OUTLINE

Schedule 1 of the Bill amends the Higher Education Support Act 2003 (HESA) to broaden guidelines-making powers to allow lesser VET FEE-HELP debt amounts to apply for a particular class of student and to allow for matters in relation to VET credit transfer requirements to be dealt with in guidelines.

Schedule 2 of the Bill will amend HESA to provide that Tertiary Admission Centres (TACs) have the same status and duty of care as Officers of a Higher Education Provider (HEP) and VET provider in relation to the processing of students’ personal information. VET providers and HEPs must access the personal identifying information of students to process applications for student places and for Commonwealth Scholarships. This amendment will ensure that relevant information may be shared between DEEWR, VET providers, HEPs and TACs as appropriate and in accordance with the HESA privacy requirements. This will ensure that the rights of students are protected by HESA’s privacy protection provisions.
## FINANCIAL IMPACT

### VET FEE-HELP measure

Total fiscal impact

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<th>10/11</th>
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<td>-5.165</td>
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Note all figures represent net impact on fiscal balance. Negative figures indicate increased expenditure. Appropriations extend beyond the forward estimates period. These costs are based on the application of the provisions of the measure to Victoria. Should other States qualify for the measure in the future, the total impact of the measure will vary.

### Tertiary Admission Centres measure

Nil financial impact.
Clause 1 – Short title

Provides for the Act to be cited as the Higher Education Support Amendment (VET FEE-HELP and Tertiary Admission Centres) Act 2009.

Clause 2 – Commencement

Clause 2 provides that the Act commences on the day after it receives Royal Assent.

Clause 3 - Schedule(s)

Provides that each Act that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule and that any other item in a Schedule has effect according to its terms.

For ease of description, this explanatory memorandum uses the following abbreviation:

Schedule 1 – VET FEE-HELP

Higher Education Support Act 2003

Item 1 – Subsection 137-18(2)

Repeals subsection 137-18(2) and substitutes a new subsection. New subsection 137-18(2) provides that the amount of a VET FEE-HELP debt is either:

- 120 per cent of the loan; or
- if the VET-FEE HELP Guidelines specify a lesser percentage of the loan for a person, that lesser percentage.

Item 2 – Application

Inserts an application provision relating to Item 1. This application provision provides that the amendment contained in Item 1 applies to VET FEE-HELP debts (incurred before, on or after the commencement of the amendment) relating to VET units of study whose census date is on or after 1 July 2009.

New subsection 137-18(2) provides that the amount of a VET FEE-HELP debt is either 120% of the loan fee or if the VET FEE-HELP guidelines specify a lesser percentage, that lesser percentage.

The effect of this provision is that new subsection 137-18(2) will allow the VET FEE-HELP Guidelines to specify a lesser percentage of the loan for VET FEE-HELP debts (incurred before, on or after the commencement of the amendment) relating to VET units of study whose census date is on or after 1 July 2009. That is, the amendment allowing the removal of the 20% VET FEE-HELP loan fee contained in Item 1 will apply retrospectively from 1 July 2009.

Item 3 – Paragraph 6(g) of Schedule 1A

Amends paragraph 6(g) of Schedule 1A to remove a reference to VET credit transfer arrangements. Clause 6 of Schedule 1A allows the Minister to approve a body corporate as a VET provider if the body meets the criteria listed in that Clause. Clause 6 includes the requirement that the body corporate complies with any requirements set out in the VET credit transfer arrangements. This amendment will allow the Minister to approve a body corporate as a VET provider without the body having to meet the requirement to have in place a VET credit transfer arrangement.

Item 4 – Application

Inserts an application provision relating to Item 3. This application provision provides that the amendment to paragraph 6(g) of Schedule 1A made by Item 3 will apply to decisions on applications for approval as a VET provider made on or after commencement of the amendment whether or not the applications were made prior to commencement of the amendment.
Item 5 – Paragraph 45(1)(a) of Schedule 1A

Amends paragraph 45(1)(a) of Schedule 1A to remove a reference to VET credit transfer arrangements.

Item 6 – After subclause 45(1) of Schedule 1A

Inserts new subclause 45(1A) in Schedule 1A. This amendment provides that for the purposes of paragraph 45(1)(a), the VET FEE-HELP Guidelines:
- may set out different requirements relating to different students undertaking the VET unit of study; and
- may set out requirements relating to only some students undertaking the VET unit of study (while not setting out requirements relating to other students undertaking the unit).

Item 7 – Application

Inserts an application provision relating to Item 6. This application provision provides that the amendment contained in Item 6 relating to Schedule 1A of the Act applies to VET units of study whose census dates are on or after 1 July 2009.

Items 8, 9 and 10 – Paragraphs 99(1)(a) (b) and subclause 99(1) of Schedule 1A

Inserts technical amendments relating to Item 11.

Item 11 – Subclause 99(1) of Schedule 1A

Inserts a reference to section 137-18 into the Table at the end of subclause 99(1) of Schedule 1A. This is a consequential amendment relating to Item 1.

Item 12 – Transitional

Inserts a transitional provision. This provision ensures that any guidelines in force under clause 99 of Schedule 1A to the Act prior to commencement of amendments to that clause made by this Schedule will remain in effect after the commencement of the amendments as they did prior to the commencement of the amendments.
Schedule 2 – Tertiary Admission Centres

Higher Education Support Act 2003

Item 1 – Section 179-5 (paragraph (b) of the definition of Personal information)

Amends section 179-5 to extend the definition of personal information to include information about an individual whose identity is apparent, or can reasonably be ascertained from the information and is obtained or created by an officer for the purposes of Chapter 2.

Items 2, 3 and 4 – Section 179-15

Insert new paragraphs 179-15(1)(d), (3B)(a) and (b), and (4)(d) to extend the definitions of officer and official employment (of an officer) and to also define officer of a Tertiary Admission Centre for the purposes of the Act.

Items 5, 6 and 7 – Section 179-20

Insert new paragraphs 179-20(cb), (ea), (h) and (i) to include, for the purposes of paragraph 179-10(d), that the following disclosures are taken to be disclosures in the course of an officer’s official employment:

- if a Commonwealth officer discloses personal information to an officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in the performance of the officer’s duties arising under this Act;
- if an officer of the Tertiary Admission Centre discloses personal information to a Commonwealth officer to assist the Commonwealth officer in his or her official employment;
- if an officer of a higher education provider discloses personal information to an officer of the Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in the performance of the officer’s duties arising under this Act;
- if an officer of the Tertiary Admission Centre discloses personal information to an officer of a higher education provider to assist the provider’s officer in the performance of the officer’s duties arising under this Act.

Item 8 – At the end of subsection 179-25(1)

Insert new paragraph 179-25(1)(d) to include an officer of the Tertiary Admission Centre to whom the Commissioner (or a person authorised by the Commissioner) may communicate protected information for use by an officer of the Tertiary Admission Centre officer in the course of the officer’s official employment.

Item 9 – At the end of paragraph 179-35(1)(d)
Inserts new subparagraphs 179-35(1)(d)(v) and (vi) to extend the offence under section 179-35 to include circumstances where the personal information is held on a computer of a Tertiary Admission Centre or held on behalf of a Tertiary Admission Centre.

**Items 10 and 11 – After paragraph 74(1)(a) and 74(3)(a) of Schedule 1A**

Insert new paragraphs 74(1)(aa) and (3)(aa) to extend the definitions of *VET officer* and *official employment* (of an officer) for the purposes of the Act.

**Items 12 and 13 – Clause 75 of Schedule 1A**

Insert new paragraphs 75(ca), (e), (f) and (g) to include, for the purposes of paragraph 73(d), that the following disclosures are taken to be disclosures in the course of an officer’s official employment:

- (ca) if a Commonwealth officer discloses VET personal information to an officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in the performance of the officer’s duties arising under Schedule 1A of this Act;
- (e) if an officer of a VET provider discloses VET personal information to an officer of a Tertiary Admission Centre to assist the officer of the Tertiary Admission Centre in the performance of the officer’s duties arising under Schedule 1A of this Act;
- (f) if an officer of the Tertiary Admission Centre discloses VET personal information to a Commonwealth officer to assist the Commonwealth officer in the Commonwealth officer’s official employment;
- (g) if an officer of a Tertiary Admission Centre discloses VET personal information to an officer of a VET provider to assist the officer in the performance of the officer’s duties arising under Schedule 1A of this Act.

**Item 14 – After paragraph 76(1)(a) of Schedule 1A**

Insert new paragraph 76(1)(aa) to include an officer of the Tertiary Admission Centre to whom the Commissioner (or a person authorised by the Commissioner) may communicate VET personal information to assist the officer of the Tertiary Admission Centre officer in the performance of the officer’s duties arising under Schedule 1A of this Act.

**Item 15 – At the end of paragraph 78(1)(d) of Schedule 1A**

Inserts new subparagraphs 78(1)(d)(iii) and (iv) to extend the offence under clause 78 to include circumstances where the VET personal information is held on a computer of a Tertiary Admission Centre or the VET personal information is held on behalf of a Tertiary Admission Centre.
Items 16 and 17 – Subclause 1(1) of Schedule 1

Inserts new definitions for officer of a Tertiary Admission Centre and Tertiary Admission Centre in subclause 1(1) of the Dictionary (Schedule 1).