



Education Legislation Amendment (2022 Measures No. 1) Act 2022

No. 64, 2022

**An Act to amend the law relating to education, 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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Education Legislation Amendment (2022 Measures No. 1) Act 2022

No. 64, 2022

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

[Assented to 29 November 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Education Legislation Amendment (2022 Measures No. 1) Act 2022*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	30 November 2022
2. Schedule 1	The day after this Act receives the Royal Assent.	30 November 2022
3. Schedule 2	1 January 2022.	1 January 2022
4. Schedule 3	1 January 2023.	1 January 2023
5. Schedule 4	As follows: (a) if this Act receives the Royal Assent before 31 December 2022—1 January 2023; (b) if this Act receives the Royal Assent on or after 31 December 2022—immediately after the commencement of the provisions covered by table item 2.	1 January 2023 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule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 commencing day after Royal Assent

Part 1—Student identifier requirements

Higher Education Support Act 2003

1 Paragraph 36-10(1)(f)

Omit “the person has a *student identifier immediately before the census date”, substitute “the person meets the *student identifier requirements for the purposes of this paragraph (see subsection (2C))”.

2 Before subsection 36-10(2)

Insert:

When a person meets the citizenship or residency requirements

3 After subsection 36-10(2B)

Insert:

When a person meets the student identifier requirements

- (2C) A person meets the *student identifier requirements for the purposes of paragraph (1)(f) if:
- (a) the person has a student identifier immediately before the census date; and
 - (b) before the census date, the person notifies the person’s student identifier to:
 - (i) an *appropriate officer of the higher education provider; and
 - (ii) the *Secretary.
- (2D) A notification under paragraph (2C)(b) may be included in a *request for Commonwealth assistance that the person has given to the higher education provider in relation to:
- (a) the unit of study for which the assistance is sought; or
 - (b) the *course of study of which the unit forms a part; or
 - (c) any other unit of study forming part of that course.

4 Paragraph 104-1(1)(ga)

Omit “the student has a *student identifier immediately before the census date”, substitute “the student meets the *student identifier requirements under subsection (5)”.

5 At the end of section 104-1

Add:

When a student meets the student identifier requirements

- (5) A student meets the *student identifier requirements under this subsection if:
- (a) the student has a student identifier immediately before the census date; and
 - (b) before the census date, the student notifies the student’s student identifier to:
 - (i) an *appropriate officer of the higher education provider; and
 - (ii) the *Secretary.
- (6) A notification under paragraph (5)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to:
- (a) the unit of study for which the assistance is sought; or
 - (b) the *course of study of which the unit forms a part; or
 - (c) any other unit of study forming part of that course.

6 Paragraph 118-1(1)(hb)

Omit “the student has a *student identifier immediately before the student made the application”, substitute “the student meets the *student identifier requirements under section 118-12”.

7 After section 118-10

Insert:

118-12 Student identifier requirements

- (1) The *student identifier requirements for *OS-HELP assistance are that:

- (a) the student in question had a student identifier immediately before the student made the application referred to in paragraph 118-1(1)(hb); and
 - (b) before making, or at the time of making, the application referred to in paragraph 118-1(1)(hb), the student notified the student's student identifier to:
 - (i) an *appropriate officer of the higher education provider; and
 - (ii) the *Secretary.
- (2) A notification under paragraph (1)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to:
- (a) the unit of study for which the assistance is sought; or
 - (b) the *course of study of which the unit forms a part; or
 - (c) any other unit of study forming part of that course.

8 Paragraph 126-1(1)(e)

Omit “the student has a *student identifier immediately before the day on which the fee is payable”, substitute “the student meets the *student identifier requirements under section 126-10”.

9 At the end of Division 126

Add:

126-10 Student identifier requirements

- (1) A student meets the *student identifier requirements under this section in relation to a *student services and amenities fee imposed on the student by a higher education provider if:
 - (a) the student has a student identifier immediately before the day on which the fee is payable; and
 - (b) before making, or at the time of making, the *request for Commonwealth assistance referred to in paragraph 126-1(1)(d), the student notifies the student's student identifier to:
 - (i) an *appropriate officer of the higher education provider; and
 - (ii) the *Secretary.

- (2) A notification under paragraph (1)(b) may be included in the
*request for Commonwealth assistance by the student referred to in
paragraph 126-1(1)(d).

10 Application provisions

- (1) The amendments of section 36-10 of the *Higher Education Support Act 2003* made by this Part apply in relation to any unit of study with a census date that is on or after the day this Part commences (whether the unit of study is part of a course of study commenced before, on or after that day).
- (2) The amendments of section 104-1 of the *Higher Education Support Act 2003* made by this Part apply in relation to determining entitlement to FEE-HELP assistance for units of study with a census date that is on or after the day this Part commences.
- (3) The amendment of section 118-1 of the *Higher Education Support Act 2003* made by this Part, and section 118-12 of that Act as inserted by this Part, apply in relation to applications for receipt of OS-HELP assistance that are made on or after the day this Part commences.
- (4) The amendment of section 126-1 of the *Higher Education Support Act 2003* made by this Part, and section 126-10 of that Act as inserted by this Part, apply in relation to requests for Commonwealth assistance in relation to a student services and amenities fee that are made on or after the day this Part commences.

Part 2—Student learning entitlement—enabling courses

Higher Education Support Act 2003

11 Section 70-1

Omit:

A person's SLE amount is reduced as the person undertakes units of study as a Commonwealth supported student. The person's SLE amount may also be re-credited in certain circumstances.

substitute:

A person's SLE amount is reduced as the person undertakes units of study as a Commonwealth supported student. A unit of study undertaken as part of an enabling course does not reduce the person's SLE amount. The person's SLE amount may also be re-credited in certain circumstances.

12 Paragraph 76-1(1)(a)

After “*course of study”, insert “(other than an *enabling course)”.

13 Application provision

The amendment of section 76-1 of the *Higher Education Support Act 2003* made by this Part applies in relation to an enabling course whether the course is provided before or after the commencement of this Part.

Part 3—Microcredential courses

Higher Education Support Act 2003

14 After subparagraph 104-10(1)(b)(i)

Insert:

(ia) the course of study is a *microcredential course; or

15 Subclause 1(1) of Schedule 1 (after paragraph (c) of the definition of *course of study*)

Insert:

; or (d) in Part 3-3 and any other provision of this Act, to the extent that the provision applies, or relates, to *FEE-HELP assistance (and without limiting paragraph (a), (b) or (c) of this definition)—a *microcredential course.

16 Subclause 1(1) of Schedule 1

Insert:

microcredential course means a course of instruction:

- (a) that consists of one or more units of study; and
- (b) that meets the requirements specified in the FEE-HELP Guidelines.

Part 4—Other amendments

Higher Education Support Act 2003

17 Paragraph 36-24B(2)(b)

Repeal the paragraph, substitute:

- (b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1, 96-2 or 96-3.

18 Paragraph 36-24BB(2)(b)

Repeal the paragraph, substitute:

- (b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1, 96-2 or 96-3.

19 Paragraph 36-24BC(2)(b)

Repeal the paragraph, substitute:

- (b) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the unit under section 96-1, 96-2 or 96-3.

20 Subsection 110-5(1)

Omit “the amount of FEE-HELP assistance to which the person was entitled for the unit”, substitute “the amount (if any) that was paid to the provider for the unit under subsection 110-1(1)”.

21 Subsection 110-5(2)

Omit “the amount of FEE-HELP assistance to which the person was entitled for the unit”, substitute “the amount (if any) that was paid to Open Universities Australia for the unit under subsection 110-1(2)”.

Tertiary Education Quality and Standards Agency Act 2011

22 Subsection 26A(7)

Repeal the subsection, substitute:

Information and documents related to tuition protection

- (7) The Up-front Payments Guidelines may specify either or both of the following:
- (a) information or documents that a registered higher education provider must keep records of for the purposes of the tuition protection requirements;
 - (b) information or documents that a registered higher education provider must give to the *Secretary in accordance with subsection (8).

23 Subsection 26A(8)

Omit “subsection (7)”, substitute “paragraph (7)(b)”.

Schedule 2—Amendments commencing 1 January 2022

Higher Education Support Act 2003

1 Subparagraph 137-10(2)(b)(i)

Omit “31 December 2021”, substitute “31 December 2022”.

2 Subparagraph 137-10(2)(b)(ia)

Omit “1 January 2022”, substitute “1 January 2023”.

Schedule 3—Amendments commencing 1 January 2023

Higher Education Support Act 2003

1 Paragraph 90-5(2A)(a)

After “citizen”, insert “who will be resident in Australia for the duration of the unit”.

2 After subsection 90-5(2A)

Insert:

(2AA) In determining, for the purpose of paragraph (2A)(a), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

- (a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or
- (b) is required for the purpose of completing a requirement of that unit.

3 Paragraph 104-5(2A)(a)

After “citizen”, insert “who will be resident in Australia for the duration of the unit”.

4 After subsection 104-5(2A)

Insert:

(2AA) In determining, for the purpose of paragraph (2A)(a), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

- (a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or
- (b) is required for the purpose of completing a requirement of that unit.

5 Application provisions

- (1) The amendments of section 90-5 of the *Higher Education Support Act 2003* made by this Schedule apply in relation to determining entitlement to HECS-HELP assistance for units of study with a census date that is on or after 1 January 2023.
- (2) The amendments of section 104-5 of the *Higher Education Support Act 2003* made by this Schedule apply in relation to determining entitlement to FEE-HELP assistance for units of study with a census date that is on or after 1 January 2023.

Schedule 4—Other amendments

Higher Education Support Act 2003

1 Paragraph 36-24B(2)(b)

Omit “section 96-1, 96-2 or 96-3”, substitute “section 96-1”.

2 Paragraph 36-24BB(2)(b)

Omit “section 96-1, 96-2 or 96-3”, substitute “section 96-1”.

3 Paragraph 36-24BC(2)(b)

Omit “section 96-1, 96-2 or 96-3”, substitute “section 96-1”.

4 Section 36-50

Repeal the section.

5 Paragraph 79-1(1)(e)

Omit “90%”, substitute “100%”.

6 Paragraph 90-1(f)

Repeal the paragraph, substitute:

(f) the student *meets the tax file number requirements (see section 187-1); and

7 Subsection 93-15(1)

Omit “of part”, substitute “of all or part”.

8 Subsection 93-15(3)

Repeal the subsection (including the notes).

9 Section 96-1 (heading)

Omit “—no up-front payment of student contribution amount”.

10 Section 96-1

Omit “and no *up-front payments are made in relation to the unit”.

11 Sections 96-2 and 96-3

Repeal the sections.

12 Subsection 137-5(1)

Omit “or 96-2”.

13 Paragraph 193-1(5)(b)

Omit “in relation to the unit have been made totalling 90%”, substitute “for the unit have been made totalling 100%”.

14 Paragraph 193-5(1)(d)

Omit “90% of”.

15 Subclause 1(1) of Schedule 1 (definition of *HECS-HELP discount*)

Repeal the definition.

16 Application of amendments

The amendments made by this Schedule apply in relation to an up-front payment made in relation to a unit of study that has a census date on or after the day this Schedule commences.

*[Minister’s second reading speech made in—
House of Representatives on 27 October 2022
Senate on 21 November 2022]*

(111/22)