two state and/or territory subsidy/skills lists; or
- a science, technology, engineering, agriculture or mathematics (STEM) related course; or
- required for occupational licensing.

The purpose of the Amendment Determination is to amend the Courses and Loan Caps Determination to:

- extend the list of courses for which VSL may be approved under the VET Student Loans Act;
- increase the loan caps available for a small number of approved courses;
- reflect the operation of paragraph 5(b) of the Courses and Loan Caps Determination by including specific reference to a later version of, or superseding course to, a course already included in the Courses and Loan Caps Determination; and
- make a minor technical amendment to insert the appropriate ‘maximum loan cap amount’ of \$75,000 for the course AVI50222 – Diploma of Aviation (Commercial Pilot Licence - Aeroplane). This loan cap amount was intended to be included in the previous Amendment Determination (see: [VET Student Loans](#)

(Courses and Loan Caps) Amendment Determination (No.4) 2022) however was unintentionally omitted, thereby a loan cap amount was not specified for this course.

IMPACT ANALYSIS

The Office of Impact Analysis assessed that an Impact Analysis was not required for the Amendment Determination because it is unlikely to have a more than minor regulatory impact (OBPR reference OBPR22-03531).

CONSULTATION

The Department undertook consultation with an approved course provider and the Queensland Department of Education in relation to the addition of the Advanced Diploma of Dermal Science and Therapies course to the Courses and Loan Caps Determination. The Queensland Department of Education supported the course being added to the Courses and Loan Caps Determination because it is required for occupational licensing.

External consultation was not undertaken in relation to other amendments made by the Amendment Determination. This is because these amendments largely reflect the inclusion of later or superseded versions of courses already included in the Courses and Loans Cap Determination, and the insertion of a loan cap amount that was unintentionally omitted by the *VET Student Loans (Courses and Loan Caps) Amendment Determination (No.4) 2022*.

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) 2023

The *VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2023* (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 *VET Student Loans (Courses and Loan Caps) Determination 2016* (Courses and Loan Caps Determination) specifies the courses for which vocational education and training (VET) Student Loans (VSL) may be approved under the *VET Student Loans Act 2016* (the VET Student Loans Act); sets the maximum loan amounts for those courses; and provides for the annual indexation of the maximum loan amounts.

In order for courses to be approved for VSL they must be:

- on at least two state and/or territory subsidy/skills lists; or
- a science, technology, engineering, agriculture or mathematics (STEM) related course; or
- required for occupational licensing.

The purpose of the Amendment Determination is to amend the Courses and Loan Caps Determination to:

- extend the list of courses for which VSL may be approved under the VET Student Loans Act;
- increase the loan caps available for a small number of approved courses;
- reflect the operation of paragraph 5(b) of the Courses and Loan Caps Determination by including specific reference to a later version of, or superseding course to, a course already included in the Courses and Loan Caps Determination; and
- make a minor technical amendment to insert the appropriate ‘maximum loan cap amount’ of \$75,000 for the course AVI50222 – Diploma of Aviation (Commercial Pilot Licence - Aeroplane). This loan cap amount was intended to be included in the previous Amendment Determination (see: [*VET Student Loans \(Courses and Loan Caps\) Amendment Determination \(No.4\) 2022*](#)) however was unintentionally omitted, thereby a loan cap amount was not specified for this course.

Human rights implications

The Amendment Determination engages the following human rights:

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

Right to Education

The Amendment Determination engages the right to education contained in Article 13 of the ICESR. The right to education recognises the important personal, societal, economic, and intellectual benefits of education and provides that secondary education, including technical and vocational secondary education, shall be made generally available and accessible to all 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, up to the appropriate loan cap amount. These courses prepare students to meet industry needs, thereby providing students with educational opportunities in relevant fields that leads to genuine employment opportunities.

To the extent that the Amendment Determination, by specifying the appropriate loan cap amount could be 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.

In relation to Schedule 1 of the Amendment Determination, the criteria according to which courses are eligible for loan access is intended to ensure that students are undertaking courses that are focused on areas of skills needs, more likely to result in an employment outcome, and consider students' capacity to repay their VSL. To the extent that VSL eligibility represents a constraint on course choice, this limitation is necessary and proportionate to the broader policy objective which is to maximise students' educational and employment outcomes, by ensuring that they are receiving value for money, and that there is a high level of quality assurance, transparency and rigour in the training courses offered to them.

Finally, in relation to the AVI50222 – Diploma of Aviation (Commercial Pilot Licence - Aeroplane) course, given that there is currently no loan cap amount specified, it is not clear to students and providers what the appropriate maximum loan cap is. This could cause confusion for students and providers. The Amendment Determination will remedy this omission, allowing students to make informed choices concerning this course, and communicating the appropriate loan cap amount to relevant providers.

The Amendment Determination is compatible with, and in furtherance of, the right to education. The promotion of the right to education inherently leads into the promotion of the right to work, as education is one of the pathways to employment.

Right to Work

The Amendment Determination engages the right to work contained 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. Positive steps by State Parties towards the progressive realisation of the right to work include assisting individuals to identify and access available employment by enabling and supporting access to technical and vocational education.

In particular, the Amendment Determination promotes the objects of Article 6(2) of the ICESCR, which include access to *"technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment ... "*.

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.

The Courses and Loan Caps Determination is intended to ensure the VSL program is providing support for students in respect of courses that have a high national priority, align with industry needs, contribute to addressing skills shortages and lead to employment outcomes. Further, the Amendment Determination will amend the Courses and Loan Caps Determination to ensure that Commonwealth income contingent loans are available to support students in VET training courses where genuine employment opportunities exist.

Conclusion

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

**Minister for Skills and Training
the Hon Brendan O'Connor MP**

VET Student Loans (Courses and Loan Caps) Amendment Determination (No. 1) 2023

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) 2023* (Amendment Determination).

Section 2: Commencement

2. Subsection 2(1) contains a table that sets out the commencement information for the Amendment Determination. Each provision of the Amendment Determination specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.
3. The table has the effect of providing that sections 1 to 5, and Schedule 1 will commence the day after the Amendment Determination is registered on the Federal Register of Legislation.

Section 3: Authority

4. Section 3 provides that the making of the Amendment Determination is authorised under section 16 of the *VET Student Loans Act 2016* (the VET Student Loans Act).

Section 4: Amendment in Schedule

5. Section 4 provides that the Courses and Loan Caps Determination is amended as set out in Schedule 1 to the Amendment Determination.

Section 5: Transitional arrangements

6. Section 5 of the Amendment Determination is inserted into the instrument to clarify, for the avoidance of doubt, the transitional arrangements for the courses which are being removed.
7. The transitional arrangements make clear that if a VET Student Loan (VSL) for an approved course has been approved by the Secretary and the student has not yet completed the course of study, 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 measure ensures 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 Courses and Loan Caps Determination, the Secretary can continue to make loan payments to the provider for the course which has been removed.
8. Section 5 of the Amendment Determination makes it clear that this can occur for the courses that are listed in items 1 or 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 Amendment Determination commences).

Schedule 1 – Amendments

9. Schedule 1 sets out the amendments to the Courses and Loan Caps Determination. The Amendment Determination adds one new course to Schedule 1 (which is divided into three different loan cap bands) of the Courses and Loan Caps Determination; and moves two existing courses into different loan cap bands within Schedule 1. The movement of these courses increases the loan cap for students undertaking those courses from \$5,000 to \$10,000 in the case of the course which has moved from Schedule 1, Part 1 to Schedule 1, Part 2, and from \$10,000 to \$15,000 in the case of the course which has moved from Schedule 1, Part 2 to Schedule 1, Part 3.
10. The Amendment Determination amends Schedule 2 to the Courses and Loan Caps Determination by omitting a course and re-inserting it with the appropriate maximum loan cap amount (i.e. \$75,000) specified (no maximum loan amount was previously specified).
11. The Amendment Determination also amends Schedule 3 to the Courses and Loan Caps Determination by omitting one course and adding the superseded version of the course. This course supersedes a course already included in Schedule 3 of the Courses and Loan Caps Determination for the same approved course provider.

Item 1 – Schedule 1, Part 1 (table)

12. Item 1 provides that the table in Schedule 1, Part 1 (which lists the courses in loan cap band 1) is amended by omitting a row setting out the details of one course. The relevant course in this row is FNS50922 – Diploma of Banking Services Management. This course is to be removed from the table at Schedule 1, Part 1 because it is being moved to the table at Schedule 1, Part 2.

Item 2 – Schedule 1, Part 1 (table)

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

Item 3 – Schedule 1, Part 2 (table)

14. Item 3 provides that the table in Schedule 1, Part 2 (which lists the courses in loan cap band 2) is amended by inserting a row setting out the details of one new approved course. The row is to be added to the table in ascending numerical order, ordered by course code. The relevant course in the row this item adds is FNS50922 – Diploma of Banking Services Management. The effect of item 1 and item 3 of Schedule 1 is to increase the loan cap amount for this course from \$5,000 to \$10,000.

Item 4 – Schedule 1, Part 2 (table)

15. Item 4 provides that the table in Schedule 1, Part 2 is amended by omitting one row setting out the details of one course to be removed from the table. The relevant course in this row is AHC51422 – Diploma of Agribusiness Management. This course is to be removed from the table at Schedule 1, Part 2 because it is being moved to the table at Schedule 1, Part 3.

Item 5 – Schedule 1, Part 2 (table)

16. Item 5 provides that all items in the table in Schedule 1, Part 2 are to be renumbered starting at 1, replacing alphanumeric characters with numbers.

Item 6 – Schedule 1, Part 3 (table)

17. Item 6 provides that the table in Schedule 1, Part 3 (which lists the courses in loan cap band 3) is amended by inserting two rows setting out the details of two new approved courses. The rows are to be added to the table in ascending numerical order, ordered by course code. One of the relevant courses this item adds is AHC51422 – Diploma of Agribusiness Management. The effect of item 4 and item 6 of Schedule 1 is to increase the loan cap amount for this course from \$10,000 to \$15,000.

Item 7 – Schedule 1, Part 3 (table)

18. Item 7 provides that all items in the table in Schedule 1, Part 3 are to be renumbered starting at 1, replacing alphanumeric characters with numbers.

Item 8 – Schedule 2 (table)

19. Item 8 provides that the table in Schedule 2 (which lists approved courses with specific maximum loan amounts) is amended by adding one row setting out the details of one approved course. This row is to be added to the table in ascending numerical order, ordered by course code.
20. This course is identical to the course set out in the row omitted by item 9 (i.e. AVI50222 – Diploma of Aviation (Commercial Pilot Licence – Aeroplane). This row of the table is amended solely to add the appropriate maximum loan cap amount (i.e. \$75,000) for the later version of the course.
21. Notwithstanding that the maximum loan amount for this course was unintentionally omitted by VET Student Loans (Courses and Loan Caps) Amendment Determination (No.4) 2022, a VSL could still be approved for this course with a maximum loan amount of \$75,000. This is due to paragraph 5(b) of the Courses and Loan Caps Determination which operates to automatically include any course that has been identified in the National Register (referred to in section 216 of the *National Vocational Education and Training Regulator Act 2011*) as a superseding course to a course that is already included in the Courses and Loan Caps Determination. In this instance the relevant course supersedes AVI50219 Diploma of Aviation (Commercial Pilot Licence – Aeroplane).

Item 9 – Schedule 2 (table)

22. Item 9 provides that the table in Schedule 2 is amended by omitting one row setting out the details of one course. This row includes the same course set out in the row added by item 8 (i.e. AVI50222 – Diploma of Aviation (Commercial Pilot Licence – Aeroplane), however item 9 omits the row given it does not specify the appropriate maximum loan cap amount – i.e. \$75,000. Item 8 inserts the row for the relevant course, with the appropriate maximum loan cap amount included.

Item 10 – Schedule 2 (table)

23. Item 10 provides that all items in the table in Schedule 2 are to be renumbered starting at 1, replacing alphanumeric characters with numbers.

Item 11 – Schedule 3 (table)

24. Item 11 provides that the table in Schedule 3 (which lists approved courses for specific providers) is amended by inserting one row setting out the details of one new approved course at one specified approved course provider. The row is to be added to the table in ascending numerical order, ordered by course code.
25. The addition of this course reflects the operation of paragraph 5(b) of the Courses and Loan Caps Determination by including specific reference to MEM50322 Diploma of Jewellery and Object Design which supersedes a course already included in Schedule 3 of the Courses and Loan Caps Determination for the same approved course provider.

Item 12 – Schedule 3 (table)

26. Item 12 provides that all items in the table in Schedule 3 are to be renumbered starting at 1, replacing alphanumeric characters with numbers.