

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 2024

AUTHORITY

The VET Student Loans (Courses and Loan Caps) Amendment Determination 2024 (**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 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.

Courses are approved for VSL where they are:

- 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; and
- remove courses from the tables to the Courses and Loan Caps Determination which are no longer available for students to enrol in.

REGULATORY IMPACT

The Office of Impact Analysis assessed that a detailed Impact Analysis was not required for the Amendment Determination because the changes to the schedules of the Courses and Loan Caps Determination were likely to only have a minor regulatory impact (OIA reference OIA24-08502).

CONSULTATION

Schedules 1 and 2

In August and September 2024, states and territories (**States**) were consulted on their subsidised training courses, course prices, subsidy amounts and courses which form part of occupational licensing requirements.

This consultation informs whether courses meet the eligibility criteria for VSL approval – i.e. are on at least two state and territory subsidy/skills lists, are STEM related, or are tied to licensing requirements for a particular occupation.

The consultation also fulfils the Australian Government’s commitment to consult with States on the development of the VSL course list under National Skills Agreement arrangements.

Schedule 3

The Department of Employment and Workplace Relations (**the department**) conducts an annual application process for listed providers (as defined under section 27 of the VET Student Loans Act) and for not-for-profit providers, to have additional courses approved for VSL under Schedule 3 of the Courses and Loan Caps Determination. Courses listed on Schedule 3 are only approved for VSL for the provider listed against them and must not already be on Schedule 1 or 2 of the Courses and Loan Caps Determination.

The department invited applications from eligible providers through its annual Schedule 3 Application process, open from 2 August 2024 to 23 August 2024.

Six courses were added to Schedule 3 of the Amendment Instrument, as approved under the Schedule 3 annual application process.

Additional courses were also added to Schedule 3 by the Amendment Determination as replacements for courses previously included in Schedule 3 that have become superseded. The Schedule 3 superseded courses that are no longer available for students to enrol in were also removed. No consultation was necessary in relation to the addition of superseding courses and the removal of superseded courses that have ended.

Internal departmental stakeholders were also consulted on new training packages and replacement courses, as part of the department's quality assurance process.

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 2024

The *VET Student Loans (Courses and Loan Caps) Amendment Determination 2024* (**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 VET Student Loans (VSL) 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.

Courses are approved for VSL where they are:

- 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; and
- remove courses from the tables to the Courses and Loan Caps Determination which are no longer available for students to enrol in.

Human rights implications

The Amendment Determination engages the following human rights:

- *Right to Education* – Article 13, *International Covenant on Economic, Social and Cultural Rights* (ICESCR); 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 ICESCR. 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 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 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. The criteria according to which courses are eligible for loan access is intended to ensure that students are undertaking courses that are focused on priority areas of skills needs, more likely to result in an employment outcome, and consider students' capacity to repay. 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.

The Amendment Determination is compatible with, and in furtherance of, the right to education. Also, 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 or upskill in their occupation.

The Courses and Loan Caps Determination is intended to ensure the VSL program is focused on 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 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 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 Andrew Giles MP**

VET Student Loans (Courses and Loan Caps) Amendment Determination 2024

EXPLANATION OF PROVISIONS

Section 1 – Name

1. Section 1 specifies that the name of the Amendment Determination is the *VET Student Loans (Courses and Loan Caps) Amendment Determination 2024 (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 the Amendment Determination will commence on 1 January 2025, or, if the Amendment Determination is registered on a day later than 1 January 2025 – the day after the Amendment Determination is registered.
4. Subsection 2(2) says that “any information in column 3 of the table is not part of this instrument” and that “information may be inserted in this column, or information in it may be edited, in any published version of this instrument”. There is no information in column 3.

Section 3 – Authority

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

Section 4 – Schedules

6. 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 Amendment Determination.

Section 5 – Transitional arrangements

7. Section 5 of the Amendment Determination inserts transitional arrangements for the courses which the Amendment Determination removes from the Courses and Loan Caps Determination. The transitional arrangements are that the Secretary may continue to pay VET Student Loans (**VSL**) in relation to a student if, before the commencement of the Amendment Determination:
 - a. the Secretary approved the VSL for a student for a course of study listed in items 2, 5, 7 or 10 of Schedule 1 of the Amendment Determination (these items remove courses from the Courses and Loan Caps Determination); and
 - b. the student had not completed the course of study.
8. The purpose of this section is to ensure that if the full VSL amount approved in relation to a student and a course has not been paid by the Secretary to an approved course provider at the time the course is removed from the Courses and Loan Caps Determination, then the Secretary can continue to make VSL payments to the provider in relation to that course.

Schedule 1 – Amendments

VET Student Loans (Courses and Loan Caps) Determination 2016

9. Schedule 1 of the Amendment Determination sets out the amendments to the Courses and Loan Caps Determination.

Items 1 to 6 – Schedule 1, Part 2 (table) and Schedule 1, Part 3 (table)

10. The Amendment Determination adds 25 courses to Schedule 1 of the Courses and Loan Caps Determination, which is divided into three different loan cap bands (there are no amendments to band 1). These courses are being added because they meet one of the course eligibility criteria (on at least two state and/or territory subsidy/skills lists, a STEM course or required for occupational licensing) or are a replacement course of a superseded VSL approved course. The addition of these courses will benefit students because they will be able to apply for a VSL in respect of those added courses.
11. The Amendment Determination removes 72 courses from Schedule 1 of the Courses and Loan Caps Determination. These courses are being removed because – as indicated on the National Training Register (accessible at: <https://training.gov.au>) –

they have become non-current or expired, or have been superseded, and therefore can no longer be enrolled in.

Item 1 – Schedule 1, Part 2 (table)

12. Item 1 provides that the table in Schedule 1, Part 2 (which lists the courses in loan cap band 2) is amended by inserting 3 rows setting out the details of 3 new approved courses. The rows are to be added to the table in ascending numerical order, ordered by course code.

Item 2 – Schedule 1, Part 2 (table)

13. Item 2 provides that the table in Schedule 1, Part 2 is amended by omitting 19 rows setting out the details of 19 courses to be removed from the table. These courses are to be removed because they have become non-current or expired or have been superseded.

Item 3 – Schedule 1, Part 2 (table)

14. Item 3 provides that all items in the table in Schedule 1, Part 2 are to be renumbered starting at 1. Alphanumeric characters are to be replaced with numbers.

Item 4 – Schedule 1, Part 3 (table)

15. Item 4 provides that the table in Schedule 1, Part 3 (which lists the courses in loan cap band 3) is amended by inserting 22 new rows setting out the details of 22 new approved courses. The rows are to be added to the table in ascending numerical order, ordered by course code.

Item 5 – Schedule 1, Part 3 (table)

16. Item 5 provides that the table in Schedule 1, Part 3 is amended by omitting 53 rows setting out the details of 53 courses to be removed from the table. These courses are to be removed because they have become non-current or expired or have been superseded.

Item 6 – Schedule 1, Part 3 (table)

17. Item 6 provides that all items in the table in Schedule 1, Part 3 are to be renumbered starting at 1. Alphanumeric characters are to be replaced with numbers.

Items 7 and 8 – Schedule 2 (table)

18. Schedule 2 lists approved courses with specific maximum loan amounts. The Amendment Determination removes one course from Schedule 2 of the Courses and Loan Caps Determination. This course is being removed because – as indicated on the National Training Register (accessible at: <https://training.gov.au>) – it has been superseded, and therefore can no longer be enrolled in.

Item 7 – Schedule 2 (table)

19. Item 7 provides that the table in Schedule 2 is amended by removing one row setting out the details of one course. This course is being removed because it has been superseded.

Item 8 – Schedule 2 (table)

20. Item 8 provides that all items in the table in Schedule 2 are to be renumbered starting at 1.

Items 9 to 11 – Schedule 3 (table)

21. Schedule 3 lists approved courses for specific approved course providers. The Amendment Determination adds 8 courses for 9 specific providers. These courses are being added because they're either a course approved for a specified provider under the Schedule 3 annual application process or a superseding course that replaces a course previously included in Schedule 3. The addition of these courses will benefit students because they will be able to apply for a VSL in respect of those added courses.

22. The Amendment Determination removes 5 courses from Schedule 3 of the Courses and Loan Caps Determination. These courses are being removed because – as indicated on the National Training Register (accessible at: <https://training.gov.au>) – they have become non-current or expired, or have been superseded, and therefore can no longer be enrolled in.

Item 9 – Schedule 3 (table)

23. Item 9 provides that the table in Schedule 3 is amended by inserting 10 new rows setting out the details of an additional 8 courses for 9 specific providers. The rows are to be added to the table in alphabetical order by provider.

Item 10 – Schedule 3 (table)

24. Item 10 provides that the table in Schedule 3 is amended by omitting 10 rows setting out the details of 5 courses for 10 specific approved course providers. These courses are to be removed because they have become non-current or expired or have been superseded.

Item 11 – Schedule 3 (table)

25. Item 11 provides that all items in the table in Schedule 3 are to be renumbered starting at 1. Alphanumeric characters are to be replaced with numbers.