
Carol Ey
Social Policy Section

Contents

The Bills Digest at a glance.........................................................2
Purpose of the Bill.................................................................3
Structure of the Bill ...............................................................3
Background .............................................................................3
How the loans will work .........................................................3
Apprenticeship numbers and completion rates .......................4
Existing support for apprentices ............................................7
Youth Allowance and Austudy .................................................7
Tools For Your Trade .............................................................7
Living Away From Home Allowance ......................................7
VET FEE-HELP........................................................................7
Committee consideration .........................................................7
Senate Economics Legislation Committee..............................7
Policy position of non-government parties/independents...........8
Position of major interest groups ............................................9
Financial implications ......................................................... 9
Statement of Compatibility with Human Rights ......................9
Key issues and provisions.....................................................10
Part 2—Loan payments .......................................................10
Part 3—Loan repayments......................................................10
Part 4—Administration .........................................................12
Other provisions .................................................................13
Concluding comments .........................................................13

Date introduced: 4 June 2014
House: House of Representatives
Portfolio: Industry
Commencement: The substantive provisions of both Bills commence on the later of the day after Royal Assent or 1 July 2014.

Links: The links to the Bills, their Explanatory Memoranda and second reading speeches can be found on the Bills’ home pages for the Trade Support Loans Bill 2014 and for the Trade Support Loans (Consequential Amendments) Bill 2014, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/
The Bills Digest at a glance

Purpose of the Bills

- The Trade Support Loans Bill 2014 establishes a new income-contingent loan programme for apprentices undertaking qualifications leading to occupations for which there is a skills shortage.
- The Trade Support Loans (Consequential Amendments) Bill 2014 amends existing bankruptcy and tax laws to incorporate references to the new loans.

Background

- The introduction of Trade Support Loans (TSL) delivers on a Coalition election promise.
- The loans are designed to address financial barriers to those wishing to take up apprenticeships and, through the provision of a 20 per cent discount, to provide an incentive for completion.

Key elements

- Apprentices undertaking qualifications leading to occupations listed on the TSL Priority List will be eligible for the loans.
- The existing Tools For Your Trade program, which provides up to $5,500 in tax-free cash payments to apprentices, will be replaced by the new loans, which will allow apprentices to borrow up to $20,000 to cover tuition and living expenses.
- The loans will be indexed in line with the Consumer Price Index and repayment will be through the tax system, on the same basis as loans under the Higher Education Loan Programme.

Stakeholder concerns

- Labor and the Australian Council of Trade Unions (ACTU) have expressed concerns about the vulnerability of young apprentices who may be pressured into taking out loans to pay for items which should be covered by employers.
- The ACTU has also raised concerns about the lack of penalties for misuse of personal information obtained in the administration of the loan. The Senate Economics Legislation Committee has recommended the government review this provision.

Key issues

- It is unclear that financial considerations are a major barrier to taking up apprenticeships, or completing them, and hence the measure may have little impact on the problem of skills shortages.
- A person’s TSL loan will not commence being repaid until they have paid back any HELP debt they have. This has the potential to extend the time taken to repay TSL loans considerably. In addition, the relatively low incomes of many tradespeople may also mean that repayment could take an extended period and the default rates may be high. Overall, this means the cost of the programme to the taxpayer may be considerable.
Purpose of the Bill
The purpose of the Trade Support Loans Bill 2014 (the Bill) is to establish the Trade Support Loans (TSL) Programme. The Trades Support Loans (Consequential Amendments) Bill 2014 makes consequential amendments to existing bankruptcy and taxation legislation.

Structure of the Bill
The Bill consists of a number of parts:

- Part 1 consists of introductory material
- Part 2 covers the qualification for loans and the arrangements for payment
- Part 3 addresses loan repayment
- Part 4 covers administration such as information management, review of decisions and overpayment recovery and
- Part 5 contains miscellaneous provisions such as indexation arrangements and the specification of the priority occupation listing.

Background
The introduction of the TSL Programme delivers on an election commitment. *The Coalition’s Policy for Better Support of Australian Apprentices*, released in August 2013, stated:

> We will provide more financial assistance to apprentices by establishing interest free ‘Trade Support Loans’ of up to $20,000 over four years to help an apprentice with everyday costs during an apprenticeship.

Trade Support Loans will be repayable at the same income thresholds as FEE-HELP loans for university students, currently set at $51,309, so apprentices do not have to repay any money until they are earning a sustainable income.

Apprentices who successfully complete their apprenticeships will receive an immediate 20 per cent discount on their Trade Support Loans. This discount will help boost apprenticeship completion rates that have dropped to lows of 48%.

This loan scheme will provide real support for current apprentices to complete their skills training and it will provide a stronger incentive for young Australians to become apprentices.

> …Existing financial assistance schemes for apprentices provide some assistance but eligibility requirements mean some miss out.¹

Funds for the establishment of the TSL Programme were then included in the 2014–15 Budget.²

How the loans will work
Loans will be available to those undertaking Certificate III or IV qualifications leading to an occupation listed on the TSL Priority List. In general, it is expected that this list will incorporate the National Skills Needs List (NSNL), which is a list of trades identified as experiencing a national skills shortage based on labour market analysis undertaken by the Department of Employment.³

While the TSLs are being compared to Higher Education Loan Programme (HELP) loans, they will operate very differently. HELP loans generally pay for tuition fees and the funds are transferred directly to the education provider. The TSLs will be paid to the apprentice at the completion of each instalment period (the Bill provides

---

for this to be between weekly and annually) and can be used to pay for living expenses and study costs. Each applicant can determine how much they wish to borrow, with the maximum available being $20,000 in total:

- $8,000 in the first year
- $6,000 in the second year
- $4,000 in the third year and
- $2,000 in the fourth year.

The decreasing amounts reflect the increasing pay usually accruing to apprentices as they progress through their apprenticeship. In addition, they will have to reapply for a loan every six months, so they are aware of the level of debt they are accumulating.

On successful completion of their apprenticeship, the outstanding loan amount will be discounted by 20 per cent. The loan amount will be indexed in line with the Consumer Price Index (CPI), and repayment will be through the taxation system at the same rates and thresholds as those for HELP loans. That is, in 2014–15, repayment will commence at a taxable income level of $53,345 and a rate of four per cent.

**Apprenticeship numbers and completion rates**

There has been a decline in the number of people undertaking apprenticeships in the last few years. As Figure 1 below shows apprenticeship numbers increased substantially during the period 2002 to 2008, before declining as a result of the Global Financial Crisis. Numbers then increased slightly from 2009 to 2012, before declining again in 2013. This has been despite ongoing shortages across many trades.

**Figure 1: Number of trade apprenticeships and traineeships in training as at 30 June—1995 to 2013**

Source: National Centre for Vocational Education Research (NCVER), *Historical time series of apprenticeships and traineeships in Australia from 1963*, NCVER, Table 1, 2 December 2010 (revised 21 November 2013), accessed 19 June 2014.

Another concern has been the very high dropout rate, with the number of those withdrawing from apprenticeships exceeding successful completions in many years over the past decade (see Figure 2 below).

---

4. Clause 10 of the Bill.
5. Clause 24 of the Bill.
6. Clause 40 of the Bill.
While it is commonly thought that low pay is a significant factor driving apprenticeship non-completion, particularly in a buoyant economy where other higher paid work is readily available, research suggests that other factors play a far greater role. For example, data from the National Centre for Vocational Education Research (NCVER) for 2008 and 2010 (see below) shows that even in 2008, with a relatively strong job market, only 8.7 per cent of apprentices left because they felt the pay was too low, and a further 3.3 per cent got offered a better job, compared with more than a quarter (26.4 per cent) who left because they did not get along with their boss or did not like the type of work. In 2010 the major cause of non-completion was losing their job or being made redundant.
Table 1: Main reason for not completing an apprenticeship, 2008 and 2010, trade occupations

<table>
<thead>
<tr>
<th>Main reason</th>
<th>2008</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(n = 429)</td>
<td>(n = 1154)</td>
</tr>
<tr>
<td></td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>Did not get on with boss or other people at work</td>
<td>16.2</td>
<td>10.2</td>
</tr>
<tr>
<td>Did not like the type of work</td>
<td>10.2</td>
<td>8.3</td>
</tr>
<tr>
<td>Other reasons</td>
<td>10.2</td>
<td>1.5*</td>
</tr>
<tr>
<td>Personal reasons</td>
<td>10.0</td>
<td>15.7</td>
</tr>
<tr>
<td>Left job or changed career</td>
<td>9.4</td>
<td>12.5</td>
</tr>
<tr>
<td>Lost job or made redundant</td>
<td>8.9</td>
<td>26.8</td>
</tr>
<tr>
<td>The pay was too low</td>
<td>8.7</td>
<td>4.7</td>
</tr>
<tr>
<td>Was not happy with the on-the-job training</td>
<td>5.4*</td>
<td>1.9</td>
</tr>
<tr>
<td>Not happy with the job prospects in the industry</td>
<td>3.6*</td>
<td>4.2</td>
</tr>
<tr>
<td>Got offered a better job</td>
<td>3.3*</td>
<td>2.2</td>
</tr>
<tr>
<td>Apprenticeship/traineeship cancelled or discontinued</td>
<td>3.2*</td>
<td>3.8</td>
</tr>
<tr>
<td>Poor working conditions</td>
<td>3.1*</td>
<td>3.1</td>
</tr>
<tr>
<td>Changed to another apprenticeship/ traineeship</td>
<td>3.1*</td>
<td>1.1*</td>
</tr>
<tr>
<td>Left to study elsewhere</td>
<td>1.9*</td>
<td>0.8*</td>
</tr>
<tr>
<td>Found the study too difficult</td>
<td>1.4*</td>
<td>1.6</td>
</tr>
<tr>
<td>Was not happy with the off-the-job training</td>
<td>1.4*</td>
<td>1.6*</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Notes: * indicates that the estimate has a relative standard error greater than 25 per cent and therefore should be used with caution.

The table is sorted by the main reason in 2008.

1 ‘Personal reasons’ includes the following: family reasons, illness, lack of time, moved, problems with travelling/transport.


One of the features of the TSLs is that those who successfully complete their apprenticeship will get a 20 per cent discount on their loan, a measure designed specifically to provide an incentive for apprentices to complete their training. This has been welcomed by industry groups, one of whom described it as ‘very clever policy’.8

However, of those who withdraw from their apprenticeship, about 40 per cent do so in the first six months and over 60 per cent have left within a year.9 It therefore seems unlikely that many of those who leave so early in their training (and hence will only have acquired a small amount of debt) will change their decision on this basis.


In addition, the existing Tools For Your Trade scheme provides a $1,500 cash bonus to those who successfully complete their apprenticeship, and this does not appear to have had a significant impact on completion rates, as the number of cancellations and withdrawals has continued to rise since this bonus was introduced in 2010. This scheme is to cease from 1 July 2014 (see below).

Existing support for apprentices

Youth Allowance and Austudy

Full-time apprentices are eligible for Youth Allowance (YA) and Austudy payments, however most do not qualify because their incomes exceed the thresholds for payment. For example, as at June 2012, there were only 12,248 apprentices out of a total of 271,472 recipients of YA.10 Also, unlike students in higher education courses, apprentices are not eligible for Start-Up Scholarships or Relocation Scholarships to assist them in meeting the costs of commencing study.

Tools For Your Trade

The Tools For Your Trade payments were first introduced by the Howard Government in the 2005–06 Budget, following a 2004 Coalition election commitment.11 This took the form of a $800 cash payment.

This was then substantially increased to $3,800 in the 2009–10 Budget, with payments over five instalments including a $700 bonus on completion.12 The value of this payment is now $5,500, including a $1,500 bonus on successful completion.13 The payment is tax free and is not included as income for social security purposes.

Apprentices undertaking Certificate III and IV qualifications leading to occupations on the NSNL are eligible for the payment as are those undertaking certain agricultural and horticultural courses.14

The Government announced in the 2014–15 Budget that the Tools For Your Trade scheme will be discontinued from 1 July 2014, as it will be replaced by the TSL Programme. This will achieve an estimated saving of $914.6 million over the forward estimates.15 In speaking about the cessation of this program, the Minister is reported as saying that apprentices had misused the funds. Minister Macfarlane reportedly stated ‘[W]e’ve got evidence that they were spending the money on tattoos and mag wheels for their cars, and birthday parties’.16

Living Away From Home Allowance

Those undertaking Certificate II or above level courses may be eligible for a Living Away From Home Allowance for the first three years of their course if they have to leave their parent’s home to study. This pays $77.17 per week (pw) in the first year, $38.59 pw in the second year and $25.00 pw in the third year.17

VET FEE-HELP

VET FEE-HELP allows students in higher level vocational education and training (VET) courses to take out an income contingent HELP loan to pay their tuition fees. There is a trial scheme extending this arrangement to a limited range of Certificate IV courses in some states.18

Committee consideration

Senate Economics Legislation Committee

The provisions of the Bill were referred to the Senate Economics Legislation Committee on 4 June 2014. The Committee reported on 17 June. Details of the inquiry are at the inquiry homepage.19

14. Ibid.
The Committee received eight submissions from a range of industry bodies, the Australian Council of Trade Unions (ACTU) and the Australian Council for Private Education and Training (ACPET). Most industry submissions were very supportive of the introduction of TSLs. However, the National Electrical and Communications Association believed that the funding would be better directed to providing incentives to employers. 20

The ACTU did not support the introduction of TSLs and raised a number of concerns about specific aspects of the Bill. 21 One of these, in relation to the lack of penalty for unauthorised disclosure of personal information, was noted by the Committee which led to it recommending:

...the government review Division 5 of Part 4.1 of the Trade Support Loans Bill 2014 to ensure that personal information obtained as a result of the Trade Support Loans Programme is adequately protected from unauthorised disclosure and modification. 22

Apart from this aspect, the Committee recommended the Bills be passed.

**Senate Standing Committee for the Scrutiny of Bills**

The Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) has written to the Minister seeking further information on the following aspects of the Bill that it regards as problematic:

- **clause 8**, which allows rules prescribed by the Minister (under **clause 106**) to set out further conditions for a TSL (rather than such conditions being provided in the Bill)
- **clauses 63 and 73**, which impose maximum sentences of imprisonment of 12 months and six months respectively for certain offences involving failure or refusal to provide documents or information, and which place the onus of proof on a defendant to establish that they had a reasonable excuse not to comply with the requirement
- **subclause 101(1)**, which allows the Secretary to delegate any or all of his or her powers or functions, including to a ‘person or organisation that performs services for the Commonwealth’
- **clause 104**, which provides for a standing appropriation out of the Consolidated Revenue Fund for certain amounts payable under the Bill and
- **clause 106**, which provides the Minister with a general rule-making power. 23

**Policy position of non-government parties/independents**

While Labor has stated that it will not oppose the Bill, it has proposed a number of amendments aiming to provide greater protection to apprentices who might take out these loans. 24 In particular it has expressed concern about the possibility of exploitation of young apprentices, who may be pressured to pay for costs that would otherwise be borne by employers. 25

The Greens have raised concerns about the potential increase in the interest rate on the loans, given the proposed changes to HELP loan interest rates. 26

---

25. Ibid., p. 73.
Position of major interest groups
As mentioned above, most industry groups appear to be supportive of the TSL. In particular, the change from a cash payment under the current Tools For Your Trade arrangements to an ‘opt-in’ loan is seen as meaning that apprentices will consider the payment more carefully:

The apprentice pays back a loan so they will be more targeted on what they spend it on. The previous Tools For Your Trade allowance was viewed as a bit of a gift and had the potential to be squandered.\(^{27}\)

In its submission to the Senate Economics Legislation Committee inquiry, the ACTU raised a number of concerns, including the issue of potentially inadequate privacy, which was taken up by the Committee. It also raised particular concerns about the lack of clarity on how the TSL Priority List would be determined and how the instalment periods would be decided.\(^{28}\)

Financial implications
The establishment of the TSL Programme is expected to cost $439.0 million to the fiscal balance over the forward estimates.\(^{29}\) It is unclear what is covered by this figure, apart from the costs of administering the loans. Other substantial costs will be associated with the programme, but they may not impact on the fiscal balance. These include:

- the 20 per cent discount on successful completion of the qualifying apprenticeship
- debts not repaid and
- the effective subsidy implied by indexing the loans to the CPI rather than to the Government bond rate (that is, the notional interest rate that would have applied had the Government lent the money on the open market).

This is because (as with HELP debt) the outstanding debt amounts will appear as assets in the Budget figures, and a write down in asset value does not affect the fiscal balance.

While estimates of the impact of these factors have not been provided in relation to TSLs, the HELP experience provides some guide to their magnitude. The Department of Education expects that some 20 per cent of new HELP debt incurred in 2014–15 will not be repaid, and that this will rise to 23 per cent of debt incurred in 2017–18.\(^{30}\) For further discussion about the possible levels of non-repayment for TSLs see under ‘Part 3—Loan repayments’ below.

Estimating the cost of the interest-rate subsidy is complex, however the Grattan Institute suggested that for 2011–12 the net interest bill in HELP debt was some $580 million on a debt of almost $26.3 billion.\(^{31}\) Changes to HELP debt indexation arrangements announced in the 2014–15 Budget will remove this effective subsidy for HELP debt from 1 June 2016.\(^{32}\) When questioned at Senate Estimates about whether consideration was being given to increasing the TSL indexation to align with that for HELP debt, the Government responded that indexing TSLs to the CPI was consistent with its election commitment.\(^{33}\)

Statement of Compatibility with Human Rights
As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bills’ compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.\(^{34}\) The Government considers that the Bills are compatible.

\(^{27}\) Sarino Rosso Apprenticeships, op. cit.
\(^{28}\) ACTU, op. cit.
\(^{33}\) Senate Economics Legislation Committee, Official committee Hansard, 2 June 2014, op. cit., p. 85.
\(^{34}\) The Statement of Compatibility with Human Rights can be found at pages 5–7 of the Explanatory Memorandum.
Key issues and provisions

Part 2—Loan payments

Clause 8 of the Bill sets out the qualifications for being eligible for a TSL, including a residency requirement and that the applicant must be undertaking a qualifying apprenticeship—including that it leads to an occupation prescribed on the TSL Priority List (clause 8, subparagraph 2(ii)). As set out above, the Scrutiny of Bills Committee has written to the Minister to seek further information on the ability to prescribe further conditions for qualification for a TSL.35

Clause 9 introduces the concept of a lifetime limit for loans under the TSL Programme. This means that where someone undertakes more than one apprenticeship (for example, commencing but not completing one apprenticeship and then undertaking a second one) they can take out an additional loan provided the total amount ever borrowed is less than the lifetime limit. This limit is $20,000, to be indexed from 1 July 2017 in line with increases in the CPI (see clauses 5 (definitions) and 99).

The instalment period in relation to which a payment can be made is described in clause 10. This clause provides that the instalment period can be anything between one week and a year. The duration is to be prescribed in the rules. In his second reading speech, Minister Macfarlane stated that the loans would be paid monthly in arrears.36 It is unclear why, if this is the intention, the period was not specified at one month, and what the purpose was in specifying multiple possible periods.

Clause 11 provides for special circumstances where an apprentice receives a payment for which they were not entitled that will not be considered an overpayment. For example, where a person was paid for an instalment period after they completed their qualification, but the state or territory training authority has not yet notified the Secretary that the training is deemed to have been completed, such a payment will not be considered an overpayment.

The procedures concerning the application process and consideration of applications are covered in clauses 12 to 21.

Clause 22 provides for the payment of instalments in arrears. This means that the apprentice cannot use the funds to pay the upfront costs associated with commencing an apprenticeship such as the payment of tuition fees, or the purchase of essential tools or clothing. However the TSL could potentially be used to pay off a commercial loan taken out for these purposes. Clause 23 specifies how the instalment amount is calculated, while clause 24 sets out the maximum yearly amounts available. Payment is to be made to the apprentice’s bank account (clause 25).

Part 3—Loan repayments

In general, the arrangements for loan repayments replicate the arrangements for the repayment of HELP loans. This includes that any outstanding debt is taken to have been paid in the event of death, but debts are not provable in bankruptcy (clauses 28 and 38).

Clauses 31 to 38 detail the calculations required to work out someone’s accumulated debt for a financial year, taking into account any further debts incurred, whether there is a completion discount, and whether there has been any repayment of the loan. The TSL indexation factor calculations are described in clause 32, while the index number used to calculate the factor is specified in clause 33 as the All Groups CPI. The indexation factor must be published before 1 June each financial year (clause 34).

Clause 40 describes the arrangements for calculation of the completion discount. This provides for a 20 per cent discount on the total amount of loan instalments that were paid to the person. Where someone has attempted more than one qualifying apprenticeship, the discount will apply to the total amounts received across both apprenticeships, unless the discount has been previously applied to the earlier amount (that is, if they previously successfully completed an apprenticeship). It should be noted that the discount applies to the amount of payment received, not the accumulated debt. Therefore, under current rates, someone taking out the full $20,000 loan without making any repayments and successfully completing their apprenticeship will have their

35. Senate Standing Committee for the Scrutiny of Bills, op. cit., p. 67.
loan discounted by $4,000, but their accumulated debt will be more than $20,000 because of the CPI indexation of the earlier years of the loan.

In its submission to the Senate Economics Legislation Committee inquiry, the Restaurant and Catering Industry Association recommended that the completion discount should be a flat $4,000 rather than a percentage of the loan, so that those who do not chose to take out their full loan would still receive the full completion benefit.37

Clause 43 provides the option for voluntary loan repayments. There is no discount for these repayments, unlike currently applies for HELP debts. Abolition of the HELP discount was proposed in the 2013–14 Budget, and legislation introduced into the Parliament in November 2013, but it is yet to be passed.38

The arrangements for the compulsory repayment of loan debt are detailed in clauses 46 to 57. Clause 46 states that where a person’s repayment income exceeds the minimum repayment income (which is the same as the minimum repayment income under the Higher Education Support Act (HESA) 2003—see clause 5), they are liable to repay their TSL debt at the rate specified under section 154–1 of the HESA, once any HELP debt is repaid.

This means that anyone who acquires both a HELP debt and a TSL debt and repays through the taxation system will potentially take a considerable time before they start paying back their TSL debt. There is no data on the number of people who have undertaken both apprenticeship and higher education studies, but there is evidence that there is considerable movement more generally between the sectors.

Some 50,000 Certificate III and IV students in VET in 2009 had previously completed a bachelor degree.39 Of these, the majority were studying in fields such as management, education and society and culture, and hence would not have been undertaking apprenticeships. However some 8,000 were in engineering and related technologies, or in food, hospitality and personal services, both of which have a high number of apprenticeship courses, and this figure does not include those who partially completed a university degree and then switched to a VET course.

In addition, more than 17,000 of those who completed a Certificate III or IV in 2009 were studying at university in 2010.40 Again, not all of these would have undertaken apprenticeships but many may have, and this doesn’t include those who may have undertaken higher level study after a break, or before completing their VET qualification.

Tax statistics for the 2011–12 income year show that more than 15,000 of those who filed a tax return and declared their main occupation as either an apprentice or working in a technical or trade occupation had a HELP debt.41

All of these figures are likely to underestimate the number of people who will potentially have both a HELP and a TSL debt once the scheme has been in operation for some time. The 2014–15 Budget also included measures to expand the range of courses for which a HELP loan will be available, including into higher level VET courses such as diplomas and advanced diplomas, which may be attractive to those who have previously studied a trade.42

Given that in 2012–13 the average time to repay a HELP debt was 8.4 years, this suggests that some people will not begin to start repaying their TSL debt for some considerable time after they accrue it.43

Among those who do go on to work in a trade, the remuneration levels are typically lower than for graduates. Based on the 2011 Census distribution of incomes of those who are working in a technical or trade occupation, only about half would meet the minimum repayment threshold for TLS repayments.44

40. Ibid.
44. Parliamentary Library calculations based on 2011 Census of Population and Housing data.
Overall, this suggests that both the repayment is likely to take longer and the default rate is likely to be higher on TSLs than for HELP debt.

As the Commissioner of Taxation is responsible for the collection of TSL debts, clauses 53 to 57 describe the relationship between tax law and TSLs to ensure the Commissioner has appropriate powers to undertake this function.

**Part 4—Administration**

Clauses 59 to 63 include the information-gathering powers of the Secretary for the purposes of the proposed Act. Where a person refuses or fails to comply with a request for information they are subject to a penalty of up to 12 months imprisonment (sub-clause 63(1)). As set out above, the Scrutiny of Bills Committee has written to the Minister to seek further information on the appropriateness of this penalty, observing that it appears to be considerably harsher than penalties imposed for comparable offences.\(^{45}\)

Provision of a tax file number is a requirement for obtaining a TSL. Clauses 65 to 70 cover the arrangements associated with this aspect of administration, including where an incorrect tax file number is provided. The obligation for an applicant for or recipient of a TSL to notify the Secretary of a change of circumstances is included under clauses 71 to 73.

Division 5 of Part 4.1 covers the use of personal information for purposes under the proposed Act. As noted by the Senate Economics Legislation Committee (see above), while under this Division the Secretary can require an officer to make an oath or affirmation to protect any information obtained in accordance with this Division, there is no penalty for misuse of information so obtained. Administration of the TSL is to be undertaken by Australian Apprenticeship Centres, which are contracted agencies and hence outside the provisions applying to public service employees. The nature of the information obtained to administer TSLs will include sensitive personal identifying information including tax file numbers, bank account details and employment contracts. It would therefore seem appropriate to include in the Bill some penalty for misuse of personal information obtained in the course of administering the loans.

Part 4.2 provides for the review of decisions made under the proposed Act. Reviews may be either internal reviews (Division 2) or undertaken by the Administrative Appeals Tribunal (Division 3).

Where an apprentice has received a payment to which they were not entitled (for example, where they have withdrawn from an apprenticeship but received the following instalment due to a delay in notification of withdrawal) this gives rise to an overpayment (see clause 90). Overpayments are not repaid through the tax system but can be recovered either through a payment arrangement (clause 92) or legal proceedings (clause 93). In some circumstances the debt may be written off or waived, for example in the case of a small debt (clauses 94 to 97).

Clause 99 describes the indexation arrangements for the lifetime limit and the yearly rate. Both are to be indexed in line with the CPI from 1 July 2017.

The provisions of the TSLs will apply to those under 18 in the same way as they apply to those aged 18 or older (clause 100). The Labor party has raised some concerns about the implications for those under 18 entering into loan arrangements without requiring parental approval and whether parents may be liable for a loan in these circumstances. \(^{46}\) Interestingly, there is no such provision in the HESA, although the number of higher education students under 18 taking out a HELP loan is likely to be less than for apprentices taking out a TSL.

Clause 103 requires the Secretary to provide an annual report to the Minister on the operations of the TSL scheme as soon as practicable after 30 June each year, and the Minister must table this report in Parliament within 15 sitting days after the Minister receives the report.

Clause 105 describes how the TSL Priority List will be determined. The TSL Priority List will be a legislative instrument established and maintained by the Minister. It will list those occupations for which, or the qualifications leading to occupations for which, the Minister deems skilled persons are a priority. It may incorporate material from another instrument, and in particular it is expected that it will include those occupations listed on the NSNL.

---

\(^{45}\) Senate Standing Committee for the Scrutiny of Bills, op. cit., p. 68.

\(^{46}\) S Bird, op. cit., p. 73.
The addition of occupations not on the NSNL raises interesting questions, given that list has been developed as a result of labour market research and analysis undertaken by the Department of Employment. On what basis will the Minister be able to add occupations to the TSL Priority List, which have not been assessed as skills in need through the Department’s analysis? At present, students in certain agricultural and horticultural courses are eligible for the Tools For Your Trade payments, although these occupations are not listed in the NSNL. It is unclear whether these students will be eligible for the TSLs, and hence they may be denied continuing financial support when the Tools For Your Trade scheme ceases on 1 July 2014.

Clause 106 gives the Minister the power to make, by legislative instrument, rules prescribing the operations of the TSLs. In particular, sub-clause 10(2)(b) states that the duration of the instalment period for which the loan is payable will be prescribed by the rules. As set out above, the Scrutiny of Bills Committee has written to the Minister to seek further information on the scope of the rules that may be prescribed under this clause, and whether the rule-making power might be regarded as an inappropriate delegation of legislative power.

Other provisions

The provisions of the Trade Support Loans (Consequential Amendments) Bill 2014 contain technical amendments to other Acts required to incorporate references to the new loans. These include amending the Bankruptcy Act 1966 to include the TSL debts in the same subsection that addresses the treatment of HELP debts (item 1). The other items are amendments reflecting the treatment of TSLs in tax law. These generally mirror the treatment of HELP loans.

Concluding comments

Declining apprenticeship numbers and low completion rates have been a concern for governments for some years. However it is not clear that financial considerations are the main factor driving the lack of supply of qualified tradespeople in high demand occupations, and hence the provision of higher levels of financial support alone may have a limited impact in overcoming these shortages. To the extent that financial constraints are a factor, the proposed arrangements for the new loans will not directly address the high start-up costs some apprentices face, as the payments will be made in arrears.

One of the criticisms of the Tools For Your Trade scheme, which provides tax-free cash payments to eligible apprentices, is that the recipients spend the money on non-essential items. While some supporters of the TSL programme have suggested that money received in the form of a loan will be spent more responsibly, it remains to be seen whether this will be the case.

While it appears the TSL programme provides greater financial support to apprentices at a lower cost to government than the existing Tools For Your Trade scheme, potentially high loan default rates and the extended time many debtors may take to pay back loans with a subsidised interest rate may mean that the long term cost to tax-payers is significant.

Some elements of the TSL Programme are not yet specified, such as the instalment period for payments and which qualifications will be included. Both these issues are to be addressed by legislative instruments which will be issued separately.

A particular concern is the absence of any penalty for misuse of personal information obtained in the course of administering the TSLs. As the information available to the administrators will include extensive personal information including tax file numbers and bank account details, this omission appears to represent a high level of risk. This may have been an oversight and can be addressed by an amendment at the time of debate.

47. Senate Standing Committee for the Scrutiny of Bills, op. cit., pp. 71–73.