Education Legislation Amendment (2019 Measures No. 1) Bill 2019

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Social Policy Section

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Date introduced: 16 October 2019
House: House of Representatives
Portfolio: Education

Commencement: Schedules 1 and 2 commence on 1 January 2020. Part 1 of Schedule 3 commences on 1 January 2019. The remainder of the Bill commences on the day the Act receives Royal Assent.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through the Australian Parliament website.

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the Federal Register of Legislation website.

All hyperlinks in this Bills Digest are correct as at November 2019
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Purpose of the Bill

The primary purpose of the Education Legislation Amendment (2019 Measures No. 1) Bill 2019 (the Bill) is to amend the Higher Education Support Act 2003 (HESA) to give effect to the commitment, in the Indigenous Youth Education Package in the 2019–20 Budget, to ‘extinguish Higher Education Loan Program (HELP) debt incurred for recognised teaching qualifications after teachers have been placed in very remote locations of Australia for four years’.  This commitment was first announced in the Prime Minister’s Closing the Gap speech of 14 February 2019.

The scheme proposed in the Bill would allow school and early childhood education teachers employed in very remote locations of Australia from 1 January 2019 to apply to:

- have the indexation of their HELP debt frozen while they work in a remote area and
- have HELP debt for their initial teacher education (ITE) course remitted, following the completion of four years (or part-time equivalent) in a remote area.

To give effect to the policy commitment, the above applies retrospectively from 1 January 2019.

The Bill also proposes to:

- amend HESA to give effect to a second 2019–20 Budget commitment to increase the HELP loan limit for people studying specified high cost aviation courses, to bring it into line with the limit for medicine, dentistry and veterinary science students and
- amend HESA and the VET Student Loans Act 2016 (VSL Act) to expand information sharing provisions.

A number of minor technical and consequential amendments have also been included in the Bill. These are not discussed in this Bills Digest.

Background

Initial teacher education

The Bill addresses HELP debt associated with teachers’ ITE courses. An ITE course is ‘a higher education program that is accredited to meet the requirements for registration as a school teacher in Australia’. Programs are accredited by each state and territory’s teacher regulatory authority. Registration of early childhood teachers is required under some state and territory legislation.

The national Accreditation Standards and Procedures set out the structure and content requirements for ITE programs. Graduates undertake a four-year or longer full-time equivalent higher education qualification that is structured in one of the following ways:

6. Australian Children’s Education & Care Quality Authority (ACECQA), ‘Early childhood teacher registration and accreditation’, ACECQA website, n.d.
7. AITSL, Accreditation of initial teacher education programs in Australia: standards and procedures, AITSL, Melbourne, 2018.
• a three-year undergraduate degree providing the required discipline knowledge, plus a two-year graduate entry professional qualification (for example, a Bachelor of Arts plus a Master of Teaching)

• an integrated degree of at least four years comprising discipline studies and professional studies (for example, a Bachelor of Education: Primary; Bachelor of Education: Early Childhood)

• combined degrees of at least four years comprising discipline studies and professional studies (for example, a Bachelor of Education: Secondary and a Bachelor of Arts) or

• other combinations of qualifications proposed by the provider and approved by the Authority in consultation with Australian Institute for Teaching and School Leadership (AITSL) as equivalent to the above that enable alternative or flexible pathways into the teaching profession.¹

In 2018 in Australia, there were 84,426 students enrolled in ITE courses, of which 67,902 were enrolled at undergraduate level and 16,524 at postgraduate level.

Each year, around 17,000 students complete their ITE course (see Table 1).

Table 1: enrolments and completions by course level, initial teacher education courses, domestic higher education students, 2013–2018

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enrolments</td>
<td>79,120</td>
<td>83,127</td>
<td>84,787</td>
<td>88,941</td>
<td>84,426</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>16,348</td>
<td>17,232</td>
<td>17,338</td>
<td>18,044</td>
<td>16,524</td>
</tr>
<tr>
<td>Undergraduate</td>
<td>62,772</td>
<td>65,895</td>
<td>67,449</td>
<td>70,897</td>
<td>67,902</td>
</tr>
<tr>
<td>Commencements</td>
<td>29,317</td>
<td>29,833</td>
<td>28,786</td>
<td>29,940</td>
<td>25,835</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>9,400</td>
<td>8,949</td>
<td>8,689</td>
<td>8,650</td>
<td>7,507</td>
</tr>
<tr>
<td>Undergraduate</td>
<td>19,917</td>
<td>20,884</td>
<td>20,097</td>
<td>21,290</td>
<td>18,328</td>
</tr>
<tr>
<td>Completions</td>
<td>17,708</td>
<td>17,231</td>
<td>16,985</td>
<td>17,604</td>
<td>16,461</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>7,148</td>
<td>6,635</td>
<td>6,284</td>
<td>6,531</td>
<td>5,661</td>
</tr>
<tr>
<td>Undergraduate</td>
<td>10,560</td>
<td>10,596</td>
<td>10,701</td>
<td>11,073</td>
<td>10,800</td>
</tr>
</tbody>
</table>

Source: Department of Education, [Higher Education Statistics Data Cube](https://uCube) which is based on the student and staff data collections. Note: Undergraduate includes Bachelor’s Graduate Entry, Bachelor’s Honours, Bachelor’s Pass, Associate Degree, Advanced Diploma (Australian Qualifications Framework), Diploma (AQF) and other Award courses.

Of all students completing ITE qualifications in 2016, the proportion of students completing primary and secondary qualifications was similar, with both at 33 per cent of completions. Completions in early childhood qualifications comprised 13 per cent of completions, with the remaining 21 per cent of completions in combined primary/secondary/early childhood or unspecified ITE qualifications.⁹ Completions in early childhood qualifications have risen steadily, from 1,948 in 2007 to 4,018 in 2016.¹⁰

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8. Ibid., p. 13.
9. Ibid., p. 13. These figures are the latest available breakdown of this kind, and include both domestic and international students.
10. Ibid., p. 10.
Course costs

A domestic student enrolling in a four year undergraduate ITE degree would currently be in a Commonwealth Supported Place (CSP), which means their student contribution is capped by the Government. In 2020, this cap is $6,684 per full time year, equating to costs of around $26,736 for four years study. Some Master of Teaching students also receive CSPs, equating to $13,368 for a two year course. However, CSPs are not available for all postgraduate coursework qualifications, which often means students pay full fees, which are more costly than the ‘student contribution’ required in a CSP. As some examples:

• the University of Canberra’s two year Master of Secondary Teaching is $32,000 for domestic full-fee-paying students, based on 2019 fees and
• Deakin University’s Master of Teaching (Primary) is $44,800 for domestic full-fee-paying students, based on 2020 fees.

The Higher Education Loan Program

Eligible students can defer the up-front cost of their student contribution or course fee through HELP. HELP comprises income contingent loans that are repaid through the Australian Taxation Office (ATO) once a person’s income reaches a minimum repayment threshold, which is $45,881 with a repayment rate of one per cent for the 2019–20 financial year. The repayment rate increases according to the taxpayer’s income, to a maximum of ten per cent on incomes of over $134,573.

A number of different HELP schemes are available depending on a student’s circumstances. For eligible higher education students, the schemes to defer course fees are:

• HECS-HELP, which is used by Commonwealth supported higher education students (that is, students with a CSP in a course), typically domestic undergraduate students studying at Australian public universities. In 2018, 826,572 higher education students used HECS-HELP (97.3 per cent of 849,108 Commonwealth supported students).

11. Department of Education (DoE), ‘Commonwealth supported places (CSPs)’, StudyAssist website.
12. DoE, ‘Student contribution amounts’, StudyAssist website. Specific costs will be based on the mix of units the student takes. For 2020, units in humanities, behavioural science, social studies, education, clinical psychology, foreign languages, visual and performing arts, and nursing are capped at $6,684 per full time year; units in computing, built environment, other health, allied health, engineering, surveying, agriculture, mathematics, statistics, and science, are capped at $9,527 per full time year; and units in law, dentistry, medicine, veterinary science, accounting, administration, economics, and commerce are capped at $11,155 per full time year. These amounts are indexed each year.
13. For example, see Southern Cross University (SCU), ‘Master of Teaching’, SCU website; The University of Queensland (UQ), ‘Teaching (Secondary)’, UQ website; Deakin University, ‘Master of Teaching (Primary)’, Deakin University website; Australian Catholic University (ACU), ‘Master of Teaching (Secondary)’, ACU website; University of Melbourne (UoM), ‘Master of Teaching (Primary)’, UoM website; University of Adelaide, ‘Master of Teaching (Middle and Secondary)’, University of Adelaide website.
15. Deakin University, ‘Master of Teaching (Primary)’, op. cit.
17. Ibid.
20. DoE, Selected Higher Education Statistics – 2018 Student data, 2018 Section 5 - Liability status categories, Tables 5.6 and 5.7.
• FEE-HELP, which is used by domestic full fee-paying higher education students. In 2018, 136,869 higher education students used FEE-HELP (70.5 per cent of 194,237 domestic fee-paying students). The average time to repay HELP debt is increasing, and reached 9.2 years in 2018–19, up from 9.1 years in 2017–18.

**Educational issues facing students in very remote locations**

Reviews and research over a long period show persistent educational issues in regional, rural and remote (RRR) settings. A paper presented to the Australian Council for Educational Research (ACER) Conference 2014 stated:

Forty years ago, in the report to the Australian Schools Commission, Karmel identified several aspects of educational disadvantage experienced by schools in country areas – including high teacher turnover, low retention rates, less confidence in the benefits of education, limited cultural facilities in the community, lack of employment opportunities for school completers, and a less relevant curriculum – that led to lower levels of attainment (Karmel, 1973). These issues are still relevant today.

Performance outcomes for students on a range of indicators worsen with remoteness. There are also substantial overlaps between remoteness and other sources of educational disadvantage, such as socio-economic status, and students’ Aboriginal and Torres Strait Islander status.

Students from very remote schools have poorer results on national and international standardised tests, such as National Assessment Program—Literacy and Numeracy (NAPLAN) and Programme for International Student Assessment (PISA). The Mitchell Institute’s report, *Educational Opportunity in Australia 2015: Who Succeeds and Who Misses Out*, examined young people’s progress on four key educational milestones: early years (school readiness), succeeding in the middle years (measured at entry to secondary schooling), completing school by age 19, and engaged in education, training or work at age 24.

The report showed that the proportion of very remote students who met the requirements at each milestone was between 19 and 48 percentage points lower than for the Australian population as a whole and that the achievement gaps between young people in metropolitan and non-metropolitan areas widened as they progressed through their education (Figure 1).

22. DoE, Selected Higher Education Statistics – 2018 Student data, 2018 Section 5 - Liability status categories, Tables 5.6 and 5.7.
Figure 1: proportion of students meeting educational milestones by location


Remote Aboriginal and Torres Strait Islander students

Like the non-Indigenous population, the majority of the Aboriginal and Torres Strait Islander population live in non-remote areas. However, a much higher proportion of the population and hence the school students in very remote areas are Aboriginal and Torres Strait Islander people. In the 327 very remote schools which the Minister indicated would be covered by this measure, approximately 68 per cent, or nearly 20,000, of the students are Aboriginal and/or Torres Strait Islander students, and approximately 189 or 57 per cent of the schools have a student body which is more than 80 per cent Indigenous.28

Poor educational outcomes for Aboriginal and Torres Strait Islander children and students in remote and very remote schools are a major contributor to the ‘gap’ in overall Indigenous educational outcomes. Despite some significant improvements over the last decade, Indigenous early childhood attendance rates in very remote areas were below 80 per cent in 2017, compared to 95 per cent in urban and inner regional areas.29 In the first semester of 2018, Indigenous school attendance rates in very remote areas were at 63 per cent, compared to 86 per cent in inner regional areas.30 NAPLAN results also vary by remoteness; in 2017, 88 per cent of Indigenous Year

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3 students in major city and inner regional areas met or exceeded the national minimum standard for reading, but only 46 per cent of those in very remote areas met or exceeded the standard.\textsuperscript{31}

**Early childhood education**

As highlighted in the 2017 *Lifting our Game: Report of the Review to Achieve Educational Excellence in Australian Schools through Early Childhood Interventions* (ECE Review), participation in high quality early childhood education (ECE) can improve students’ performance on tests like NAPLAN and PISA, as well as having a positive impact on students throughout their subsequent schooling and life, including school readiness, Year 12 completion, levels of employment and health outcomes.\textsuperscript{32} These positive effects are greater for vulnerable and disadvantaged children.\textsuperscript{33}

Under the National Partnership Agreements on Universal Access to Early Childhood Education, governments have committed to the goal of 95 per cent of children being enrolled in a quality early childhood education program for 600 hours per year in the year before full-time school.\textsuperscript{34} In 2018, all states and territories exceeded the benchmark.\textsuperscript{35}

However, children experiencing disadvantage, including Indigenous children and children from remote areas, are disproportionately less likely to be enrolled than the general population.\textsuperscript{36} Additionally, the proportion of children enrolled versus attending the target 600 hours of ECE in the year before fulltime school is lower for children in very remote areas, and particularly Indigenous children in very remote areas, than Australian children overall (Table 2).

### Table 2: Children enrolled and attending ECE program (600 hours) in year before school

<table>
<thead>
<tr>
<th></th>
<th>Enrolled</th>
<th>Attending</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children in very remote areas</td>
<td>2,492</td>
<td>1,575</td>
<td>63.2%</td>
</tr>
<tr>
<td>Aboriginal and Torres Strait Islander children in very remote areas</td>
<td>1,453</td>
<td>752</td>
<td>51.8%</td>
</tr>
<tr>
<td>Total Australian children</td>
<td>286,641</td>
<td>243,298</td>
<td>84.9%</td>
</tr>
</tbody>
</table>

Source: Parliamentary Library calculations; figures drawn from Australian Bureau of Statistics (ABS), *Preschool education, Australia, 2018*, cat. no. 4240.0, ABS, Canberra, 2019. Remoteness area is that of the providers.

Potential attendance barriers can include costs, service operating hours and location, cultural issues, distrust of government and early childhood services and staffing issues, such as recruiting and retaining Aboriginal and Torres Strait Islander staff.\textsuperscript{37}

**Teachers in very remote schools**

One of the key challenges faced by schools and early childhood education providers in remote areas is attracting and retaining teachers. Currently, approximately 3,500 teachers are employed

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\textsuperscript{33} Ibid.

\textsuperscript{34} Council of Australian Governments (COAG), *National Partnership Agreement on Universal Access to Early Childhood Education*, COAG, Council on Federal Financial Relations website, multiple years.

\textsuperscript{35} Productivity Commission (PC), ‘*Provide universal access to preschool*’, Performance Reporting Dashboard website.

\textsuperscript{36} Pascoe and Brennan, ECE Review, op. cit., p. 32.

\textsuperscript{37} Ibid., pp. 32–33.
across 327 very remote schools and 250 early childhood education and care services.\textsuperscript{38} Map 1 shows the location of schools classified as very remote, as well as Australian Government Indigenous Locations, which are the locations where Australian Government policies, programs or grants have been, are being, or will be dispersed for Indigenous persons. Figures from the Australian Bureau of Statistics (ABS) indicate there were nearly 30,000 full time equivalent (FTE) students in very remote schools in 2018.\textsuperscript{39} There were 2,701 children aged four or five years enrolled in preschool programs in very remote areas.\textsuperscript{40} A survey of staff in Australian schools last conducted in 2013 found that remote schools have a higher proportion of early career teachers, the teaching workforce is less experienced, and teachers and leaders have been at their current school for a shorter period of time than their metropolitan counterparts.

- Early career teachers made up 45 per cent and 30 per cent of the primary and secondary teacher workforce respectively in remote area schools, compared with 22 per cent of the primary teacher workforce and 18 per cent of the secondary teacher workforce overall.\textsuperscript{41}
- Teachers in remote schools had on average about 3–5 years less experience than teachers in metropolitan and provincial schools.\textsuperscript{42}
- Primary teachers in remote areas spent an average of 6.2 years at their current school, compared with 8.3 years in metropolitan locations, while secondary teachers spent an average of 5.4 years at their current school in remote areas compared with 9.3 years in metropolitan areas.\textsuperscript{43}

For reasons noted below, the above would appear to suggest that the Bill will provide financial incentives rewards for early career teachers rather than experienced teachers. As such, it may result in ‘a windfall gain to graduates who find out about it’,\textsuperscript{44} rather than acting as a significant incentive that shapes the career decisions of experienced teachers. In addition, as the four-year qualifying period is less than the average time spent by primary teachers in remote schools the Bill may not provide an effective incentive for teachers to remain longer in remote schools than is currently the case.

Research into remote education consistently identifies particularly acute challenges for the remote and very remote schools attended by these Aboriginal and Torres Strait Islander students, including low teacher retention and high staff churn. The \textit{Independent Review into Regional, Rural and Remote Education} (IRRRRE), released in January 2018 stated:

\begin{quote}
The fifth critically important matter that needs to be addressed in regard to teachers is reducing their turnover rate in remote Aboriginal and Torres Strait Islander schools and increasing the overall experience of those who are appointed... Beginning teachers have historically been one of the main sources of staffing for remote Aboriginal and Torres Strait Islander schools. While some succeed and make a very significant contribution to the children they teach, as I saw at the Soapy Bore Homeland
\end{quote}

\begin{thebibliography}{44}
\bibitem{39} Australian Bureau of Statistics (ABS), ‘Table 46a Students (FTE) by ASGS Remoteness Indicator, 2018’, \textit{Schools Australia 2018}, cat. no. 4221.0, ABS, Canberra, 2019.
\bibitem{40} ABS, ‘Table 9 Children enrolled, children aged 4 or 5 years, sector, remoteness area of provider’, \textit{Preschool Education Australia 2018}, cat. no. 4240.0, ABS, Canberra, 2019.
\bibitem{42} Ibid., p. xxiv.
\bibitem{43} Ibid., p. 46.
\bibitem{44} D Kemp and A Norton, \textit{Review of the demand driven funding system}, report prepared for the DoE, Canberra, 2014, pp. 31–32.
\end{thebibliography}
School in the Northern Territory, there is more that can be done to build the capacities and experiences of early career teachers before they are appointed to remote schools.  

Map 1: location of schools classified as very remote

Source: Material used ‘as supplied’: Australian Bureau of Statistics; StreetPro © 2018 Pitney Bowes Software Pty Ltd. All Rights Reserved. Derivative material: Based on material supplied by: Dept. of Education and Training; Dept. of Human Services; Geoscience Australia; Australian Bureau of Statistics; Australian Electoral Commission. Maps have been prepared using school data as at the August 2017 school census and do not account for any changes (such as new schools, name changes, school mergers or school closures) that have occurred since that date, except for school closures from August 2017 to January 2018. Australian Government Indigenous Locations (AGIL) data is current as at 8 February 2019 and contains the names (preferred and alternate) for the locations where Australian Government policies, programs or grants have been, are being or will be dispersed for Indigenous persons at this location. Except as required by law, the Commonwealth will not be liable for any loss, damage, expense or cost (including any incidental or consequential loss or damage) incurred by any person or organisation arising out of use of, or reliance on, this map.

The practical effects of these issues are illustrated in the 2018 evaluation of the Flexible Literacy for Remote Primary Schools Program (FLRPSP), which included 35 remote and very remote, predominantly Indigenous, primary schools across the NT, WA and QLD, and found:

- average staff retention in any given year was 42 per cent (that is, on average more staff left during any given year than stayed for at least one full year), with some schools reporting staff retention of less than 20 per cent.\(^\text{46}\)
- 38 per cent of teachers who responded to a staff survey had been at a school for less than two years and another 42 per cent had been at a school for between two to five years\(^\text{47}\) and
- high turnover significantly impacted the schools’ ability to deliver both the normal curriculum and the specialised Explicit/Direct Instruction curriculum of the FLRPSP, as there was little continuity of student instruction and mentoring, and staff training had to be frequently re-delivered to bring new teachers up to speed.\(^\text{48}\)

The above suggests that the provision of financial incentives of the form proposed by the Bill will largely reward early career teachers rather than experienced ones.\(^\text{49}\) In addition as the four-year qualifying period is less than the average time spent by primary teachers in remote schools, the Bill may not provide enough of an incentive to encourage teachers to remain longer in remote schools than is currently the case.

In a Statement to Parliament on Remote Indigenous Education on 6 December 2018, then Special Envoy for Indigenous Affairs Tony Abbott recommended a scheme similar to that proposed in the Bill, stating that HELP debts should be waived for ‘teachers who, after two years of experience in other schools, teach in a very remote school and stay for four years’.\(^\text{50}\) This recommendation was subsequently cited in the Prime Minister’s Closing the Gap speech which introduced this measure.\(^\text{51}\) However, Mr Abbott’s statement also pointed to the complexities of the challenge facing governments in this area, and the need for action on multiple fronts:

A key factor [in remote school attendance and performance] is the high turnover of teachers, who are often very inexperienced to start with. In the Northern Territory’s remote schools, for instance, most teachers have less than five years experience, and the average length of stay in any one school is less than two years …

I am much more confident than I expected to be that, left to their own devices, the states and territories will manage steady, if patchy, progress towards better attendance and better performance, but what will be harder to overcome, I suspect, is communities' propensity to find excuses for kids’ absences and school systems' reluctance to tailor credentials and incentives for remote teachers. This is where the federal government could come in to back strong, local Indigenous leadership ready to make more effort to get their kids to school and to back state and territory governments ready for further innovation to improve their remote schools.

While all states and territories provide incentives and special benefits for remote teachers, sometimes, I regret to say, these work against long-term retention. In one state, for instance, the incentives cease once a teacher has been in a particular school for five years. In others a remote teaching stint means


\(^{47}\) Ibid., pp. 79–80.

\(^{48}\) Ibid., p. 102.

\(^{49}\) Kemp and Norton, *Review of the demand driven funding system*, op. cit., pp. 31–32.


preferential access to more-sought-after placements, so teachers invariably leave after doing the bare minimum to qualify.

There should be special literacy and numeracy training, as well as cultural training, before teachers go to remote schools where English is often a second or third language, and there should be substantially higher pay in recognition of these extra professional challenges. Because it takes so long to gain families' trust, there should be substantial retention bonuses to keep teachers in particular remote locations. We need to attract and retain better teachers to remote schools and we need to empower remote community leadership that is ready to take more responsibility for what happens there. The objective is not to dictate to the states their decisions about teacher pay and staffing but to work with them so that whatever they do is more effective ...

One key message from this statement, and the other research cited above, is that teachers who have more training and support, and are more experienced, are likely to be better able to work effectively over the longer term in remote schools, including schools with a high proportion of Aboriginal and Torres Strait Islander students. It is also interesting to note that the Bill differs from the key recommendations put forward by Tony Abbott, which were subsequently cited in the Prime Minister’s Closing the Gap speech, that HELP debts should be waived:

- for teachers with more than two years of experience in other schools who move to teach in a very remote school and
- who subsequently stay at the school stay for four years.

As such, there would seem to be a significant risk that the Bill will not provide a substantial enough incentive for experienced teachers to take up remote teaching positions. This is because experienced teachers will have lower HELP balances than graduate teachers or less experienced teachers, and are a likely to have higher incomes. These factors will combine to potentially reduce the financial attractiveness of HELP debt waivers as a teacher becomes more experienced and their income increases over time.

**Policy responses**

**State and territory initiatives**

In the past teacher recruitment and retention in regional and remote areas has usually been regarded as a policy issue for state and territory governments. State and territory governments have implemented strategies, programs and incentives to attract teachers into remote schools, such as:

- financial benefits, such as extra pay and bonuses
- relocation assistance
- travel allowances
- additional leave entitlements
- subsidised housing or rental concessions and

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53. Ibid.
54. Productivity Commission, *Schools workforce*, Research report, Productivity Commission, Canberra, April 2012 summarises many state/territory based incentive schemes (as of 2012, see, for example, pages 268 to 270).
• additional professional development opportunities.⁵⁵

However, evidence suggests that incentives such as those noted above may not be sufficient to overcome the perceived disincentives of teaching in remote area schools, such as isolation, limited school resources, and lack of access to support.⁵⁶

The HECS-HELP benefit

From 2008 to 2017, the Australian Government sought to use HELP ‘benefits’ to address skill shortages in priority areas.

A 50 per cent reduction in students’ HECS-HELP payments was announced for selected courses as part of the 2008–09 Budget, with the aim of encouraging:

• more students to study maths and science and pursue related careers, including teaching in those fields⁵⁷ and

• early childhood teachers to work in regional, remote or high disadvantaged areas.⁵⁸

The discounts commenced in second semester 2008 for mathematics and science graduates, and second semester 2009 for education and nursing graduates, and were known as the HECS-HELP benefit.⁵⁹

In part, this Commonwealth involvement was in response to increased attention to Commonwealth funding and support of disadvantaged and Aboriginal and Torres Strait Islander students through the Closing the Gap partnerships, as well as the Early Childhood Education Workforce Strategy, the then National Partnership Agreement on Early Childhood Education and the Closing the Gap target of universal access for Indigenous four year olds to preschool education.⁶⁰

In 2012, the Productivity Commission raised questions about the effectiveness of reducing student contribution amounts as an incentive for enrolment in teacher education courses, quoting Chris Evans, then Minister for Tertiary Education, Skills, Jobs and Workplace Relations stating that students are ‘predominantly motivated not by price but by their interests, abilities and career preferences when selecting courses.’⁶¹

In 2014, the Review of the Demand Driven Funding System (the Review) recommended the discounts be discontinued.⁶² It found ‘little evidence that HECS-HELP benefits for graduates in some courses make a difference’, with benefits going predominantly to people in occupations with already high uptake, meaning it was likely ‘a windfall gain to graduates who find out about it, rather than something that shapes their decisions on courses and careers.’⁶³

The Review identified a number of key limitations to the program:

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⁵⁸. Ibid., pp. 144–145.


⁶¹. PC, Schools workforce, op. cit., p. 110.


⁶³. Ibid.
• course costs in Australia are not high enough to dissuade students from enrolling, meaning changes to student contributions tend not to significantly increase demand for the cheaper disciplines
• low awareness of the program, resulting in low uptake of less than 2,500 in 2011–12 and 7,220 in 2012–13
• small financial effects compared with lifetime implications of course choices and
• the long wait for the financial benefit, which came in the form of a reduced repayment period after undertaking their course and repaying the 50 per cent loan they still needed to take out.  

In the 2014–15 Budget, in response to the Review, the Government announced the cessation of the HECS-HELP benefit.  

In part, the challenges of such programs can be attributed to the design of HELP itself. The research literature suggests that, by removing the up-front cost barriers to enrolment and making repayments contingent on the borrower’s capacity to repay the debt, income contingent loans make students less responsive to course fee levels.  

Response to the Independent Review into Regional, Rural and Remote Education

The IRRRRE was commissioned in 2017, signalling a renewed interest in Australian Government efforts to address educational disadvantage in rural, regional and remote (RRR) settings across education sectors.  

The final report of the IRRRRE included 11 recommendations, and in relation to the teaching workforce recommended that the contexts, challenges and opportunities of RRR schools be explicitly included in the selection and pre-service education of teachers, for example through careful selection of candidates, placements during training, subjects in teacher education dedicated to RRR education, and salary and conditions packages to encourage experienced teachers to teach in RRR schools for fixed terms without losing their originating non-RRR positions.  

The Government accepted all recommendations of the IRRRRE report.  The 2018–19 Budget provided $96.1 million over four years to implement the Government’s response to the IRRRRE, but initial budget announcements focused on support young people from RRR areas to transition

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64. Ibid.
66. DoE, ‘HECS-HELP Benefit’, StudyAssist website. The cessation was passed as part of the Budget Savings (Omnibus) Act 2016. It had previously been attempted in the Higher Education and Research Reform Amendment Bill 2014 (first attempt) and Higher Education and Research Reform Bill 2014 (second attempt).
67. L Andrews, Does HECS deter?: factors affecting university participation by low SES groups, Occasional paper, Department of Education, Training and Youth Affairs, Canberra, 1999, p. vii; B Chapman and C Ryan, Income contingent financing of student changes for higher education: assessing the Australian innovation, Discussion paper, 449, Centre for Economic Policy Research, Australian National University, May 2002, p. 11; PC, Schools workforce, op. cit., p. 110. However, see Deloitte Access Economics, The impact of changes to student contribution levels and repayment thresholds on the demand for higher education, report prepared for the Department of Education, Employment and Workplace Relations, 2011, pp. ii–iv. This report found increases in student contribution amounts in 1997 and 2005 were associated with decreased demand of around eight per cent compared to what would have otherwise been expected, with changes largely among students aged 21 and over, and those from low socio-economic status (SES) backgrounds.
69. Halsey, Independent review into regional, rural and remote education, op. cit., p. 45.
70. Australian Government response to the independent review into regional, rural and remote education, 2018.
to further education, training and employment. The National Regional, Rural and Remote Tertiary Education Strategy continues the tertiary education focus of the response.

Key components of the response to the IRRRRE, including in relation to the teacher workforce, require collaboration with the states and territories. The IRRRRE report was presented to the Council of Australian Governments (COAG) Education Council in 2018 and informed—alongside other key reviews and the ‘Closing the Gap’ agenda—the National School Reform Agreement, which commenced on 1 January 2019. Under the reform agreement, governments committed to ‘[r]eviewing teacher workforce needs of the future to attract and retain the best and brightest to the teaching profession and attract teachers to areas of need’. AITSL is leading the developing of the National Teacher Workforce Strategy and will provide a draft strategy to education ministers in early 2020.

Committee consideration

Senate Standing Committee for the Scrutiny of Bills
At the time of writing, the Senate Standing Committee for the Scrutiny of Bills had not considered the Bill.

Policy position of non-government parties/independents
At the time of writing, no non-government parties/independents have commented on the measures proposed in the Bill.

Policy positions of major interest groups

Very remote HELP debtors
John Halsey of Flinders University, who conducted the IRRRRE, stated:

The announcement by the Australian Government to encourage teachers to stay longer in very remote settings by wiping up to five years’ worth of their HELP debt is welcome news.

This additional financial incentive must be carefully implemented to ensure that teacher quality and expertise remains a top priority.

As I argued in my report for the Australian Government into regional, rural and remote education released in 2018, attracting and retaining top educators for RRR schools and communities needs greater importance and resourcing being given to all stages of undergraduate preparation, appointing and supporting a teacher to become a highly competent professional.

Extending the new scheme to include school principals and positions of additional responsibility such as curriculum coordinators should also occur.

As well, systems will need to provide tailored, professional support for teachers and leaders who stay longer in very remote locations than they might have originally planned to do.

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73. COAG, National School Reform Agreement, DET, Canberra, 2018.
75. Senate Standing Committee for the Scrutiny of Bills, Index of Bills considered by the committee, The Senate, 17 October 2019.
The Regional Universities Network *Secondary Teacher Education: A View from the Regions*, released just after the Bill was tabled, on 29 October 2019, recommends a range of actions in this area (as outlined above) but does not identify HELP debt remission for ITE as a priority.

**HELP loan limit for aviation courses**

The Australian Aviation Associations Forum (TAAAF) chairman Jeff Boyd has been quoted as welcoming the increased loan limit:

> This increase will now ensure that pilots will be able to complete their training with not only bare minimum qualifications, but relevant and employable qualifications thereby helping to ease Australia’s pilot shortage. [77]

**Information sharing provisions**

At the time of writing, no stakeholder comments on this aspect of the Bill could be located.

**Financial implications**

According to the Explanatory Memorandum to the Bill:

- The measure in Schedule 1 to the Bill (higher HELP loan limit for certain aviation courses) delivers a positive impact of $45.9 million in fiscal balance terms over the period from 2019–20 to 2023–24. In underlying cash terms, the measure provides a minor saving of $1.7 million over the same period.

- The measures in Schedule 2 to the Bill (HELP debt indexation reduction and HELP debt remittal for teachers working in very remote locations) have a cost of $94.0 million in fiscal balance terms over the period from 2019–20 to 2023–24. In underlying cash terms, the measures come at a cost of $28.7 million over the same period.

- The measures in Schedule 3 to the Bill do not have financial implications. [78]

**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 Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bill is compatible. [79]

**Parliamentary Joint Committee on Human Rights**

At the time of writing, the Parliamentary Joint Committee on Human Rights had not considered the Bill. [80]
Key issues and provisions: HELP debt relief for very remote teachers

Schedule 2 of the Bill deals with HELP debt relief for very remote teachers. Currently, HELP debt can be cancelled only when:

• a student is unable to complete a course or unit because of provider or course closure, and the student has already incurred the debt but cannot be enrolled in a replacement course\(^1\) or
• ‘special circumstances’ apply, meaning a student is unable to complete a unit for which they incurred a HELP debt in circumstances that were:
  — beyond their control and
  — did not make their full impact known until on or after the census date (at which point the debt is incurred)\(^2\) or
• if the debt was incurred improperly because the person did not provide a tax file number.\(^3\)

Otherwise, when a person with a HELP debt earns above the minimum repayment threshold, they must make a repayment through the ATO for that income year, based on their taxable income.\(^4\)

The repayment rate commences at a rate of one per cent for income over $45,881 and increases according to the taxpayer’s income to a maximum of ten per cent on incomes of over $134,573.\(^5\)

Under provisions proposed in Schedule 2, a person who is a very remote HELP debtor will:

• not have indexation applied to their HELP debt while they teach in a very remote location and
• have the HELP debt they incurred in training to be a teacher waived after spending four years’ full-time equivalent teaching in a very remote location.

However, as noted above evidence from the operation of previous schemes and research into using various incentives to attract and retain teachers in remote schools raises questions as to the likely effectiveness of the regime proposed by Schedule 2 of the Bill. This is discussed below.

Who is eligible for reduced HELP debts?

Under the arrangements proposed at item 11, a person who:

• carries out work as a teacher at a school located in an area that is classified as very remote Australia under the ABS Remoteness Structure
• has completed a course of study in education and
• incurred a HECS-HELP or FEE-HELP debt in relation to that course of study\(^6\)

will be a very remote HELP debtor and eligible for the HELP waiver and/or reduced debt indexation (the ‘incentives’). Each of these elements is discussed below.

What schools will be covered by incentives?

For the purposes of determining a teacher’s eligibility for the incentives a school is defined as any of the following:

• an early childhood education and care service that includes a preschool education program.

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81. *Higher Education Support Act 2003* (HESA), section 36-24A.
82. HESA, sections 36-20 and 36-21.
83. HESA, section 36-24B.
84. HESA, subsection 154(1); ATO, ‘Study and training loan repayment thresholds and rates’, ATO website, last modified 4 June 2019.
85. Ibid.
86. Proposed subsection 142-1(1).
• a preschool
• a school providing primary or secondary education.\textsuperscript{87}

As noted above, to be eligible for the incentives the school must be in an area that is classified as very remote Australia under the ABS Remoteness Structure—defined as the most recent update to the Australian Statistical Geography Standard (ASGS) published by the Australian Statistician.\textsuperscript{88}

\textbf{What courses of study will be covered by the incentives?}

A teacher will only be eligible for the incentives if they have completed an appropriate \textit{course of study in education}, defined as:

• a course of study, completion of which would satisfy the minimum academic requirements for registration as a teacher by an authority of a state or territory or

• a course of study specified in the Very Remote HELP Debtor Guidelines.\textsuperscript{89}

\textbf{What types of work will be covered by the incentives?}

As noted above, only a person who carries out work as a teacher in a remote school who has completed an appropriate course of study in education will be eligible for the incentives. The Bill provides that the \textit{Very Remote HELP Debtor Guidelines} (Guidelines) may set out circumstances in which a person is taken, or taken not, to:

• carry out work as a teacher on a day or

• carry out such work at a school located in an area that is classified as very remote Australia under the ABS Remoteness Structure.\textsuperscript{90}

As such, the Guidelines can provide for when a person is or is not a \textit{very remote HELP debtor} for particular periods, and hence eligible for the incentives.

\textbf{Application process}

A person will need to make an application in writing, in the form specified, for their HELP debt to be reduced under these arrangements.\textsuperscript{91} The application will need to include the person’s tax file number, and meet any requirements specified in the Guidelines for the purposes of the application.\textsuperscript{92} The application will be approved if the Secretary is satisfied the person:

• has been a \textit{very remote HELP debtor} for a period of four years, or for periods within a continuous six year period that total to four years

• has met any other requirements specified in the Guidelines for the purposes of assessing the application and

• has not previously had HELP debt for a course of study in education waived under these provisions.\textsuperscript{93}

That is, the application will need to be made to the Secretary after a person has completed the four years equivalent full-time teaching at a school in a remote location.

\textsuperscript{87} Proposed subsection 142-1(1).
\textsuperscript{88} Proposed subclause 1(1) of Schedule 1 of the HESA, at item 14 of Part 1, Schedule 1 of the Bill.
\textsuperscript{89} Proposed section 142-5.
\textsuperscript{90} Proposed subsection 142-1(3).
\textsuperscript{91} Proposed subsection 142-15(1) and subsection 142-15(5).
\textsuperscript{92} Proposed subsection 142-15(5).
\textsuperscript{93} Proposed subsection 142-15(1).
The Secretary will be required to advise the person of the outcome of their application in writing, including the amount by which the debt will be reduced, within 28 days of the application being received.\textsuperscript{94} However, if the Secretary does not notify the person, the application will be taken to have been rejected.\textsuperscript{95}

The application and transitional provisions at item 15 mean any time teaching at a school located in an applicable area before 1 January 2019 would not be included for the purposes of assessing whether a person meets the requirements to be a \textit{very remote HELP debtor}. However any time teaching at an eligible remote school from 1 January 2019 will count, due to the retrospective operation of the relevant provisions in the Bill.

\textbf{Debt relief aspect of the incentive}

Where an application is approved the person’s HELP debt will be reduced by:

- the amount of HECS-HELP or FEE-HELP debt incurred for up to five years full time study (or equivalent) for a \textit{course of study in education} or
- the amount of accumulated HELP debt at the start of their four years as a \textit{very remote HELP debtor}, if that amount is less than the above.\textsuperscript{96}

The amount the accumulated debt is reduced by is to be known as the \textit{very remote HELP debtor reduction}.\textsuperscript{97} Provisions relating to indexation are dealt with separately, as discussed below.

The proposed arrangements include provision for the effect of reducing the person’s HELP debt to result in a balance of less than zero.\textsuperscript{98} If this occurs, and the amount below zero is not owed as part of the person’s primary tax debts, then the additional amount will be refunded.\textsuperscript{99} These arrangements are consistent with current arrangements for people who make voluntary repayments which exceed their total HELP and tax debts.\textsuperscript{100} The effect of this is that although teachers will be required to wait until after completing four years as a \textit{very remote HELP debtor} to make an application for their debt to be waived, any repayments made during this time could be refunded.

\textbf{Arrangements for reducing HELP debt indexation}

Currently, accumulated HELP debts that have remained unpaid for more than 11 months are indexed on 1 June each year according to the Consumer Price Index (CPI), to retain the real value of borrowings over time.\textsuperscript{101} In 2019, this was 1.9 per cent, amounting to approximately $426 indexation added to the average outstanding debt of $22,425.\textsuperscript{102}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{94} Proposed subsection 142-15(4).
\item \textsuperscript{95} Note to proposed subsection 142-15(4).
\item \textsuperscript{96} Proposed subsection 142-15(2).
\item \textsuperscript{97} Proposed subsection 140-25(1) at item 10.
\item \textsuperscript{98} Proposed subsection 142-15(3).
\item \textsuperscript{99} Proposed section 142-20. Primary tax debt is to have the meaning in Part IIB of the \textit{Taxation Administration Act 1953}.
\item \textsuperscript{100} HESA, section 151-15.
\item \textsuperscript{101} HESA, section 140-10 and Schedule 1, clause 2; ATO, ‘\textit{Study and training loan indexation rates}’, ATO website, last modified 27 May 2019.
\item \textsuperscript{102} Parliamentary Library calculation based on DoE, ‘\textit{Summary of indexation from 2004 to 2020 from 2020}’, HEIMS online; Ferguson, \textit{Updated Higher Education Loan Program (HELP) debt statistics—2018–19}, op. cit.
\end{itemize}
\end{footnotesize}
Indexation relief aspect of the incentives

Proposed section 142-10 at item 11 would reduce the indexation of accumulated HELP debts for very remote HELP debtors.

Applications will need to be made to the Secretary in writing in an approved form (if specified), and accompanied by any required information, including the person’s tax file number. Applications will be approved if the Secretary is satisfied a person with an accumulated HELP debt was a very remote HELP debtor at any time during the calendar year, and has met any requirements specified in the Very Remote HELP Debtor Guidelines for the purposes of the application. If approving an application, the Secretary will be required to determine how many days the indexation is to be reduced for. Unlike the requirements for remitting the HELP debt of very remote HELP debtors outlined above, the application for reducing HELP debt indexation will be possible during a teacher’s four years’ equivalent as a very remote HELP debtor, amounting to an indexation pause during this time.

The Secretary will be required to advise the person of the outcome of their application in writing, including the number of days the reduction will apply to, within 28 days of the application being received. However, if the Secretary does not notify the person, the application will be taken to have been rejected.

Items 6 and 7 have the effect of updating the definition of HELP debt indexation factor at section 140-10 to reflect these provisions.

Effect of indexation relief incentive

The effect of the provisions relating to the indexation relief aspect of the incentive is that a teacher’s HELP debt indexation factor is reduced in proportion to the number of days in the preceding calendar year that the Secretary has determined they were a very remote HELP debtor.

Where a teacher has worked the entire previous calendar year in a very remote location, their accumulated HELP debt will not be indexed at all that financial year.

The effect of the incentives

The Bill proposes measures designed to attract and retain teachers in very remote schools by providing HELP debt reductions for ITE degrees. In focusing on HELP debt remittance, the proposed initiative is likely to be relatively more attractive to early career teachers.

In summary, the available research outlined above, shows:

- teachers in remote schools are on average less experienced than teachers in metropolitan areas, with this having been identified as a challenge in the IRRRE

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103. Proposed subsection 142-10(4).
104. Proposed subsection 142-10(1).
105. Proposed subsection 142-10(2).
106. Proposed subsection 142-10(3).
107. Note to proposed subsection 142-10(3).
109. McKenzie et al., Staff in Australia’s schools 2013: main report on the survey, op. cit.; Halsey, Independent review into regional, rural and remote education, op. cit., p. 44.
• HELP debt relief does not seem to significantly impact on career decisions and instead may result in ‘a windfall gain to graduates who find out about it’ rather than acting as a significant incentive that shapes the career decisions of experienced teachers.  

• a long wait period for HELP debt reduction may act to undermine the attractiveness of such incentives and  

• other factors such as candidate selection, training for remote teaching and specific salary and condition-related incentives, rather than debt relief, may offer more effective ways to ensure teachers are supported in their work in remote schools.

The proposed initiative will sit alongside work on the teaching workforce overseen by the COAG Education Council, and existing state and territory incentives. It leaves open the question of how to address longer-term sustainability and experience in the remote teacher workforce.

Other provisions

HELP loan limit for aviation courses

In addition to the higher education HELP loans discussed above, VET Student Loans (VSL) is an income contingent loan scheme used by vocational education and training (VET) students studying an approved course at an approved training provider. In 2018, 57,874 students used VSL. VSL has been administered separately from HELP since 1 July 2019.

The HELP loan limit

Currently, a lifetime limit applies to FEE-HELP and VSL borrowing. This is known as the ‘FEE-HELP limit’, while the amount a person has remaining that they can borrow is known as the ‘FEE-HELP balance’. In 2019, the FEE-HELP limit is $150,000 for medicine, dentistry and veterinary science students and $104,440 for other students. At 30 June 2019, 22,514 people had outstanding HELP debts of above $100,000 (out of a total of almost three million debtors).

Changes already passed by the Parliament provide that from 1 January 2020, the FEE-HELP limit will be replaced by a ‘HELP loan limit’ at section 128-20 of HESA. The HELP loan limit will apply to FEE-HELP, VSL, and HECS-HELP. Unlike the current lifetime limit, the new HELP loan limit will be renewable, allowing students to increase their HELP balance for future use by repaying their HELP debt.

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11. Ibid.  
13. DoE, VET Student Loans, StudyAssist website.  
17. DoE, FEE-HELP, StudyAssist website.  
19. By virtue of the operation of the Higher Education Support Legislation Amendment (Student Loan Sustainability) Act 2018, section 128-20 of the HESA has not yet commenced, but will do so on 1 January 2020.  
VET Student Loans caps

Students using VSL also have borrowing limits at course level, as set out in the VET Student Loans (Courses and Loan Caps) Determination 2016. There are three loan caps, which are indexed annually and are $5,171, $10,342 and $15,514 in 2019.122 Due to the high cost of delivery, the cap for certain specified aviation-related courses is set at a higher level, $77,571 in 2019.123 However, a corresponding higher overall borrowing cap for aviation courses was not implemented when VSL was introduced in 2017. As discussed below, this means that many students are unable to afford to complete high-cost qualifications that are required by industry.

Aviation Skills and Training in Australia

In June 2018, the Report of the Expert Panel on Aviation Skills and Training in Australia identified a ‘severe’ and ‘worsening’ skill shortage of aviation personnel in Australia.124 The Report identified a range of interacting factors driving the shortage, and recommended the VSL borrowing limit:

... be raised to $150,000 as the present limit does not support a student undertaking the full suite of courses needed to progress through to the basic Commercial Pilot with Instrument Rating and certainly not to instructor level.125

The Report stated that graduates spend at least $100,000 to gain the minimum qualifications for the industry. Fee information for 2018 is provided in Table 2 below.

Table 2: tuition fees for pilot licences and ratings, 2018

<table>
<thead>
<tr>
<th>Civil Aviation Safety Authority Licence / Rating</th>
<th>Tuition Fees</th>
<th>Explanation of Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Pilot Licence</td>
<td>$75,000</td>
<td>All pilots</td>
</tr>
<tr>
<td>Multi Engine Command Instrument Rating</td>
<td>$30,000</td>
<td>&gt;99.9% of pilots</td>
</tr>
<tr>
<td>Flight instructor Rating</td>
<td>$30,000</td>
<td>Specialist requirement, high demand</td>
</tr>
<tr>
<td>Agricultural Rating</td>
<td>$15,000</td>
<td>Specialist requirement, low demand</td>
</tr>
<tr>
<td>Multi Crew Co-Operation</td>
<td>$7,500</td>
<td>All airline pilots</td>
</tr>
</tbody>
</table>


The Report explains:

The implication of the FEE HELP Loan Limit of $102,392 is that student pilots from a poorer socio-economic background can access funding for only the Commercial Pilot Licence and the Multi Engine Command Instrument Rating. This is leading to severe shortages in the industry for pilots with Flight Instructor Ratings and Agriculture Ratings.126

123. Ibid.
125. Ibid., p. 10.
126. Ibid., p. 11.
The proposed HELP loan limit for aviation courses

Schedule 1, item 1 of the Bill proposes to repeal and replace section 128-20 of HESA, with the effect of adding a course of study in aviation to the courses with the higher HELP loan limit in section 128-20—currently these are courses in medicine, dentistry and veterinary science.  

For the purposes of these arrangements, a course of study in aviation will be specified in the FEE-HELP Guidelines, a legislative instrument made under section 238-10 of HESA.

According to the Explanatory Memorandum to the Bill, the specified courses will be those that ‘enable a person to qualify for a Commercial Pilot Licence, and will be based on the courses specified in Schedule 2 to the VET Student Loans (Courses and Loan Caps) Determination 2016’. Currently, the specified aviation courses are:

- Diploma of Aviation (Air Traffic Control)
- Diploma of Aviation (Commercial Pilot Licence – Aeroplane)
- Diploma of Aviation (Commercial Pilot Licence – Helicopter)
- Diploma of Aviation (Instrument Rating)
- Diploma of Aviation (Flight Instructor)
- Diploma of Aviation (Aviation Management)
- Advanced Diploma of Aviation (Chief Flight Instructor) and
- Advanced Diploma of Aviation (Pilot in Command).

The number of students accessing VSL for each of these courses in 2018 (latest full year data available) is outlined in Table 3 below. Diploma of Aviation (Air Traffic Control) and Advanced Diploma of Aviation (Chief Flight Instructor) are not included in Table 3 as no enrolments in these programs were recorded in the relevant data sources for 2018.

The application and transitional provisions at item 4 mean the higher limit will apply to anyone studying on or after 1 January 2020; not only people who enrol after the commencement of the Schedule.

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127. Proposed subsection 128-20(1).
130. VET Student Loans (Courses and Loan Caps) Determination 2016, Schedule 2.
<table>
<thead>
<tr>
<th>Rank (of all VSL courses)</th>
<th>Course name</th>
<th>Total enrolments</th>
<th>students using VSL</th>
<th>Loans per enrolment</th>
<th>Total loans paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Diploma of Aviation (Commercial Pilot Licence - Aeroplane)</td>
<td>4,331</td>
<td>976</td>
<td>$31,910</td>
<td>$31,144,288</td>
</tr>
<tr>
<td>53</td>
<td>Diploma of Aviation (Instrument Rating)</td>
<td>1,114</td>
<td>171</td>
<td>$22,590</td>
<td>$3,862,940</td>
</tr>
<tr>
<td>84</td>
<td>Diploma of Aviation (Commercial Pilot Licence - Helicopter)</td>
<td>436</td>
<td>70</td>
<td>$57,614</td>
<td>$4,032,973</td>
</tr>
<tr>
<td>94</td>
<td>Diploma of Aviation (Flight Instructor)</td>
<td>274</td>
<td>62</td>
<td>$20,229</td>
<td>$1,254,219</td>
</tr>
<tr>
<td>128</td>
<td>Advanced Diploma of Aviation (Pilot in Command)</td>
<td>31</td>
<td>28</td>
<td>$7,602</td>
<td>$212,847</td>
</tr>
<tr>
<td>189</td>
<td>Diploma of Aviation (Aviation Management)</td>
<td>46</td>
<td>5</td>
<td>$3,895</td>
<td>$19,474</td>
</tr>
</tbody>
</table>

Source: Department of Employment, Skills, Small and Family Business, VSL annual report Jan-Dec 2018 - Table 1 to Table 6 addendum, August 2019, Table 4; National Centre for Vocational Education Research (NCVER), Total VET students and courses, program enrolments 2015–18, accessed via VOCSTATS, 22 October 2019.

**Information sharing**

**Part 2 of Schedule 3** of the Bill proposes amendments to HESA and the VSL Act to expand information sharing and disclosure provisions to:

- enable the sharing of personal information in circumstances where an individual gives their consent for the disclosure of personal information and
- enable the Secretary of the Department of Education (DoE) and the Secretary of the Department of Employment, Skills, Small and Family Business (DESSFB), to share higher education and VSL information with Services Australia (formerly the Department of Human Services (DHS)), and the Department of Social Services (DSS) for the purposes of implementing the Transforming the Collection of Student Information (TCSI) initiative.

These amendments do not propose changes to the kind of information that can be collected under HESA or the VSL Act.

**Powers to obtain information under HESA and the VSL Act**

Section 19-70 of HESA currently gives the Minister (currently the Minister with responsibility for the DoE) wide powers to request, in writing, statistical and other information related to higher education providers’ provision of higher education and compliance with HESA. Section 53 of the VSL Act gives the Secretary (currently of DESSFB) similar powers to request, in writing, that approved VSL providers provide information or documentation relating to their provision of VET, or compliance with the VSL Act.
Data requirements are issued each reporting year, and generally cover student and course information for the calendar year, including HELP loans, and, for higher education providers, staff and applications and offers data. Both VET and higher education providers use the Higher Education Provider Client Assistance Tool (HEPCAT) to report to the Higher Education Information Management System (HEIMS).

Provisions relating to the disclosure of personal information

The Bill proposes to amend HESA and the VSL Act to allow the disclosure of personal information if an individual’s consent has been obtained.

It also proposes to amend HESA to allow the disclosure of personal information where:

- another Commonwealth law or state or territory law relating to the administration, regulation, or funding of education requires or authorises such disclosure or
- in circumstances specified in the Administration Guidelines made for this purpose.

Such provisions are already in the VSL Act.

According to the Explanatory Memorandum to the Bill, ‘offence provisions need to be amended to recognise the capacity for an individual to provide consent for the use or disclosure of their information.’ This is consistent with other privacy and information sharing related legislation.

Under the VSL Act, personal information has the same meaning as in the Privacy Act 1988. That is:

- information or an opinion about an identified individual, or an individual who is reasonably identifiable:
  - whether the information or opinion is true or not and
  - whether the information or opinion is recorded in a material form or not.

For the purposes of HESA, the information must also be:

- obtained or created by an officer for the purposes of Chapter 2 (which deals with grants for higher education providers) or Chapters 3 and 4 (which deal with HELP loans to students and repayment of loans).

Currently, under section 179-10 of HESA, an officer commits an offence if they disclose or copy or record personal information acquired in the course of their employment, except if that disclosure was made in the course of their official employment. A penalty of two years imprisonment applies for contravening the section.

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132. DoE, ‘Reporting with HEPCAT toolkit’, HEIMSHELP website. Annual financial information must also be provided under section 19-10 of HESA.


134. VSL Act, section 6.


136. HESA, section 179-5. Officer is defined in section 179-15 as a person employed by a state or territory authority or government body, higher education provider, Open Universities Australia, or a Tertiary Admission Centre.

137. Official employment is defined in subsection 179-15(4) as performing duties or functions under HESA, or, for officers of a higher education provider, Open Universities Australia, or a Tertiary Admission Centre, services as officers of those
**Item 10** proposes to add exceptions to these arrangements to section 179-10 for circumstances where:

- the person to whom the personal information relates has consented to the disclosure
- the disclosure is required or authorised by Commonwealth law or
- the disclosure is required or authorised by state or territory law relating to the administration, regulation, or funding of education, or is specified in the Administration Guidelines made for this purpose.  

Provisions for the disclosure of **VET personal information** are in near identical terms in clauses 73 and 74 of Schedule 1A. **Item 16** proposes to add the same exemptions to these VET arrangements as are proposed for the higher education arrangements at **item 10**. Disclosure of personal information is also dealt with in Part 9 of the **VSL Act**. Currently:

- a VET officer commits an offence if they disclose information obtained in their capacity as a VET officer and they use or disclose the information, unless that disclosure is authorised or required under Commonwealth law, or state or territory law listed in rules made for these purposes
- a person commits an offence if the person uses personal information disclosed to an agency, body, or person for purposes permitted under the **VSL Act**, for a purpose that is not permitted under the **VSL Act**.

In each case, a penalty of two years imprisonment applies for contravention of the sections. **Items 21, 22** and **23** propose to add exceptions to these provisions, that the offence does not apply if the person to whom the disclosure relates has consented to the use or disclosure.

**Provisions relating to information sharing between Government departments**

The more substantive information sharing changes proposed in the Bill are concerned with enabling the implementation of a single data reporting point for higher education and VET providers, with access for the DoE, DESSFB, Services Australia, and the DSS, for the purposes of administration under their respective Acts.

The proposed changes rely on the Secretary of the relevant department or departments (currently DoE and DESSFB) authorising the use of information collected under **HESA** and the **VSL Act** for the purposes of social security administration. Importantly, **HESA** and **VLS Act** information can include personal information. This means that the information sharing provisions proposed in the Bill will expand the circumstances in which personal information collected by tertiary education providers can be lawfully disclosed to the agencies noted above, with or without the consent of the person(s) to which the information relates.

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138. **Proposed subsections 179-10(2), (3), and (4).**
139. **Proposed subclauses 73(2), (3), and (4).**
140. **Section 99.**
141. **Subsections 100(1) and (2).**
142. **Proposed subsection 99(3), subsection 100(2A) and subsection 100(5).**
143. Minor administrative changes related to updating the names of universities listed in **HESA** are not discussed in this Bills Digest.
144. **HESA**, sections 72 and 180-5; **VSL Act** section 6.
No changes to social security law are proposed in the Bill. According to the Explanatory Memorandum to the Bill, no amendments to social security law are required, as, where required, ‘the intention is to utilise the existing mechanisms in the social security law’.  

**The Transforming the Collection of Student Information initiative**

In December 2012, the *Review of Reporting Requirements for Universities* identified the university sector as facing particularly burdensome reporting requirements, stating that, in addition to reporting under HESA, universities also report to the higher education and VET regulators, relevant state and territory governments, the Australian Research Council, Department of Home Affairs (then Immigration and Citizenship), the Department of Defence, Attorney-General’s Department, Department of Foreign Affairs and Trade, health regulators, Centrelink, a range of professional accreditation bodies, the Australian Bureau of Statistics, and various bodies producing university rankings. The Government response to the review agreed to a range of actions to support streamlined data collection and reduce duplication.

The latest component of work to improve higher education data collection is the TCSI initiative, which aims to address duplication in reporting between the DoE’s HEPCAT and Services Australia’s Centrelink Academic Reassessment Transformation (CART). CART enables Services Australia to conduct weekly checks of their records against those of higher education providers to ensure recipients of student allowances are studying the required 75 per cent of a full time study load. If discrepancies are identified, a review is conducted, focusing on:

- recipients who have reduced their study load (Part-time)
- recipients who are no longer enrolled (Withdrawn)
- recipients who are unable to be matched with the institution (No-match)
- recipients who are studying unapproved courses.

According to the DoE:

In November 2017, the Department of Education partnered with the Department of Human Services (DHS) to redevelop the existing submission technologies to enable simpler, more flexible reporting processes and better support data exchange and availability. The Transforming the Collection of Student Information (TCSI) project is also facilitating the restructuring of the student data collection, to remove duplication across submissions, simplify validation processes and improve data quality and timeliness.

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149. PhillipsKPA, *Review of reporting requirements for universities*, op. cit., p. 67. Australian National Audit Office (ANAO), *Administration of Youth Allowance (Student) and ABSTUDY*, Department of Social Services (DSS) and Department of Human Services, Audit report, 51, 2016–17, ANAO, Barton, ACT, p. 59. Paragraph 195(2)(i) of the *Social Security (Administration) Act 1999* sets out the specific information that Centrelink can require about a class of persons in relation to courses of study.
150. Ibid.; Social security law provides Centrelink with wide-ranging powers to obtain information or documents, including from third parties, relevant to decisions about an individual’s payments, and other matters relevant to the administration of social security law. See DSS, *8.1.3.10 Provision of information*, *Social Security Guide*, DSS website, last reviewed 2 July 2018; *Social Security (Administration) Act 1999*, Part 5.
The department has engaged in extensive consultation throughout 2018 and into 2019 to implement changes to data collection. This commenced in January 2018 with the release of the discussion paper Redevelopment and Audit of the Higher Education Data Collection and the establishment of the TCSI co-design group. We have continued to work with the sector through webinars, the TCSI newsletters and the DHS Service Hub, in reaching an understanding of your needs and how the TCSI project can meet them. Reflecting these consultations, we will transition to the new reporting arrangements by 31 May 2020.151

The DoE states that TCSI will reduce duplication, be simpler to use, and resolve system deficiencies for providers and make DHS claims simpler, and improve payment accuracy for students.152

**HESA information**

Division 180 of HESA deals with the disclosure or use of HESA information. HESA information is defined at section 180-5 as:

- personal information
- VET personal information
- information obtained or created by a Commonwealth officer as a result of a survey of staff, students or former students of higher education providers or VET providers for the purposes of:
  - improving the provision of higher education or VET or
  - research relating to the provision of higher education or VET
- any other information obtained or created by a Commonwealth officer for the purposes of HESA or administering HELP.153

Currently, the following disclosures are allowed:

- disclosure of HESA information between Commonwealth officers in the course of their official employment154
- the Secretary may disclose HESA information to the national higher education regulator, Tertiary Education Quality and Standards Agency (TEQSA),155 or a member of TEQSA staff, for the performance of duties under HESA156
- the Secretary may disclose HESA information to the National VET Regulator, the Australian Skills Quality Authority (ASQA),157 or an ASQA staff member, for the performance of duties under HESA158
- the Secretary may disclose HESA information to a person employed or engaged by a state or territory agency, a higher education provider, a VET provider, or another body determined by the Minister by legislative instrument, for the purposes of improving the provision of higher education or VET, or research relating to higher education or VET159 and

151. DoE, *2020 Reporting Requirements for the Higher Education Data Collections*, June 2019, p. 1
152. DoE, ’Transforming the Collection of Student Information’, HEIMSHELP website.
154. HESA, section 180-10.
156. HESA, section 180-15.
158. HESA, section 180-20.
159. HESA, section 180-25. Under HESA, subsection 180-25(2), the disclosure of HESA information relating to a higher education or VET provider to an officer of a higher education provider, an officer of a VET provider, or a person employed or engaged by a body as determined by the Minister, must only be made with the consent of the provider to whom the information relates.
• certain disclosures of HESA information and VET information under the VSL Act may occur between the Commonwealth officers, the Secretary, and the Commissioner of Taxation for the purposes of administering HELP under HESA or the VSL Act.\footnote{HESA, section 180-28.}

\textbf{Item 12} inserts \textbf{proposed section 180-23}, which would allow the Secretary to disclose HESA information to a person employed or engaged by an agency under:

• the \textit{Human Services (Centrelink) Act 1997}
• the \textit{Social Security Act 1991}
• the \textit{Student Assistance Act 1973} or
• a law of the Commonwealth prescribed by Administrative Guidelines made for this purpose.

\textbf{Proposed subsection 180-23(3)} would allow the information to be used for the purposes of exercising powers, or performing functions or duties, of the agency the information is disclosed to.

Currently, the listed Acts are administered in the Social Services Portfolio. The \textit{Human Services (Centrelink) Act 1997} is the responsibility of the Minister responsible for Services Australia and the \textit{Social Security Act 1991} and \textit{Student Assistance Act 1973} are the responsibility of the Minister responsible for the Department of Social Services.\footnote{Administrative Arrangements Order – 29 May 2019, Parts 15 and 16.}

**VET information**

The VSL Act contains provisions for sharing VET information for the purposes of the VSL Act or HESA that are in similar terms to the HESA provisions outlined above, albeit with no mention of information sharing for higher education purposes. However, the following additional disclosures are specifically allowed:

• officers of tuition assurance schemes, and approved dispute resolution schemes may use VET information\footnote{Section 92.}
• the Secretary may disclose VET information to the Australian Competition and Consumer Commission, and approved external dispute resolution schemes\footnote{Section 93.} and
• the Secretary may disclose VET information to a department, agency or authority of the Commonwealth, a state or territory, or an enforcement body, if they believe on reasonable grounds that the disclosure is necessary the purposes of law enforcement.\footnote{Section 94.}

\textbf{Item 19} proposes to add provision for VET information to be disclosed to a person employed or engaged by an agency under the same Acts listed in relation to \textbf{item 12} above.\footnote{Proposed paragraph 93(2)(f).} \textbf{Item 20} makes the same allowance that the disclosed information be used for the purposes of the body the information is disclosed to.\footnote{Proposed subsection 93(3).}

**Concluding comments**

The main purpose of the Bill is to introduce HELP debt forgiveness for teachers for ITE courses following the completion of four years (or part-time equivalent) teaching in a remote area.
The initiative goes some way towards addressing limitations identified in the literature on previous HELP debt remittance programs, in that it is directed toward employment choices following graduation rather than course choice, where it has been shown students are not generally very responsive to cost. However, some issues still remain in the considerable gap between the intended choice of employment, and the subsequent financial benefit (four to six years), and the potential attractiveness of the financial benefit (most often around $26,736) compared with a teacher’s other considerations, such as overall career goals, and lifetime earnings.

Despite the new measures being welcomed by Professor Halsey (author of the IRRRE), it is worth noting that the proposed scheme differs from the recommendations of Mr Abbott and the IRRRE report. Both of these stressed the recruitment of experienced teachers, with knowledge of the conditions and needs of remote education, for RRR schools. The measure put forward offers the greatest incentive to inexperienced teachers who enter very remote schools immediately after graduating, as any HELP debt they have paid while gaining additional experience prior to moving to a very remote school will not be refunded to them; repayments only apply to HELP debt still owed when a teacher commences a very remote placement. The measures thus offer less incentive to move to a very remote school the longer a teacher has been in the workforce. Nor do they offer any particular incentive to teaching students to do specialised placements or training in remote education, or encourage people from remote communities to become teachers.

If the legislation is intended to build on Mr Abbott’s and the IRRRE’s recommendations, consideration could be given to enabling a teacher to become a very remote HELP debtor while still undergoing a course of study in education (for example by completing a placement in a very remote school while still a student) and/or backdating the date at which a teacher becomes a very remote HELP debtor for the purposes of determining the amount of ITE HELP debt that could be remitted, to capture teachers who gain non-remote experience before working at a remote school.

If implemented, ITE HELP debt remittance will sit alongside work on the teaching workforce overseen by the COAG Education Council, and existing state and territory incentives, and its effectiveness may be shaped by how well-supported teachers in remote areas are through these other areas of work.