



Australian Apprenticeship Support Loans Rules 2023

I, Brendan O'Connor, Minister for Skills and Training, make the following rules.

Dated 18 December 2023

Brendan O'Connor
Minister for Skills and Training

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Part 1—Preliminary

1 Name

This instrument is the *Australian Apprenticeship Support Loans Rules 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the commencement of the <i>Trade Support Loans Amendment Act 2023</i> ; and (b) the start of the day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Australian Apprenticeship Support Loans Act 2014*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) approved form;
- (b) Australian Apprenticeships Priority List;
- (c) Australian apprenticeship support loan;
- (d) Australian resident;
- (e) Commissioner;
- (f) designated State/Territory training authority;
- (g) income tax law;
- (h) income year;
- (i) instalment period;
- (j) minimum repayment income;
- (k) qualifying apprenticeship;
- (l) relevant instalment period;
- (m) Secretary;

(n) undertaking.

In this instrument:

Act means the *Australian Apprenticeship Support Loans Act 2014*.

approved training contract means a training contract that has been approved by a designated State/Territory training authority.

assessable income has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

ATO Occupation Code means the document entitled “Salary and wage occupation codes 2023” that the Australian Taxation Office published in 2023.

Note: In 2023, the salary and wage occupation codes 2023 could be accessed at ato.gov.au/forms/Salary-and-wage-occupation-codes-2023/.

Australian Qualifications Framework has the same meaning as in section 6 of the *VET Student Loans Act 2016*.

Australian source has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

commencement date means the day on which a person is taken to have commenced employment under an approved training contract, as notified to the Secretary or the Department by a designated State/Territory training authority.

financial year has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

foreign currency has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

in gaol has the same meaning as in the *Social Security Act 1991*.

National Register has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

ordinary income has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

provisional commencement date means the day on which a person is taken to have commenced employment under a provisional training contract, as specified in that provisional training contract.

provisional training contract means a training contract that has been submitted to, but not yet been approved by, a designated State/Territory training authority.

recommencement date means the day on which a person is taken to have:

- (a) recommenced employment under an existing approved training contract; or
- (b) commenced employment under a new approved training contract to continue undertaking an incomplete qualifying apprenticeship;

as notified to the Secretary or the Department by a designated State/Territory training authority.

statutory income has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

training contract means a written agreement between an employer and a person for the person to be employed in an apprenticeship.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Qualification and payability

Division 1—Introduction

6 Simplified outline of this Part

This Part deals with certain matters relating to a person's qualification for Australian apprenticeship support loan, including:

- (a) that a person is not qualified for Australian apprenticeship support loan if the person is in gaol;
- (b) that a qualifying apprenticeship is, among other things, an apprenticeship through which a person is undertaking a qualification included on the National Register at an Australian Qualifications Framework level 3, 4, 5 or 6 level; and
- (c) the circumstances in which a person is, or is not, taken to be undertaking a qualifying apprenticeship.

This Part also deals with certain matters relating to the payability of Australian apprenticeship support loan to a person, including:

- (a) the circumstances in which the Secretary may allow a later day for a person to make an application for Australian apprenticeship support loan;
- (b) when an instalment period for a person starts;
- (c) that an instalment period for a person is a period of the duration of a month; and
- (d) circumstances relating to special case qualification and payability.

Division 2—Qualification

7 Other conditions

For the purposes of paragraph 8(1)(d) of the Act, the other condition a person must meet to be qualified for Australian apprenticeship support loan is that the person is not in gaol.

8 Qualifying apprenticeship

- (1) For the purposes of subparagraph 8(2)(a)(i) of the Act, the following qualification levels are prescribed:
 - (a) level 3 in the Australian Qualifications Framework;
 - (b) level 4 in the Australian Qualifications Framework;
 - (c) level 5 in the Australian Qualifications Framework;
 - (d) level 6 in the Australian Qualifications Framework.
- (2) For the purposes of paragraph 8(2)(b) of the Act, the qualification the person is undertaking through the apprenticeship must be a qualification that is included on the National Register.

9 Circumstances in which a person is, or is not, taken to be undertaking a qualifying apprenticeship

- (1) For the purposes of subsection 8(3) of the Act, this section prescribes circumstances in which a person is, or is not, taken to be undertaking a qualifying apprenticeship.
- (2) A person is taken to be undertaking a qualifying apprenticeship in the period:
 - (a) beginning at the start of the day on:
 - (i) if the person does not have an approved training contract—the person’s provisional commencement date; or
 - (ii) if the person has a commencement date—that day; or
 - (iii) if the person has a recommencement date—that day; and
 - (b) ending at the end of the day on the day:
 - (i) the person successfully completes the qualifying apprenticeship;
 - (ii) if the person has an approved training contract—the person is no longer undertaking the qualifying apprenticeship; or
 - (iii) a designated State/Territory training authority decides not to approve a person’s provisional training contract;
as notified to the Secretary or the Department by a designated State/Territory training authority.
- (3) If, apart from this subsection, a person would be taken to be undertaking more than one qualifying apprenticeship:
 - (a) the person is taken to be undertaking only one qualifying apprenticeship; and
 - (b) the person may nominate, in the person’s application for Australian apprenticeship support loan under section 13 of the Act, which of those

apprenticeships should be taken to be the person's qualifying apprenticeship.

Note: Section 30 sets out transitional arrangements for a person who, before the commencement of this instrument, was undertaking a qualification in the horticulture sector specified on the TSL Priority List and was not working in a rural or regional area.

Division 3—Payability

10 Circumstances in which the Secretary may allow a later day

For the purposes of subsection 10(1A) of the Act, the Secretary may allow a later day for a person to make an application for Australian apprenticeship support loan in circumstances that:

- (a) are beyond the person's control; and
- (b) make it impracticable for the person to make an application for Australian apprenticeship support loan on or before the final day of the instalment period.

11 Instalment period

- (1) For the purposes of paragraph 10(2)(a) of the Act:
 - (a) the day on which the first instalment period of a person starts is on:
 - (i) if the person does not have an approved training contract—the person's provisional commencement date; or
 - (ii) if the person has a commencement date—that day; or
 - (iii) if the person has a recommencement date—that day; and
 - (b) the day on which each subsequent instalment period of a person starts is the day that is a month from the day the previous instalment period starts.

Note: For the meaning of *month*, see subsection 2G(1) of the *Acts Interpretation Act 1901*.

- (2) For the purposes of paragraph 10(2)(b) of the Act, the duration of an instalment period of a person is a month.

12 Special case qualification and payability

- (1) For the purposes of subsection 11(2) of the Act, the Secretary is to determine that subsection 11(1) of the Act applies to a person if:
 - (a) before the end of an instalment period of a person, the person or a designated State/Territory training authority notifies the Secretary of information that affects the payability of Australian apprenticeship support loan; and
 - (b) amounts continue to be paid to the person in relation to the instalment period.
- (2) To avoid doubt, subsection (1) of this section does not limit the circumstances in which the Secretary may determine that subsection 11(1) of the Act does, or does not, apply to a person.

Part 3—Applications, determinations, payment and designated State/Territory training authorities

13 Simplified outline of this Part

This Part deals with certain matters relating to applications, determinations and payment, including:

- (a) the manner in which an application for Australian apprenticeship support loan must be lodged;
- (b) the period that is to be specified in a determination granting an application for Australian apprenticeship support loan; and
- (c) how to determine, on any particular day, the year of an apprenticeship a person is undertaking.

This Part also prescribes designated State/Territory training authorities.

14 Manner of lodgement for applications

For the purposes of paragraph 13(2)(b) of the Act, a person's initial application for Australian apprenticeship support loan and any subsequent application to continue receiving Australian apprenticeship support loan must be lodged either:

- (a) in person; or
- (b) by mail; or
- (c) by email; or
- (d) electronically through a website or computer program made available by the Department for that purpose.

15 Period to be specified in determinations

For the purposes of subsection 16(3) of the Act, a determination granting an application for Australian apprenticeship support loan is only to specify up to 6 relevant instalment periods.

16 Determining year of apprenticeship

For the purposes of subsection 24(2) of the Act, the following way of determining, on any particular day, the year of an apprenticeship a person is undertaking is prescribed:

- (a) tally the total number of months of a qualifying apprenticeship that the person has completed; and
- (b) work out the year of the apprenticeship using the following table:

Year of apprenticeship a person is undertaking	
Column 1	Column 2
Total number of months of qualifying apprenticeship completed	Year of apprenticeship
1 1 to 12 months	First year
2 13 to 24 months	Second year
3 25 to 36 months	Third year
4 37 or more months	Fourth year

17 Designated State/Territory training authorities

For the purposes of subsection 40(3) of the Act, a designated State/Territory training authority is the authority of a State or Territory that is responsible for approving training contracts.

Part 4—Overseas debtor repayments

Division 1—Introduction

18 Simplified outline of this Part

This Part provides for:

- (a) how to work out a person’s foreign-sourced income for an income year, including how to convert it into Australian currency; and
- (b) the content of certain notices to be given to the Commissioner.

Division 2—Foreign-sourced income

19 Working out a person’s foreign-sourced income

- (1) For the purposes of subsection 47B(2) of the Act, one of the following methods may be used to work out a person’s foreign-sourced income for an income year:
 - (a) the simple self-assessment method (see section 20);
 - (b) the overseas assessed method (see section 21);
 - (c) the comprehensive tax-based method (see section 22).

Note: Subsection 21(2) restricts when the overseas assessed method can be used.

- (2) The method to be used to work out the person’s foreign-sourced income for an income year is the method that the person chooses, as stated in the notice given to the Commissioner under subsection 47C(3) of the Act, relating to the person’s income for that income year.
- (3) Only one of the methods in subsection (1) may be used for an income year.
- (4) If, in a notice given under subsection 47C(3) of the Act, the person does not state a method that should be used for an income year, then the simple self-assessment method may be used to work out the person’s foreign-sourced income for that income year.

20 The simple self-assessment method

- (1) Under the simple self-assessment method, a person’s foreign-sourced income for an income year is the amount that is equal to the difference between:
 - (a) the total amount of all the person’s income for that income year, other than ordinary income or statutory income that has an Australian source; and
 - (b) the standard deduction for the income year for the occupation in which the person derived the most income (other than ordinary income or statutory income that has an Australian source) for that income year.
- (2) For paragraph 1(b), the standard deduction for an occupation is:
 - (a) if the occupation has an occupation code listed in the ATO Occupation Code—the median ratio of work-related expenses to employment-related income calculated by the Australian Taxation Office for the occupation with that occupation code; or
 - (b) otherwise—nil.

21 The overseas assessed method

- (1) Under the overseas assessed method, a person’s foreign-sourced income for an income year is the amount that is equal to the person’s income for taxation purposes according to the most recent assessment of that person’s income, for a period of 12 months, by the taxation authority of a foreign country.
- (2) However, the overseas assessed method cannot be used to work out the person’s foreign-sourced income for an income year if:

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- (a) the period to which the most recent assessment relates does not overlap with that income year; or
 - (b) a taxation authority from a different foreign country has also made an assessment of the person's income for a period of 12 months which overlaps with that income year; or
 - (c) the most recent assessment has already been used to work out the person's foreign-sourced income for a previous income year.

22 The comprehensive tax-based assessment method

Under the comprehensive tax-based assessment method, a person's foreign-sourced income for an income year is the amount that is equal to the difference between:

- (a) the total amount of all the person's income for that income year, other than ordinary income or statutory income that has an Australian source; and
- (b) the total amounts of the deductions that would be allowable under the income tax law if that income were assessable income.

23 Converting foreign-sourced income into Australian currency

This section applies to a person's foreign-sourced income for an income year where an amount of that foreign-sourced income is in a foreign currency. For the purposes of subsection 47B(2), to convert the foreign currency amount, translate that amount to Australian currency at the average exchange rate for the financial year that most closely corresponds to the income year in which the foreign currency amount was received.

Division 3—Notices to be given to the Commissioner

24 Notices relating to leaving Australia

- (1) For the purposes of subsection 47C(4) of the Act, a notice a person gives to the Commissioner under subsection 47C(1) of the Act must contain:
 - (a) the person's name; and
 - (b) the person's date of birth; and
 - (c) if known—the person's intended country of residence; and
 - (d) if known—the person's contact details, including the person's email address and telephone number.
- (2) For the purposes of paragraph 47C(1)(b) of the Act, a person is not required to give a notice under subsection 47C(1) of the Act if:
 - (a) the person gave a notice under that subsection in relation to a previous departure from Australia; and
 - (b) since giving that notice, the person has not been an Australian resident.

25 Notices relating to absence from Australia

For the purposes of subsection 47C(4) of the Act, a notice a person gives to the Commissioner under subsection 47C(2) of the Act must contain:

- (a) the person's name; and
- (b) the person's date of birth; and
- (c) the person's country of residence; and
- (d) if known—the person's contact details, including the person's email address and telephone number.

26 Notices relating to income (including foreign-sourced income)

- (1) For the purposes of subsection 47C(4) of the Act, a notice a person gives to the Commissioner under subsection 47C(3) of the Act must contain:
 - (a) the person's name; and
 - (b) the person's date of birth; and
 - (c) the person's country of residence; and
 - (d) unless subsection (2) applies—the person's occupation; and
 - (e) unless subsection (2) applies—the amount of the person's income (including foreign-sourced income) for the income year; and
 - (f) unless subsection (2) applies—the method used to work out that foreign-sourced income; and
 - (g) if the overseas assessed method was used and unless subsection (2) applies—the person's identification number used for tax purposes by the taxation authority of a foreign country that made the assessment of the person's income.
- (2) A notice may not contain the content in paragraphs (1)(d), (e), (f) and (g) if:

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- (a) the person's income (including foreign-sourced income) for the income year is no more than 25% of the minimum repayment income for that income year; and
 - (b) the notice the person gives to the Commissioner includes a declaration to that effect.

27 Approved forms

This Division does not affect the Commissioner's power under section 388-50 in Schedule 1 to the *Taxation Administration Act 1953* to require additional content to be included in the approved form of a notice under section 47C of the Act.

Part 5—Transitional provisions

28 Simplified outline of this Part

This Part deals with transitional matters.
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29 Transitional—pre-commencement apprenticeships

- (1) This section applies to a person if:
 - (a) before the commencement of this subsection, the person was undertaking, on the person's commencement date, an apprenticeship through which the person was undertaking a qualification:
 - (i) at a level prescribed by the *Trade Support Loans Rules 2014*; and
 - (ii) leading to an occupation or a qualification that was specified on the TSL Priority List; and
 - (iii) which met any other requirements prescribed by the *Trade Support Loans Rules 2014*; and
 - (b) immediately after the commencement of this section, the occupation or qualification is not specified on the Australian Apprenticeships Priority List.
- (2) The *Australian Apprenticeship Support Loans Act 2014* has effect, in relation to the person, as if the occupation or qualification referred to in subparagraph (1)(a)(ii) of this section were specified in the Australian Apprenticeships Priority List.

30 Transitional—pre-commencement rural or regional apprenticeships in the horticulture sector

- (1) This section applies to a person if:
 - (a) before the commencement of this section, the person was undertaking an apprenticeship through which the person was undertaking a qualification in the horticulture sector specified on the TSL Priority List; and
 - (b) before the commencement of this section, while undertaking the apprenticeship, the person was not working in a suburb with a postcode listed in Schedule 1 to the *Trade Support Loans Rules 2014* (a **rural or regional area**); and
 - (c) after the commencement of this section, the person is undertaking the same apprenticeship; and
 - (d) after the commencement of this section, while undertaking the same apprenticeship, the person is not working in a rural or regional area.
- (2) The person is not taken to be undertaking a qualifying apprenticeship.

Schedule 1—Repeals

Trade Support Loans Rules 2014

1 The whole of the instrument

Repeal the instrument.