





# **VET Student Payment Arrangements (Miscellaneous Amendments) Act 2021**

**No. 17, 2021**

**An Act to amend the law relating to vocational  
education and training, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# **VET Student Payment Arrangements (Miscellaneous Amendments) Act 2021**

**No. 17, 2021**

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**An Act to amend the law relating to vocational  
education and training, and for related purposes**

*[Assented to 1 March 2021]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *VET Student Payment Arrangements  
(Miscellaneous Amendments) Act 2021*.

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*2021*

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## 2 Commencement

- (1) Each provision of this Act 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	1 March 2021
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	2 March 2021
3. Schedule 1, Part 2	1 July 2021.	1 July 2021

Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Amendments commencing day after Royal Assent**

#### *Higher Education Support Act 2003*

##### **1 Clause 55 of Schedule 1A**

Omit “If”, substitute “(1) If”.

##### **2 At the end of clause 55 of Schedule 1A**

Add:

- (2) However, the Commonwealth must not pay an amount to a provider under paragraph (1)(b) in respect of a \*VET unit of study unless the provider has given the Minister notice of the student’s liability to pay his or her \*VET tuition fee for the unit, including the amount of the liability, before the reporting deadline for the unit.
- (3) The amount paid to a provider for a unit under paragraph (1)(b) must not exceed the amount notified for the purposes of subclause (2) before the reporting deadline for the unit.
- (4) If the Commonwealth does not pay an amount to a provider because of the operation of subclause (2), the student is discharged from all liability to pay or account for so much of the student’s \*VET tuition fee for the \*VET unit of study as is equal to that amount.
- (5) For the purposes of this clause, the *reporting deadline* for a unit is:
  - (a) for a unit with a \*census date before 1 January 2018—before 1 July 2021; or
  - (b) for any other unit—before 1 January 2022.

##### **3 After paragraph 61(2)(a) of Schedule 1A**

Insert:

- (aa) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:

## Schedule 1 Amendments

### Part 1 Amendments commencing day after Royal Assent

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- (i) if the provider is a higher education provider—under section 110-1 of this Act; or
- (ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or

#### 4 After paragraph 61(3)(a) of Schedule 1A

Insert:

- (aa) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:
  - (i) if the provider is a higher education provider—under section 110-1 of this Act; or
  - (ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or

#### 5 After clause 61 of Schedule 1A

Insert:

##### **61A Amounts owed by VET providers may be set off against amounts payable under this Act or the *VET Student Loans Act 2016***

An amount payable by a \*VET provider to the Commonwealth under this Schedule may, in whole or in part, be:

- (a) deducted by the Commonwealth from any amount that is payable, or to be paid, to the provider:
  - (i) if the provider is a higher education provider—under section 110-1 of this Act; or
  - (ii) if the provider is an approved course provider under the *VET Student Loans Act 2016*—under section 19 of that Act; or
- (b) recovered by the Commonwealth from the provider as a debt due to the Commonwealth.

Example: If the VET provider is an approved course provider under the *VET Student Loans Act 2016*, amounts payable by the provider to the Commonwealth under clause 56 of this Schedule may be set off against loan amounts payable to the provider under that Act.

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

### **6 After paragraph 20(g)**

Insert:

- ; (h) the Secretary is satisfied that special circumstances prevented, or will prevent, the student from completing the requirements for the course, or the part of the course;
- (i) the Secretary is satisfied that the course provider, or a person acting on the provider's behalf, engaged in unacceptable conduct in relation to the student's application for the VET student loan;
- (j) both of the following apply:
  - (i) the student has not completed the requirements for the course, or the part of the course, because the provider defaulted in relation to the student;
  - (ii) the VSL Tuition Protection Director decides, under paragraph 66E(1)(b), that the Director is not satisfied that there is a suitable replacement course for the student.

### **7 After section 35**

Insert:

#### **35A Automatic revocation if body ceases to be a registered training organisation**

- (1) The approval of a body as an approved course provider is revoked if:
  - (a) the body ceases to be listed as a registered training organisation on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
  - (b) in each case where the relevant VET Regulator has made a decision covered by subsection (2):
    - (i) the decision has not been set aside or quashed; and
    - (ii) any applicable time limits for applying for a review (however described) or lodging an appeal (however

## Schedule 1 Amendments

### Part 1 Amendments commencing day after Royal Assent

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- described) of or in relation to the decision have expired;  
and
- (iii) if there is such a review or appeal of or in relation to the decision—the review or appeal (and any later reviews or appeals) have been finally disposed of.
- (2) The decisions are:
- (a) a decision under section 17 of the *National Vocational Education and Training Regulator Act 2011* to refuse an application to renew the body's registration as an NVR registered training organisation (within the meaning of that Act); and
  - (b) a decision under section 39 of that Act to cancel the body's registration as an NVR registered training organisation; and
  - (c) a decision under a law of a State that has a similar effect to a decision referred to in paragraph (a) or (b).
- (3) The revocation of the body's approval as an approved course provider takes effect at the start of the day after the first day on which subsection (1) applies to the body.
- (4) The Secretary must notify the body in writing of the revocation.

## 8 Division 1 of Part 6

Repeal the Division, substitute:

### Division 1—General

#### 67 When HELP balance may be re-credited

A student's HELP balance may be re-credited under this Part only if an amount of a VET student loan has been used to pay tuition fees for the student for a course, or a part of a course.

Note 1: If the student's HELP balance cannot be re-credited under this Part because of this provision, the Secretary may decide not to pay the loan amount for the student for the course: see section 20.

Note 2: If a student's HELP balance is re-credited under Division 2 or 3 of this Part, the student's VETSL debt is taken to be remitted to the extent to which the debt relates to the loan amount concerned: see section 23BA. (For remission of debts incurred before 1 July 2019, see section 137-19 of the *Higher Education Support Act 2003*).

## **Part 2—Amendments commencing 1 July 2021**

### ***Higher Education Support Act 2003***

#### **9 Clause 2 of Schedule 1A**

Omit:

A body's approval as a VET provider may be revoked in circumstances such as breach of a VET quality and accountability requirement.

substitute:

As part of the phasing out of VET FEE-HELP assistance, VET provider approvals in force immediately before 1 July 2021 are revoked by clause 29 of this Schedule. However, under that clause, provisions of this Act, the VET Guidelines and conditions on the approvals may continue to apply to a body that had been approved as a VET provider.

#### **10 At the end of clause 5 of Schedule 1A**

Add:

Note: As part of the phasing out of VET FEE-HELP assistance, VET provider approvals are revoked by clause 29 of this Schedule. However, provisions of this Act, the VET Guidelines and conditions on the approvals, may continue to apply to a body that had been approved as a VET provider: see subclauses 29(2) to (4).

#### **11 Paragraph 25(2)(aa) of Schedule 1A**

Omit “event; or”, substitute “event”.

#### **12 Paragraph 25(2)(b) of Schedule 1A**

Repeal the paragraph.

#### **13 Subclause 26A(7) of Schedule 1A**

Repeal the subclause.

## 14 Division 5 of Part 1 of Schedule 1A

Repeal the Division, substitute:

## Division 5—Revocation of VET provider approvals

### 29 Revocation of approval

#### *Revocation of approval*

- (1) If an approval of a body as a \*VET provider is in force immediately before 1 July 2021, the approval is revoked at the start of that day.

#### *Continuing application of Act etc.*

- (2) Despite the revocation of a body's approval as a \*VET provider by subclause (1):
  - (a) the Act, and the \*VET Guidelines, continue to apply in relation to the body on and after 1 July 2021 as if the body were still a VET provider; and
  - (b) any conditions:
    - (i) imposed on the approval of the body; and
    - (ii) in effect immediately before 1 July 2021;continue to apply to the body on and after 1 July 2021 as if the body were still a VET provider.
- (3) Subclause (2) applies for the purpose of dealing with or resolving any matter that arose under this Act during, or that relates to, the period when the body was approved as a \*VET provider.
- (4) To avoid doubt, if a body that has had its approval revoked by subclause (1) would be required or empowered, but for the revocation, to do a thing under, or for the purposes of, Subdivision 7-B of Division 7 of Part 2 (which deals with re-crediting), the body is, on and after 1 July 2021, required or empowered to do the thing as if the body were still a \*VET provider.

*Interaction with the Acts Interpretation Act 1901*

- (5) This clause does not limit the effect of section 7 of the *Acts Interpretation Act 1901*.

**15 Paragraph 39GD(c) of Schedule 1A**

Repeal the paragraph.

**16 Clause 91 of Schedule 1A (table items 1C and 1D)**

Repeal the items.

**17 Saving of requirements on earlier revocations**

- (1) This item applies if:
- (a) before the commencement of this item, a body had its approval as a \*VET provider revoked; and
  - (b) immediately before that commencement, the revocation was subject to conditions under clause 39 of Schedule 1A to the *Higher Education Support Act 2003*.
- (2) Despite the repeal of clause 39 of Schedule 1A to the *Higher Education Support Act 2003* by this Part, that clause continues to apply in relation to the body as if the repeal had not happened.

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[*Minister's second reading speech made in—  
Senate on 12 November 2020  
House of Representatives on 18 February 2021*]

(147/20)

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