



Manual for providers

*Version 2.0 – December 2017*

Contents

[VET Student Loans Provider Manual – Purpose 8](#_Toc501621152)

[1. VET STUDENT LOANS 8](#_Toc501621153)

[1.1 Key features 8](#_Toc501621154)

[1.2 Program basics quick lookup 10](#_Toc501621155)

[1.3 Complying with other legislation 11](#_Toc501621156)

[1.4 Useful Links 11](#_Toc501621157)

[1.5 Glossary 12](#_Toc501621158)

[2. Managing existing vet fee-help students 14](#_Toc501621159)

[2.1 Grandfathering 2017 14](#_Toc501621160)

[2.2 Grandfathering 2018 14](#_Toc501621161)

[2.2.1 Exceptional circumstances 15](#_Toc501621162)

[2.2.2 Timing 16](#_Toc501621163)

[2.3 Reporting grandfathered students 16](#_Toc501621164)

[2.4 Superseded courses 16](#_Toc501621165)

[2.5 Students switching to VET Student Loans 17](#_Toc501621166)

[2.6 Changes in corporate structure 17](#_Toc501621167)

[2.7 Continuing third party arrangements 17](#_Toc501621168)

[3. Becoming an approved course provider 18](#_Toc501621169)

[3.1 Application fee 18](#_Toc501621170)

[3.2 Annual charge 18](#_Toc501621171)

[4. Provider obligations 20](#_Toc501621172)

[4.1 Compliance 20](#_Toc501621173)

[4.1.1 Audits and responding to requests for information 20](#_Toc501621174)

[4.1.2 Regulatory powers 21](#_Toc501621175)

[4.1.3 Compliance action 21](#_Toc501621176)

[4.1.4 Civil penalties and criminal offences 22](#_Toc501621177)

[4.1.5 Personal liability for executive officers 22](#_Toc501621178)

[4.2 Course provider requirements 23](#_Toc501621179)

[4.2.1 Course provider requirements 23](#_Toc501621180)

[4.2.2 Imposition of conditions 23](#_Toc501621181)

[4.2.3 Provider suitability requirements 24](#_Toc501621182)

[4.2.3.1 General requirements 24](#_Toc501621183)

[4.2.3.2 Financial performance 24](#_Toc501621184)

[4.2.3.3 Management and governance 25](#_Toc501621185)

[4.2.3.4 Experience and course offerings 26](#_Toc501621186)

[4.2.3.5 Student outcomes and workplace relevance 27](#_Toc501621187)

[4.2.3.6 Fit and proper person 27](#_Toc501621188)

[4.3 Tuition assurance 28](#_Toc501621189)

[4.4 Ongoing information requirements 28](#_Toc501621190)

[4.4.1 Notice of events 28](#_Toc501621191)

[4.4.2 Other events 29](#_Toc501621192)

[4.4.3 Information regarding displaced students 30](#_Toc501621193)

[4.4.4 Annual financial statements 30](#_Toc501621194)

[4.4.5 Copies of notices given to other regulators 31](#_Toc501621195)

[4.5 Approved courses and loan caps 32](#_Toc501621196)

[4.5.1 Process for approved providers applying for additional courses 33](#_Toc501621197)

[4.5.2 Multiple qualifications 34](#_Toc501621198)

[4.5.3 Superseded, deleted and non-current courses 34](#_Toc501621199)

[4.5.4 Loan caps 35](#_Toc501621200)

[4.5.5 Gap fees 36](#_Toc501621201)

[4.5.6 Managing student access with changes to the determination 37](#_Toc501621202)

[4.6 Provision and delivery 37](#_Toc501621203)

[4.6.1 What is a third party arrangement (TPA)? 38](#_Toc501621204)

[4.6.2 Obligations on TPA partners 38](#_Toc501621205)

[4.6.3 Approval of TPA where the partner is not an approved course provider 39](#_Toc501621206)

[4.6.4 Procedure for assessing applications for third party arrangements 39](#_Toc501621207)

[4.7 Student administration 41](#_Toc501621208)

[4.7.1 Student eligibility for VET Student Loans 41](#_Toc501621209)

[4.7.2 Loan fee 47](#_Toc501621210)

[4.7.3 Determining genuine students 48](#_Toc501621211)

[4.7.4 Students who fail a unit or part of a course 51](#_Toc501621212)

[4.8 Processes and procedures 51](#_Toc501621213)

[4.8.1 Staff training in processes and procedures 51](#_Toc501621214)

[4.8.2 Processes and procedures publishing requirements 52](#_Toc501621215)

[4.8.3 Process and procedures relating to student entry 52](#_Toc501621216)

[4.8.4 Processes and procedures for enrolment in courses 57](#_Toc501621217)

[4.8.5 Processes and procedures relating to loan applications 57](#_Toc501621218)

[4.8.6 Electronic communications between students and the Commonwealth 58](#_Toc501621219)

[4.8.7 Processes and procedures relating to a student’s withdrawal from a course 60](#_Toc501621220)

[4.8.8 Processes and procedures relating to cancellation of enrolment by a provider 62](#_Toc501621221)

[4.8.9 Processes and procedures relating to student complaints 62](#_Toc501621222)

[4.8.10 Process and procedures relating to fees 64](#_Toc501621223)

[4.8.11 Recognition of prior learning (RPL), fees and reporting requirements 66](#_Toc501621224)

[4.8.12 Fee periods 68](#_Toc501621225)

[4.8.13 Variations to tuition fees 69](#_Toc501621226)

[4.8.14 Variations to tuition fees that disadvantage students 70](#_Toc501621227)

[4.8.15 Processes and procedures relating to re-crediting a FEE-HELP balance 70](#_Toc501621228)

[4.8.16 Processes and procedures relating for handling information 79](#_Toc501621229)

[4.9 Census Days 79](#_Toc501621230)

[4.9.1 Determining census days 79](#_Toc501621231)

[4.9.2 Flexible enrolments 80](#_Toc501621232)

[4.9.3 Publishing census days 80](#_Toc501621233)

[4.9.4 Variations to census days 80](#_Toc501621234)

[4.9.5 Variations to census days that disadvantage students 81](#_Toc501621235)

[4.10 Marketing 81](#_Toc501621236)

[4.10.1 Misrepresenting VET Student Loans 82](#_Toc501621237)

[4.10.2 Offering inducements 82](#_Toc501621238)

[4.10.3 Engaging in cold-calling 82](#_Toc501621239)

[4.10.4 Use of third party contact lists 82](#_Toc501621240)

[4.10.5 Other marketing requirements 83](#_Toc501621241)

[4.10.6 Information about fees 83](#_Toc501621242)

[4.10.7 Marketing that mentions VET Student Loans 83](#_Toc501621243)

[4.10.8 Social Media 84](#_Toc501621244)

[4.10.9 Branding 84](#_Toc501621245)

[4.10.10 Use of Brokers or Agents 84](#_Toc501621246)

[4.11 Provision of information to students 85](#_Toc501621247)

[4.11.1 Providing information before enrolment 85](#_Toc501621248)

[4.11.2 Providing a VET Student Loan Statement of Covered Fees 85](#_Toc501621249)

[4.11.3 Providing a VET Student Loan Fee Notice 86](#_Toc501621250)

[4.11.4 Providing a Commonwealth Assistance Notice 87](#_Toc501621251)

[4.11.5 How notices are to be provided 88](#_Toc501621252)

[4.12 Retaining information and documents 88](#_Toc501621253)

[4.13 Dealing with personal information 88](#_Toc501621254)

[4.14 Data reporting 89](#_Toc501621255)

[4.14.1 Equivalent Full time Study Load 90](#_Toc501621256)

[4.14.2 What data needs to be reported? 90](#_Toc501621257)

[4.14.3 Data certification 90](#_Toc501621258)

[4.14.4 Reporting deadlines 91](#_Toc501621259)

[4.14.5 Publishing data 91](#_Toc501621260)

[4.14.6 Electronic communications 91](#_Toc501621261)

[4.14.7 Electronic communications between students and providers 92](#_Toc501621262)

[5. Payments to approved course providers 93](#_Toc501621263)

[5.1 Provider fee limit 93](#_Toc501621264)

[5.2 Process for applying for an increase to a provider fee limit 94](#_Toc501621265)

[5.2.1 Business Case Requirements 95](#_Toc501621266)

[5.3 When Secretary is not required to pay loan amount 95](#_Toc501621267)

[5.4 When the provider must repay loan amounts 95](#_Toc501621268)

[5.4.1 Students’ FEE-HELP balance re-credited 96](#_Toc501621269)

[5.4.2 Loan amount was not payable 96](#_Toc501621270)

[5.4.3 Loan amount exceed provider fee limit 96](#_Toc501621271)

[Appendices 97](#_Toc501621272)

[Appendix A – Civil penalties and criminal offences 97](#_Toc501621273)

[Appendix B – Checklist of information to be provided to students prior to enrolment 102](#_Toc501621274)

[Appendix C – Sample – VET Student Loan Statement of covered fees and Fee Notice 104](#_Toc501621275)

[Appendix D – Sample - Commonwealth Assistance Notice 105](#_Toc501621276)

[Appendix E – Notice of rights of review 106](#_Toc501621277)

[Appendix F – Fees that are not covered by VET Student Loans 107](#_Toc501621278)

[Appendix G – Goods and services for which a separate fee must not be charged 108](#_Toc501621279)

[Appendix H – Reporting and Payment Schedule 2017 109](#_Toc501621280)

[Appendix I – Equivalent full-time student load 110](#_Toc501621281)

[Appendix J – Provider resources 111](#_Toc501621282)

**Change Register**

| Version | Section | Change\* |
| --- | --- | --- |
| 2.0 |  | **Moved: ‘**[VET Student Loans Provider Manual – Purpose’](#_VET_Student_Loans_1)from former section 1.2 to beginning of manual |
| 1.1 | **Revised:** ‘[Key features’](#_1.1_Key_features)**Added:** ‘[How does VET Student Loans work](#_How_does_VET)?’ (Flow chart) |
| 1.2 | **Added: NEW SUBSECTION –** ‘[Program basics quick lookup](#_1.2_Program_basics)’ |
| 1.4 | **Revised:** ‘[Useful Links](#_1.4_Useful_Links)’– (formerly paragraph 1.3) added legislation links |
| 1.5 | **Added:** minor editions/edits to[Glossary](#_1.5_Glossary) |
| 2 & 2.1 | **Revised:** Section 2 and section 2.1 ‘[Grandfathering 2017](#_2.1_Grandfathering_2017)’ |
| 2.2 | **Added:** **NEW SUBSECTION** - ‘[Grandfathering 2018](#_2.2_Grandfathering_2018)’ |
| 2.3 | **Revised:** ‘[Reporting grandfathered students](#_2.3_Reporting_grandfathered)’(formerly section 2.7) **–** Removed unnecessary text |
| 3 | **Updated:** to refer to [subsequent application rounds](#_3._Becoming_an) |
| 3.1 | **Added:** **NEW SUBSECTION** - ‘[Application fee](#_3.1_Application_fee)’ |
| 3.2 | **Added:** **NEW SUBSECTION** – ‘[Annual charge](#_3.2_Annual_charge)’ |
| 4.1.4 | **Revised:** penalty units |
| 4.2.3.3 | **Added:** **NEW SECTION** – ‘[Commissions for provider staff](#_Commissions_for_provider)’ |
| 4.2.3.5 | **Added:** ‘[Student outcomes and workplace relevance](#_Student_outcomes_and)’ **–** added paragraph to **‘*Completion rates*’** section |
| 4.3 | **Revised:** ‘[Tuition Assurance](#_Tuition_assurance_1)’– new arrangements introduced for 2018 |
| 4.5 | **Edited:** for clarity and IT update – **‘**[*Qualifying Courses*](#_Qualifying_Courses)**’** section |
| 4.5.1 | **Edited:** [Process for approved providers applying for additional courses](#_4.5.1__)– text revised for clarity |
| 4.5.2 | **Correction:** typographical error  |
| 4.5.3 | **Correction:** ‘[Superseded, deleted and non-current courses](#_4.5.3__)’– text edited to clarify loan access |
| 4.5.4 | **Edited:** Added new paragraph and text edits – **‘**[Loan caps](#_4.5.4__)**’**;‘Changes **to loan caps over time, including indexation’**; **‘Tracking students’ course cap ‘balance’**’;and **‘When a student commences with the second provider’** |
| 4.5.5 | **Edited:** for clarity – ‘[Gap fees](#_4.5.5__)’ |
| 4.5.6 | **Edited:** text regarding ‘[Managing student access with changes to the determination](#_4.5.6__)’ and **Added** text regarding indexation to loan caps. |
| 4.5.7 | **Deleted:** duplicate paragraph **‘**Superseded courses**’** deleted – refer text at paragraph 4.5.3 |
| 4.6.3 | **Added:** [third party arrangement diagram](#_4.6.3__) and text edits for clarity |
| 4.7.1 | **Edited:** for clarity – ‘[Student eligibility](#_4.7.1__)’; ‘**Determining citizenship and visa status’**; ‘**Where tuition fees exceed FEE-HELP balance remaining’****Added:** [FEE-HELP limit diagram](#_FEE-HELP_limit)**Added:** [FEE-HELP balance diagram](#_FEE-HELP_balance_1) |
| 4.7.3 | **Edited** text regarding completion of progressions |
| 4.8 4.8.1 4.8.2 | **Added:** Text to **‘**[Processes and Procedures](#_Toc473016838)**’ –** clarification around the application of the requirements **to all students** enrolled in approved courses whether or not they request a loan, **added** separate section for publishing requirements of processes and procedures, and minor text/heading edits |
| 4.8.3 | **Added:** ‘[Important clarification regarding qualifications issued prior to 1995](#_Important_clarification_regarding)’ to ‘[Processes and procedures relating to student entry](#_4.8.3__)’ |
| 4.8.5 | **Added:** more information about [using paper CAFs](#_Paper_CAFs) and text edits to ‘[Processes and procedures relating to loan applications](#_4.8.5__)’ |
| 4.8.6 | **Added: NEW SECTION** – **‘**[New procedure for verifying TFNs’](#_New_procedure_for)and edits to ‘[Provision of TFN by students](#_Provision_of_TFN)’ |
| 4.8.9 | **Added: NEW SECTION** – **‘**[Providers’ obligations](#_Providers’_obligations)**’** regarding the VSL Ombudsman external dispute resolution scheme, and minor edits to **‘**[VET Student Loans Ombudsman](#_VET_Student_Loans)**’** section (formerly ‘Providers’ responsibilities’).  |
| 4.8.10 | **Edited:** for clarity – ‘[Determining tuition fees](#_Determining_tuition_fees_1)’ |
| 4.8.11 | **Added: NEW SECTION** – ‘[Recognition of prior learning (RPL), fees and reporting requirements](#_4.8.11_Recognition_of)**’**  |
| 4.8.12 | **Added:** HEIMS element to example in ‘[Charging tuition fees over periods for a course](#_Charging_tuition_fees)’ and other text edits**Added:** [diagram showing fee periods](#_Example_Fee_Period) |
| 4.8.15 | **Added:** [Review procedure flow chart](#Review_procedure_flowchart) and text edits |
| 4.8.16 | **Added: NEW SECTION – ‘**[Processes and procedures relating for handling information](#_Toc471300329)’  |
| 4.9 | **Added**: Explanatory text – ‘[Census days](#_4.9_Census_Days_2)’ |
| 4.9.1 | **Added:** [diagram showing how to determine census days](#_Toc481649903) and edits to text |
| 4.9.4 | **Added:** paragraph to ‘[Variations to census days](#_4.9.4__)’ for clarity of administrative error |
| 4.10.8 | **Added:** clarification around what counts as ‘[social media’](#_4.10.8__) |
| 4.10.9 | **Added: Important Note** in[Branding](#_Toc477960408) |
| 4.11 | **Added:** section **‘**[Provider administration obligations for approved VET Student Loans courses](#_Provider_administration_obligations)**’**, edited text in **‘**[Provision of information to students](#_Toc481649930)**’, added** section ‘Providing information before enrolment’ |
| 4.11.3 | **Edited:** [Providing VSL Fee Notices](#_4.11.3__)– edits for clarity |
| 4.14.3 | **Added:** text regarding payment validation |
| 4.14.4 | **Added: table** – [2017 data reporting timeframes and clarification on reporting unit completions](#_4.14.4__) |
| 4.14.5 | **Added:** [Links](#_4.14.5__) to statistical data |
| 5 | **Added:** text to ‘[Payments to approved course providers](#_Toc471374620)’ regarding the payments process and **Added** section ‘[Data Reporting Statutory Declarations](#_Data_Reporting_Statutory)’ |
| 5.1 | **Added: Important note re:** [the consumption of a provider’s fee limit](#_Provider_fee_limit_1) |
| 5.2 | **Added:** **NEW SUBSECTION** – ‘[Process for applying for an increase to a provider fee limit](#_5.2_Process_for)’ |
| App A | **Added:** [Brokers and Agents penalty](#_Toc339446938) |
| App F | **Edited: ‘**[Fees not covered by a VSL](#_Appendix_F_–Fees)**’ –** minor text addition for clarity |
| App H | **Added:** [note relating to consumption of a provider’s fee limit](#_Appendix_H_–) |
| App I | **Added:** ‘[Reporting against EFTSL for part time students](#_Appendix_I_–)’ |
| App J | **Removed:** documents and publications removed and update to reflect VSL website |

\* Renumbering has not been recorded. Some minor text and formatting edits do not appear in the change register.

## VET Student Loans Provider Manual – Purpose

The purpose of the VET Student Loans Manual for Providers (the Manual) is to assist and guide approved course providers (providers) in meeting the requirements under the VET Student Loans program.

The Manual is not a substitute for independent legal advice. If there is any ambiguity or inconsistency between this document and the *VET Student Loans Act 2016* (the Act) and the *VET Student Loans Rules 2016* (the Rules), the Act and the Rules take precedence.

References to the *VET Student Loans Act 2016* will look like this: [Act s 25].

Reference to the VET Student Loans Rules 2016 will look like this: [Rules s 40].

References to Schedule 1A of the *Higher Education Support Act 2003* will look like this: [HESA clause 43].

**Elsewhere when there is reference to a ‘section’, this means a section in this Manual.**

**IMPORTANT NOTE:** In response to providers’ feedback, providers are advised that from this edition forward, where the department updates the Manual the department will send a notification to the person/s listed as the ‘Primary contact –VET’ in HITS.

Providers are reminded to update all contact details in HITS.

# 1. VET STUDENT LOANS

VET Student Loans is an income contingent loan program to assist eligible vocational education and training students to pay their tuition fees.

The VET Student Loans program commenced on 1 January 2017, replacing the VET FEE-HELP scheme, which ceased on 31 December 2016 for all new students. The VET Student Loans program is governed by the *VET Student Loans Act 2016* and the VET Student Loans Rules 2016*.* The *VET Student Loans (Charges) Act 2016* allows for the imposition of an annual approved course provider charge on providers.

The VET Students Loansprogram will give students, providers and the VET sector the opportunity to better meet industry needs and employment outcomes while ensuring only quality providers are delivering training under the program.

## 1.1 Key features

* **Course eligibility** that aligns with industry needs and employment outcomes. Courses that do not align with industry needs and job outcomes will be excluded from the program.
* **Loan caps** on all eligible courses ($5,000, $10,000 and $15,000) based on cost of delivery. Providers will be free to charge above the loan caps, but this will mean that students will need to find the additional funds to complete their studies.
* **A student engagement requirement,** where students must log in to an online IT system to demonstrate their continued engagement in their course. This measure commenced on 1 July 2017.
* **A new outcomes-focused application process** for providers to access the program, including an application fee and time limited approvals.
* **A strengthened legislative, compliance and payment framework,** including the ability to impose loan caps on providers on a case by case basis to deal with rapid growth in enrolment, loans or course offerings.
* **A VET Student Loans Ombudsman** to investigate complaints about the Vocational Education and Training (VET) Student Loans program and VET FEE‑HELP scheme (the Ombudsman commenced on 1 July 2017).
* **Banning brokers, and restriction of third party training** to VET Student Loans or TEQSA approved providers or bodies specifically approved by the department on application.

**How do VET Student Loans (VSL) work (in brief)?**



## 1.2 Program basics quick lookup

***Who can offer VET Student Loans?***

Only registered training organisations that have been approved by the Secretary of the Department of Education and Training can offer VET Student Loans to eligible students. See ‘[Becoming an approved course provider](#_3._Becoming_an)’.

***What is an eligible student?***

This is a student who meets all the eligibility requirements under Part 2 Division 2 of the *VET Student Loans Act 2016*. See ‘[Student eligibility for VET Student Loans](#_Eligibility)’. See also ‘What is a ‘genuine student’?’ below.

***What courses can a student apply for a VET student loan for?***

Eligible students may only access a VET Student Loan for an approved course at an approved course provider that has been approved to offer that particular approved course. See ‘[Approved courses and loan caps](#_4.5_Approved_courses)’. Different arrangements apply for full fee-paying and subsidised students.

***What is a unit of study?***

A unit of study may comprise a group of units of competency or one unit of study may equal one unit of competency. Many rules apply to providers in respect of units of study such as [determining census days](#_4.9.1__), [publishing fees](#_Providing_and_publishing_1), [issuing notices](#_4.11_Provision_of), [reporting fees and completions](#_4.14_Data_reporting), and [withdrawal](#_4.8.6__) and [penalty provisions](#_Toc339446938).

***What is a census day?***

The day the student incurs financial liability for the unit of study. Students may cancel their enrolment by the census day without incurring tuition fees (or a HELP or VET Student Loans debt) for the course or the part of the course. See ‘[Census days](#_4.9_Census_Days)’.

***What is a course loan cap?***

This is the total amount of loan an eligible student may access for a particular course.

See ‘[Loan caps](#_4.5.4__)’.

***What are ‘covered fees’?***

The amount of the course tuition fees to be covered by a VET student loan. This will be set out on the student’s VET Student Loans Statement of Covered Fees.

***What is a tuition fee?***

The total fees for the course (including the covered fees plus any [gap fee](#_4.5.5__)). See ‘[Determining tuition fees](#_Determining_tuition_fees_1)’.

***What is a gap fee?***

The difference between the covered fees and the total tuition fee for a course. See ‘[Gap fees](#_4.5.5__)’.

***What are fee periods?***

The tuition fees for the course must be reasonably and proportionately distributed across at least three sequential fee periods. Each fee period must contain at least one census day. Therefore there will be at least three census days/three units over the course.

See ‘[Fee periods](#_Fee_periods_1)’.

***What is the provider fee limit?***

The maximum dollar amount for VET Student Loans that can be paid to an approved course provider for a particular period of time and/or for particular approved course(s). See ‘[Provider fee limit](#_5.1_Provider_fee)’.

***What is the FEE-HELP limit?***

The maximum amount a person can borrow over their lifetime for VET Student Loans, VET FEE‑HELP and FEE-HELP. See ‘[FEE-HELP limit](#_FEE-HELP_limit)’.

***What is the FEE-HELP balance?***

A person’s FEE-HELP limit minus any VET Student Loans, VET FEE‑HELP and FEE‑HELP loans they have used. See ‘[FEE-HELP balance](#_FEE-HELP_balance)’.

***What is a genuine student?***

Whether or not a student is a “genuine student” is determined in accordance with factors set out at section 5 of the Rules. This is relevant as the Secretary does not need to pay a loan amount for a student which is not genuine. Genuine student factors include considering whether students have demonstrated that they are reasonably engaged in the course and have completed the student progression requirements. See ‘[Determining tuition fees](#_Determining_tuition_fees_1)’.

***When do providers get paid?***

Providers will be paid monthly in arrears of reported census days for genuine students. See ‘[Payments to approved course providers](#_5._Payments_to)’.

## 1.3 Complying with other legislation

Approved course providers and their key personnel must also comply with their requirements under other Commonwealth and State and Territory legislation. Relevant legislation includes the Privacy Act 1988, the National Vocational Education and Training Regulator Act 2011*,* the *Higher Education Support Act 2003*, the *Crimes Act 1914,* the *Competition and Consumer Act 2010* and the *Corporations Act 2001.*

In addition to any consequences that may result under the specific legislation, a failure to comply with the law, and in particular any convictions for an offence or imposition of a pecuniary penalty order, may be taken into consideration in assessing whether the provider and its key personnel continue to satisfy the ‘fit and proper person’ course provider requirement. Being able to satisfy this requirement is necessary for a provider to maintain its status as an approved course provider (see paragraph 25(2)(f) of the *VET Student Loans Act 2016* and Division 2, Part 4 of the VET Student Loans Rules 2016).

## 1.4 Useful Links

****Legislation****

* *VET Student Loans Act 2016*:[www.legislation.gov.au/Series/C2016A00098](https://www.legislation.gov.au/Series/C2016A00098)
* *VET Student Loans (Charges) Act 2016*: <https://www.legislation.gov.au/Details/C2016A00099>
* VET Student Loans Rules 2016: [www.legislation.gov.au/Series/F2016L02030](http://www.legislation.gov.au/Series/F2016L02030)
* VET Student Loans (Courses and Loan Caps) Determination 2016: [www.legislation.gov.au/Series/F2016L02016](http://www.legislation.gov.au/Series/F2016L02016)
* VET Student Loans (Approved Course Provider Application Fee) Determination 2017: [www.legislation.gov.au/Series/F2017L01060](http://www.legislation.gov.au/Series/F2017L01060)
* VET Student Loans (Charges) Regulations 2017: [www.legislation.gov.au/Series/F2017L00821](http://www.legislation.gov.au/Series/F2017L00821)
* VET Student Loans (External Dispute Resolution Scheme) Specification 2017: [www.legislation.gov.au/Series/F2017L00609](http://www.legislation.gov.au/Series/F2017L00609)
* *Student Identifier Act 2014*: [www.legislation.gov.au/Series/C2014A00036](https://www.legislation.gov.au/Series/C2014A00036)
* *Higher Education Support Act 2003:* [www.legislation.gov.au/Series/C2004A01234](http://www.legislation.gov.au/Series/C2004A01234)

****IT help****

* HELP Information Technology System (HITS) User Guide: <https://docs.education.gov.au/node/33983>
* HEIMS Guides: <http://heimshelp.education.gov.au/sites/heimshelp>

****Department of Education and Training Websites:****

* The department: [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans)
* My Skills: [www.myskills.gov.au](http://www.myskills.gov.au)
* Study Assist: [www.studyassist.gov.au](http://www.studyassist.gov.au)

Email:

Approved course providers with enquiries or notifications should use the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

## 1.5 Glossary

| Term | Explanation |
| --- | --- |
| AAT | Administrative Appeals Tribunal |
| ACSF | Australian Core Skills Framework |
| ADI | Authorised Deposit-Taking Institution |
| APP | Australian Privacy Principles, as defined in the *Privacy Act 1988* |
| AQF | Australian Qualifications Framework |
| ASQA | Australian Skills Quality Authority |
| ATO | Australian Taxation Office |
| business day | any day other than a Saturday, a Sunday, or a public holiday in the place in which the relevant act is to be or may be done |
| CAN | Commonwealth Assistance Notice |
| census day | a date by which enrolment may be cancelled without incurring tuition fees (or a HELP or VET Student Loans debt) for the course or the part of the course. See also section on census days in this manual. |
| CHESSN | Commonwealth Higher Education Student Support Number |
| Course | A course listed in the VET Student Loans (Courses and Loan Caps) Determination 2016  |
| Department | Commonwealth Department of Education and Training |
| EFTSL | Equivalent full-time student load, |
| ETA | *Electronic Transactions Act 1999* |
| HEIMS | Higher Education Information Management System |
| HEPCAT | Higher Education Provider Client Assistance Tool |
| HESA | *Higher Education Support Act 2003* |
| HITS | HELP Information Technology System |
| Listed Course Provider | Refer s27 *VET Student Loans Act 2016*: an RTO that is a Table A or Table B provider (HESA), a TAFE established under State or Territory legislation or a training organisation owned by the Commonwealth, a State or Territory or body specified in the rules. |
| Minister  | The Minister responsible for the administration of VET Student Loans |
| NVR | National VET Regulator, or ASQA |
| NVR Act | National Vocational Education and Training Regulator Act 2011 |
| Provider | A registered training organisation approved as an approved course provider under the *VET Student Loans Act 2016*.  |
| RTO | registered training organisation as listed on the National Register at [www.training.gov.au](http://www.training.gov.au/)  |
| Secretary | a person holding, occupying or performing the duties of the position of Secretary of the department, responsible for the administration of VET Student Loans |
| Table A or Table B provider | Refer to the meaning outlined in HESA:Table A provider – a body listed in Table A in HESA section 16-15.Table B provider – a body listed in Table B in HESA section 16-20. |
| TEQSA | Tertiary Education Quality and Standards Agency |
| TPA | Third party arrangement |
| USI | Unique Student Identifier |

# 2. Managing existing vet fee-help students

From 1 January 2017 for a limited period, the VET FEE-HELP scheme and the VET Student Loans program will be operating concurrently. It is a provider’s responsibility to ensure they comply with the applicable legislation and instruments.

VET FEE-HELP can only be provided to certain continuing VET FEE-HELP students by their original provider or another provider if tuition assurance has been activated. The provider offering VET FEE‑HELP must continue to be approved under the *Higher Education Support Act 2003* (HESA) to offer VET FEE-HELP.

## 2.1 Grandfathering 2017

Where a student commenced a course under the VET FEE-HELP arrangements and was still studying the course immediately before 1 January 2017 they were given the opportunity to ‘opt in’ to continue to receive VET FEE-HELP assistance for further units of study in that course with their provider over 2017. Such students are said to be ‘grandfathered’. The department, via email or letter from December 2016, contacted students. Students were required to follow the steps outlined in the document to opt-in before 31 March 2017 to continue under the VET FEE‑HELP grandfathering arrangements over 2017. Once the student had completed the online opt-in form, a confirmation email was sent to their nominated email address.

**Providers must retain a copy of the opt-in confirmation email. A copy of the initial opt-in email or letter is not sufficient confirmation.**

**IMPORTANT NOTES:**

* Providers will not receive payment for census dates in 2017 that have already passed for their continuing students until the students have opted-in following the opt-in process.
* The requirement for students to opt-in and confirm their continued engagement in study is part of the eligibility requirements for students to obtain continued access to VET FEE‑HELP.
* Providers should not report data for a student if that student has not opted-in. Providers can, however, [report student data once the student has opted-in](#_Toc471305876).

## 2.2 Grandfathering 2018

Some grandfathered students, who have received VET FEE-HELP assistance and completed unit/s in 2017,but have not yet completed their course, may be eligible to extend their VET FEE-HELP assistance into 2018 under [*exceptional circumstances*](#_2.2.1__)**[HESA clause 43(3)(b)(ii)]**.

The Government electronic Commonwealth Assistance Form ([eCAF](#_Using_the_eCAF)) system has been modified to support the 2018 VET FEE-HELP opt-in extension process. VET FEE-HELP providers will be required to initiate VET FEE‑HELP opt-in extensions by uploading a spreadsheet to the eCAF system, nominating students that fulfil the criteria below. Providers will be required to declare that any 2017 grandfathered student proposed for 2018 VET FEE‑HELP opt-in extension:

* is a genuine, continuing student engaged in their studies; and
* has one or more of the exceptional circumstances set out in subsection 2.2.1 that have prevented the student’s completion of a unit of study in 2017; and
* has completed at least one unit of study in 2017; or
* is expected to complete at least one unit of study in 2017.

Student details will be matched in the department’s system and students will receive an invitation email from the department. Students will use the eCAF system to apply for approval by completing an online form indicating that they meet the eligibility criteria for continued access to VET FEE-HELP assistance in 2018, including specifying which of the exceptional circumstances applies to them. Students from closed providers who have moved to another provider or are moving into a replacement course from a superseded course will still be eligible for the opt-in extension. Technical details about the process are available in the eCAF User Guide accessible in the eCAF system.

An email will then be sent to students, with a copy of their completed *VET FEE HELP Grandfathering – 2018 Extension – Application Form* attached, for the student to take to their provider to confirm their approval for access to VET FEE-HELP in 2018 (with all other requirements being met by the student and the VET FEE-HELP provider).

To confirm the student wants to pay their tuition fees with a VET FEE-HELP loan a student will be required to give a copy of their form to their provider. The online form was available from September 2017.

Providers will not receive payment for census dates in 2018 for a student unless the student meets the eligibility requirements. Providers should therefore not report student debt data unless the student has provided a copy of their completed *VET FEE HELP Grandfathering – 2018 Extension – Application Form*.

### 2.2.1 Exceptional circumstances

To be eligible for continued access to VET FEE-HELP assistance, students must demonstrate that one or more of the exceptional circumstances below applies to them. Exceptional circumstances include illness, caring responsibilities, part-time studies, engagement in courses with longer than 12 months duration and students impacted by provider closure and tuition assurance activation:

##### Part-time study

This option is appropriate for situations where the student’s personal or work circumstances require that they study part-time.

##### Course is longer than 12 months full-time duration

This option is appropriate for situations where the student’s course would exceed 12 months in duration, even if undertaken full-time; for example, nursing.

##### Provider closure and the activation of tuition assurance

This option is appropriate for situations where studies have been delayed because the provider has ceased operation, and the student has had to move to a new provider to continue their studies.

##### Illness or accident

This option is appropriate for situations where illness or accident stopped or delayed studies. Such circumstances might arise for example from:

* a motor vehicle accident
* the worsening (including the aggravation, deterioration or serious episode) of an illness or condition
* recovery does not go to plan
* some other incapacity.

##### Caring responsibilities or material adverse change in personal or family circumstances

This option is appropriate for situations where caring responsibilities or change in the student’s family or personal situation stopped or delayed studies. Such circumstances might arise for example from:

* childcare responsibilities
* elder care responsibilities
* death of a close family member
* change in work circumstances
* serious financial difficulties.

### 2.2.2 Timing

**Applications close 31 January 2018.**

Providers should ensure enrolment data is uploaded in sufficient time to allow students to submit their exceptional circumstance opt-in request by 31 January 2018.

## 2.3 Reporting grandfathered students

From the perspective of data reporting, the requirements for reporting grandfathered students are consistent with the 2016 and 2017 reporting requirements for VET FEE-HELP. There have been some minor modifications to existing coding notes and documentation to indicate codes that apply to VET FEE‑HELP and to VET Student Loans.

For information about reporting of VET FEE-HELP grandfathered students with a superseded course, refer to [section 2.4](#_2.4_Superseded_courses) below.

The reference number provided to students who opt in to continue their studies under the existing VET FEE-HELP arrangements is not reported in the VET Student submission.

## 2.4 Superseded courses

**For information regarding superseded courses for VET Student Loans students see** [4.5.3](#_4.5.3__)**.**

Training packages are regularly updated. In the case where there is a replacement course for a superseded course, the student may be required to transition from the superseded course to the replacement course. Grandfathered VET FEE−HELP students can continue to access VET FEE-HELP when moving to a current version of a superseded course as long as other grandfathering requirements are met (see [section 2.1](#_2.1_Grandfathering_2017) and [section 2.2](#_2.2_Grandfathering_2018)). In this situation, the student would have to complete another Commonwealth Assistance Form (CAF), nominating the current course on the form. The completion of a new CAF does not impact eligibility for grandfathering under these circumstances – students may rely upon their previously completed opt-in confirmation as noted above.

**Providers should advise the department of all instances where a grandfathered student is required to transition to a replacement course.**

Providers will need to report (through HEIMS/HEPCAT) the replacement/current course in their course submission for 2017 and ensure the student’s data references the new course. VET FEE-HELP students must have opted-in to continue to access VFH into 2017 and provided their opt-in confirmation letter (related to the superseded course) attached to their confirmation email to their provider.

VET FEE‑HELP Request for Commonwealth Assistance forms continue to be available and may be used for this purpose only. VET FEE‑HELP providers should send order request for VET FEE-HELP Request for Commonwealth Assistance forms, including the number of CAFs required, to HEEnquiries@education.gov.au.

**NOTE: when a student transitions to the new version of a superseded course, the provider must meet Australian Skills Quality Authority (ASQA) requirements for enrolment.**

## 2.5 Students switching to VET Student Loans

Subject to meeting eligibility criteria including the FEE-HELP limit, a continuing student can access a VET Student Loan up to the full course cap amount regardless of whether they have accessed VET FEE−HELP in the past. The student’s VET Student loan cap will exclude any pre-existing VFH debt incurred for the same course. The maximum loan amount for the VET Student Loans approved course applies only to enrolment in the course under VET Student Loans.

## 2.6 Changes in corporate structure

To be approved as an approved course provider under VET Student Loans a provider must be a body corporate that is not a trustee [Act s 25(2)(a)]. It must also be a registered training organisation [Act s 25(2)(d)]. Where a provider changes its corporate structure to satisfy the VET Student Loans requirements, it must ensure that the entity that applies for approval under VET Student Loans is not a trustee and holds the RTO status. This will therefore not impact any concurrent RTO approval of that company for VET FEE-HELP.

## 2.7 Continuing third party arrangements

A provider may continue its third party arrangements (TPA) it established under VET FEE‑HELP for the delivery of courses for grandfathered VET FEE‑HELP students provided that these third party arrangements meet the requirements of the VET FEE-HELP scheme.

However providers should note that for VET Student Loans, approved courses may only be delivered by the approved course provider, or for the approved course provider by: another approved course provider, a person or body registered by TEQSA, or a person or body approved in writing by the Secretary to deliver the course [Act s 15].

Providers continuing with third party arrangements for grandfathered students in 2017 should have regard to [section 4.6](#_Provision_and_delivery) of this Manual.

# 3. Becoming an approved course provider

Only providers that have been approved as an approved course provider can offer approved courses through VET Student Loans [Act s 15].

To become an approved course provider, a body needs to:

* apply in the approved form [Act s 28]
* pay the [application fee](#_3.1_Application_fee) [Act s 28]
* satisfy the Secretary that they meet the course provider requirements [Act s 25] and
* provide any further information requested.

Importantly, once a body has been approved, it will be required to continue to meet the course provider requirements to maintain its approval [Act s 47(2)]. These are explained below at [section 4.2](#_4.1.6__).

The length of time that a body is approved will be set out in its approval documentation; however, the period of approval will not be more than 7 years [Act s 29]. This aligns with the maximum length of registration as a registered training organisation.

Applications for approval will only be considered during application rounds. It is anticipated this will occur annually each calendar year. Information about how to apply to become a VET Student Loans Approved Course Provider is available at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans).

##### Listing of approved VET Student Loans course providers and approved courses

The department publishes a list of approved VET Student Loans course providers and the period of approval. The list is updated as new providers are added. The list is published at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans).

## 3.1 Application fee

All registered training organisations may apply to become an approved VET Student Loans provider, with an accompanying application fee. The collection of an application fee assists with the recovery of the costs associated with processing and assessing applications.

The application fee is required to be paid each time a provider submits an application for approval as an approved course provider under the VET Student Loans program. The application fee is not refundable if an applicant is not approved. A provider will need to pay the application fee again if it reapplies for approval.

The application fee amount per provider is $5,110.

The Secretary is not required to accept an application if it is not in an approved form. If the Secretary does not accept an application, the application fee must be refunded.

Further details on the methodology for determining the application fee is available in the Cost Recovery Implementation Statement, found at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans).

## 3.2 Annual charge

Approved providers will be required to pay an annual charge. The charge partially recovers costs associated with administering the program, such as compliance and auditing costs, payments, processing and actioning complaints, and provider and student management.

The amount payable for a financial year depends on the size of the provider, determined by the summation of all verified student enrolments as reported by that provider for payment purposes.

The size categories and final annual charge rates per provider for the 2017-18 financial year are set out in the *VET Student Loans (Charges) Regulations 2017*, available at [www.legislation.gov.au/Series/F2017L00821](http://www.legislation.gov.au/Series/F2017L00821). The department anticipates it will invoice providers for the 2017-2018 financial year in or around September 2018.For the 2017-18 financial year:

* providers with fewer than **200 student enrolments** are charged the small provider annual charge rate ($1,280)
* providers with at least **200 but up to and including 1,000 student enrolments** are charged the medium provider annual charge rate ($12,480)
* providers with more than **1,000 student enrolments** are charged the large provider annual charge rate ($62,870).

Providers will have 30 days from the date of issue to pay the charge, after which a late payment penalty may apply.

Further details on the methodology for determining the annual charge is available in the Cost Recovery Implementation Statement at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans).

# 4. Provider obligations

VET Student Loans includes a range of measures to protect students and taxpayers and restore integrity to, and the reputation of, Australia’s high quality vocational education and training sector. To this end, approved course providers must comply with certain legislative obligations. The Act and the Rules set out these obligations and consequences for failing to meet those obligations. Providers should familiarise themselves with these obligations. One of the consequences includes that a provider may be liable to civil penalties or criminal prosecution for breaches to these obligations. This section should be read in conjunction with [section 4.1.4 - Civil penalties](#_Civil_penalties) and [Appendix A – Civil penalties and criminal offences](#_Appendix_A_–).

Chapter 4 Summary

 [**Compliance**](#_Compliance)[**Processes and procedures**](#_Toc471300247)

 [**Provider suitability**](#_Provider_suitability_requirements)[**Census days**](#_Toc471300329)

 [Tuition assurance](#_Tuition_assurance) [Marketing](#_Marketing)

 [**Ongoing information**](#_Ongoing_information_requirements)[**Provision of information**](#_Provision_of_information)

 [**Approved courses**](#_Approved_courses_and)[**Retaining & personal information**](#_Retaining_information_and)

 [**Provision and delivery**](#_Provision_and_delivery)[**Data reporting**](#_Toc471305876)

[**Student administration**](#_Student_administration)[**Electronic communications**](#_Electronic_communications)

##  Compliance

The department’s compliance strategy aims to encourage, enforce and strengthen compliance of approved course providers.

In addition, the department works closely with the Australian Skills Quality Authority (ASQA), the Australian Competition and Consumer Commission (ACCC), tuition assurance scheme operators, the VET Student Loans Ombudsman and other stakeholders to deal with matters involving VET Student Loans and VET FEE-HELP providers.  This may involve the exchange of information, or more direct engagement in joint compliance activities.

Under section 24A of the *National Vocational Education and Training Regulator Act 2011*, compliance by a VET FEE-HELP approved provider with the *Higher Education Support Act 2003* and by a VET Student Loans approved course provider with the *VET Student Loans Act 2016* is a condition of registration as an RTO. Failure to comply with either of these Acts could be grounds for ASQA to consider regulatory action under its legislation.

### 4.1.1 Audits and responding to requests for information

##### Audits

Providers should be aware that they may be audited at any time in relation to their compliance with the statutory requirements and/or in relation to whether their students are ‘genuine students’ [Act s 45]. Failing to cooperate in audits can also lead to serious consequences for providers (such as imposition of a civil penalty) [Act s 46].

Keeping accurate and detailed records will help providers meet their obligations and assist them in complying with audits.

##### Secretary may request information

Providers should also note that the Department may, by notice in writing, require an approved course provider to give the Secretary information or documents that relate to:

* the provision of vocational education and training by the provider, or
* the provider’s compliance with the Act (including Rules etc.).

Where the Department makes such a request the provider must provide the information or documents in the form specified in the notice (e.g. this may be in the form of a statutory declaration) and in accordance with any other requirements specified in the notice.

Contravening this requirement may give rise to a civil penalty and is also a strict liability offence (both of 60 penalty units) [Act s 53].

### 4.1.2 Regulatory powers

The *Regulatory Powers (Standard Provisions) Act 2014* (**Regulatory Powers Act**) provides a framework of standard regulatory powers, which can be adopted by Commonwealth regulators through primary legislation.

The *VET Student Loans Act 2016* incorporates the following regulatory powers from the Regulatory Powers Act:

* monitoring powers to determine whether the Act has been complied with, including powers of entry and inspection [Act, s 82]
* investigation powers to determine whether a provision has been contravened, including powers of entry, search and seizure [Act, s 83]
* enforcement of civil penalty provisions under Part 4 of the Regulatory Powers Act, including by obtaining an order for a person to pay a pecuniary penalty [Act, s 84]
* issuing infringement notices for contravention of an offence provision or a civil penalty provision [Act s 85]
* accepting and enforcing undertakings relating to compliance with provisions [Act, s 86]
* using injunctions to enforce provisions [Act, s 87]
* appointment of investigators [Act, s 88]

For the avoidance of doubt, taking action under the above provisions does not limit the department from taking action under any other provision of the Act [Act, s 90].

### 4.1.3 Compliance action

Actions that could be taken against a provider for failing to meet obligations under the Act and the Rules include:

* the Secretary may determine not to pay a loan amount for student(s) of the provider [Act s 20(f)]
* conditions being placed on a provider’s approval [Act s 34]
* compliance notice being issued [Act s 43]
* suspension or revocation of a provider’s approval [Act s 36]
* issuing an infringement notice where there is a reasonable belief that the provider has contravened a civil penalty provision, and
* the imposition of a civil penalty by a court, where the provider has contravened a civil penalty provision.

### 4.1.4 Civil penalties and criminal offences

The Act includes a number of civil penalties provisions for contravention of certain requirements. These include, by way of example:

* failing to have processes and procedures in place
* failing to cooperate with the department or ASQA
* failing to provide information under the Act and the Rules and
* specific provisions in relation to census days, fees, tuition assurance, marketing and electronic communications.

As at July 2017, the penalties range from 60 penalty units to 240 penalty units for individuals ($12,600 – $50,400) and 300 penalty units to 1200 penalty units ($63,000 – $252,000) for corporations.

In addition to the imposition of penalties, providers should be aware that failure to meet certain obligations could amount to the commission of a criminal offence. The Act provides for a number of strict liability offences, this means that it does not matter that a provider did not intend to commit the offence, it is enough that the provider engaged in the prohibited conduct. The Act provides a maximum fine payable for these offences. Contravention of certain requirements (specifically in relation to the misuse of personal information) may result in imprisonment for up to 2 years.

A summary of the civil penalties and criminal offences under the Act is at [Appendix A](#_Appendix_B_–).

### 4.1.5 Personal liability for executive officers

Providers should note that under the Act executive officers of a provider may be found personally liable for the actions of the provider. An executive officer of an approved course provider commits an offence if:

* the provider commits an offence against this Act, and
* the officer knew that the offence would be committed, and
* the officer was in a position to influence the conduct of the provider in relation to the commission of the offence, and
* the officer failed to take all reasonable steps to prevent the commission of the offence [Act s 65(1)].

Where an executive officer is found personally liable, the maximum penalty for an offence is one-fifth of the maximum penalty that could be imposed for the offence committed by the provider – so where a provider would be subject to 60 penalty units (currently $12,600) the executive officer would be subject to a maximum of 12 penalty units ($2,520).

##### Civil penalty

An executive officer of an approved course provider contravenes subsection 65(3) of the Act if:

* the provider contravenes a civil penalty provision of the Act, and
* the officer knew that the contravention would occur, and
* the officer was in a position to influence the conduct of the provider in relation to the contravention, and
* the officer failed to take all reasonable steps to prevent the contravention.

The maximum civil penalty for a contravention of subsection 65(3) is one-fifth of the maximum penalty that could be imposed for the contravention of the civil penalty provision by the provider.

##### Reasonable steps to prevent offence or contravention

In determining whether an executive officer failed to take all reasonable steps to prevent the commission of an offence, or the contravention of a civil penalty provision, a court is to have regard to (among other things):

* what action (if any) the officer took towards ensuring that the provider’s employees, agents and contractors had a reasonable knowledge and understanding of the requirements to comply with the Act, in so far as those requirements affected the employees, agents or contractors concerned, and
* what action (if any) the officer took when he or she became aware of the offence or contravention.

##  Course provider requirements

### Course provider requirements

In addition to satisfying the course provider requirements at the time of approval, an approved course provider must continue to meet the course provider requirements [Act s 47(2)].

To meet the course provider requirements a body seeking approval as an approved course provider must meet all the following [Act s 25]:

* be a body corporate that is not a trustee;
* be established under the law of the Commonwealth, a State or a Territory;
* carry on business in Australia and have its central management and control in Australia;
* be a registered training organisation
* meet the provider suitability requirements (see [section 4.2](#_Course_provider_requirements))
* be a fit and proper person (see [section 4.2.3.6](#_Fit_and_proper))
* be a party to an approved tuition assurance arrangement (unless exempted [Act s 25(3)]) (see [section 4.3](#_Tuition_assurance_1)) and
* be a member of an approved external dispute resolution scheme (unless exempted by the Secretary [Act s 25(3)(b)]) (see [section 4.8.9](#_4.8.9__) **(Providers’ obligations**)).

### Imposition of conditions

Providers must comply with any conditions imposed on the provider’s approval [Act s 47(1)].

Conditions may be imposed for a variety of reasons, including the management of particular risks posed by a provider.

Further, the VET Student Loans program has a cap on the total amount of VET Student Loans that can be approved in a calendar year [Rules s 155]. To manage this, all providers have conditions imposed on them capping the total amount of VET Student Loans that may be paid to them in a year or period (provider fee limit). Some providers may also have a condition imposing caps on the loan amounts that may be paid to them, for particular courses (provider course fee limits).

### Provider suitability requirements

In addition to satisfying the provider suitability requirements at the time of approval, an approved course provider must continue to meet these requirements [Act s 47(2)].

The purpose of the provider suitability requirements is to ensure that only quality providers participate in VET Student Loans. An overview of these requirements is set out below.

### General requirements

An approved course provider must:

* be committed to delivery of high quality vocational education and training and achieving best outcomes for students
* act efficiently, honestly and fairly in all dealings with students, stakeholders and the Commonwealth, including the National VET Regulator
* have a record of satisfactory conduct in relation to the provision of previous vocational education and training for which the Commonwealth, a State or Territory provided funding [Rules s 22].

### Financial performance

A provider must be financially viable and be able to pay its debts as and when they are due and payable [Rules s 23].

The department takes into account a range of information when considering whether the provider continues to be financially viable.

When it applies for approval initially, the provider must submit sufficient information to assist the Minister in assessing the level of risk associated with its financial viability. This information should include audited financial statements.

Subsequently, a provider must provide, annually, accurate financial statements prepared by an independent qualified auditor in accordance with current accounting standards set by the Australian Accounting Standards Board (refer [section 4.4.4](#_4.4.4__)).

Indicators of financial viability are [Rules s 23(3)]:

* the provider generated sufficient income to meet operating payments and debt commitments and allow growth.
* the provider maintains a positive equity position and there is no evidence to suggest that this might change.
* if the provider has been operating for 3 or more years and is not a charitable or not-for-profit organisation registered with the Australian Charities and Not‑for‑profits Commission – it must have operated at a profit for at least 2 of the 3 most recent financial years.
* if the provider had at least 100 enrolments in courses leading to awards of qualifications in the Australian Qualifications Framework – at least 20 per cent of its total revenue for that previous financial year came from sources other than payments of Commonwealth assistance that gave rise to HELP debts.
* the provider has a net positive operating cash position from operating activities determined in accordance with accounting standards.
* the provider is not providing guarantees, or loans, that could have a material effect on the provider’s finances.
* the provider is not offering its assets as security other than under a commercial loan arrangement with an ADI.

##### Dividends and related party transactions

A provider’s dividend distributions during a financial year must not exceed the provider’s after tax profit for the previous financial year.

The provider’s payments to key personnel and related parties for the provision of goods or services during a financial year must only be for goods and services that are reasonably necessary for the operations of the provider and on terms that comply with the accounting standards, including in relation to arm’s length transactions [Rules s 24].

##### Insurance

The provider must have workers’ compensation insurance as required by law and adequate public liability insurance [Rules s 25].

These insurance requirements are necessary to ensure that an approved course provider has adequate financial resources to respond to and handle claims against it relating to workers’ compensation and public liability. In the event that the total liability incurred by the provider under such a claim exceeds the amount for which they are insured, then the provider will be liable to pay the balance of the liability out of its own resources.

If the provider has in place workers’ compensation insurance as required by the laws of each state and territory in which it has workers, it will meet the workers’ compensation insurance requirement.

The level of public liability insurance that is adequate for a provider to hold needs to be determined by the provider itself after an assessment by it of its risk exposure. Providers are best placed to conduct this assessment.

### Management and governance

Providers must have robust and appropriate management and governance structures.

##### Processes and resources

Providers must:

* have clearly defined decision-making processes that ensure accountability for decisions and actions;
* have the resources necessary to support employees and students
* have systems in place to maintain student records, ensure data integrity and report data consistently, accurately and on time to the department [Rules s 26]
* have the organisational capacity and administrative resources to ensure it meets its responsibilities under the relevant laws and reviews on a regular basis its compliance with, and effectiveness of its operations in relation to, those laws [Rules s 29]
* comply with the processes and procedures outlined at [section 4.8](#_Toc471300247).

##### Staffing

* A provider must ensure key personnel and advisers have experience and expertise necessary to perform their duties and responsibilities including in delivery of education, financial and human resources management and administration [Rules s 27].
* not pay its staff commissions, benefits or bonuses that have any connection with the number of students who are enrolled by the provider and whose tuition fees are paid (whether wholly or in part) using VET Student Loans[Rules s 28]**.**Further information on commissions is detailed in the next section ‘Commissions for provider staff’.

##### Commissions for provider staff

Section 28 of the *VET Student Loans Rules 2016* prohibits providers from paying staff commissions, benefits or bonuses that have any connection with the number of students who enrol with a provider in a course (whose fees are paid in whole, or in part under VET student loans), as well as in subsequent units of study that form part of the course.

The words ‘*any connection (whether direct or indirect)’* suggests that the intention is for the provision to apply so as to prohibit a wide range of provider behaviours which would amount to providers paying staff benefits / financial incentives connected to the numbers of students who are enrolled in approved courses.

Accordingly, paying staff commissions / financial incentives connected with the number of students who progress through a course is not consistent with section 28 – which relates not only to the initial enrolment of a student in an approved course, but also to enrolments by the student in subsequent units of study that form part of the course.

In addition, questionable training and assessment practices might result in a breach of the *National Vocational Education and Training Regulator Act 2011* (**NVETR Act**) and / or the *Standards for Registered Training Organisations 2015* (**RTO Standards**), specifically:

* if there is a suggestion that a provider may be allowing students to progress through a course where they do not meet the course competencies, or if the provider is not conducting the training or assessment appropriately, then this could be a breach of clause 1.1 and clause 1.8 of Standard 1 of the RTO Standards; and
* if the provider is issuing VET qualifications and / or VET statements of attainment without adequate assessment or without ensuring the student satisfied the requirements then this could be a breach of the offence and civil penalty provisions at sections 103 – 110 of the NVETR Act.

##### Compliance

A provider must:

* comply with relevant laws and continually meet the appropriate RTO quality standards for training and assessment [Rules s29]
* meet the relevant standards applicable to their registration as an NVR RTO, or registration with the Western Australia Training Accreditation Council or registration with the [Victorian Registration and Qualifications Authority](http://www.vrqa.vic.gov.au/) [Rules s30].

### Experience and course offerings

##### Track record

A provider must have experience in providing vocational education and training as an RTO. The following factors (among others) are relevant to determining whether the provider has such experience [Rules s 31]:

* whether the provider has been registered as a RTO for at least 3 years
* the history of the provider and its key personnel in delivering high quality vocational education and training to genuine students
* the scope, and the level of qualifications, of the courses the provider and its key personnel have experience in providing. That is whether they have a strong history of delivering Diploma and Advanced Diploma qualifications and courses
* the history of the provider and its key personnel in delivering education through State and Territory subsidy funding arrangements. That is of providing state subsidised courses, or being on a state preferred provider register.

##### Minimum course offerings

To be approved, and maintain its approval, under VET Student Loans, a provider must be providing at least one approved course set out in the Courses and Loan Caps Determination [Rules s 32].

### Student outcomes and workplace relevance

##### Completion rates

A provider must have adequate completion rates for each of its courses that lead to a diploma, advanced diploma, graduate certificate or graduate diploma [Rules s 33].

The Secretary must be satisfied that from the date of approval, the provider meets the completion rate benchmarks for courses or parts of courses. These benchmarks will be determined by the Secretary and published on the department’s website. These benchmarks may apply to the VET sector generally, to a type of course or particular courses. As providers are required to meet the standards that apply to their registration as an RTO, they will not be able to lower their quality standards in order to meet completion rate benchmarks.

All submitted data must be accompanied by a statutory declaration (signed by an authorised senior officer) attesting to its validity.

##### Student support

A provider must have genuine students with satisfactory levels of student engagement and student satisfaction. [Section 4.7.3](#_Determining_genuine_students) of this Manual provides guidance on what is a ‘genuine student’.

Providers must assess student satisfaction in relation to each of its courses at least annually [Rules s 34]. For example, this may be by way of an online survey.

##### Workplace relevance

Providers must have established and maintained material, relevant and appropriate links with industry and other bodies to ensure their courses meet workplace needs and improve employment outcomes [Rules s 35].

### Fit and proper person

To be approved under VET Student Loans, a provider (and its key personnel) must demonstrate that they are ‘fit and proper persons’. This is to ensure that providers and their key personnel meet sufficient standards of integrity, honesty and good character.

In considering whether a body is a fit and proper person, the Secretary may have regard to a range of factors in relation to the body or any of its key personnel. These factors are set out in sections 14 to 20 of the Rules.

The factors include history of compliance with laws, financial and management record and whether the provider or key personnel have ever provided false or misleading information and whether any key personnel of the provider has been disqualified from managing corporations under the *Corporations Act 2001.*

A single relevant matter may not necessarily indicate that an applicant is not a fit and proper person. However, a pattern of conduct may demonstrate an attitude towards standards of proper conduct or honesty that indicates that a provider is not a fit and proper person to be an approved course provider.

##  Tuition assurance

Tuition assurance changes:

Under the VET Student Loans Rules 2016, the transitional approval of the tuition assurance operators, the Australian Council for Private Education and Training and TAFE Directors Australia, expires on 31 December 2017.

The Government will implement interim tuition assurance arrangements for the 2018 calendar year, for domestic VET Student Loans, non-university FEE-HELP and remaining grandfathered VET FEE-HELP students, while it considers future tuition assurance arrangements beyond 2018.

Please refer to the Tuition Assurance and Provider Closures website page at [www.education.gov.au/tuition-assurance-and-provider-closures](http://www.education.gov.au/tuition-assurance-and-provider-closures), which will provide details of the Tuition Assurance arrangements as information becomes available.

##  Ongoing information requirements

Approved course providers are required to provide certain information to the department on an ongoing basis. Failure to do so may result in a civil penalty of 60 penalty units [Act s 52(4)] and is an offence of strict liability[Act s 52(5)].

### Notice of events

##### Students who do not want fees to be paid with VET Student Loans

Some students who have requested a loan for their course may decide to pay upfront for a particular unit of study or part of a course. If a student advises their provider, before the census day for a part of a course, that the student does not want the student’s VET student loan to be used to pay tuition fees for the part of the course, the provider must inform the Secretary as soon as practicable [Rules s 107].

**The provider informs the Secretary of the student’s decision by reporting the student as ‘paid upfront’ for the unit or part of a course in line with the usual reporting requirements, with a zero loan amount being reported.**

**If the student wishes to withdraw from study, they will need to follow the withdrawal procedure on the VET Student Loans provider's website. If the student has withdrawn prior to the census date, the provider will not be required to report the student in HEIMS.**

**Note: A provider cannot delete an eCAF once it has been submitted by a student. However, a provider may be able to delete an eCAF that has not been submitted by the student, if the student does not wish to access a VET Student Loan.**

##### Events affecting capacity to comply with Act

A provider must, as soon as practicable, notify the Secretary in writing of any event affecting the provider, any of its key personnel or a related body corporate of the provider that is likely to affect the provider’s capacity to comply with the Act or any instrument made under the Act [Rules s 109]. For example, this might be an event which goes to the provider’s or its key personnel’s ability to meet the fit and proper person requirements – such as if a member of the key personnel goes bankrupt.

##### Changes to provider

A provider must, as soon as practicable, notify the Secretary in writing of any of the following [Rules s 110]:

* a change to the provider’s legal name, or to the business name the provider uses for delivering vocational education and training
* a change to the provider’s key personnel and the reason for the change
* planned changes to the ownership of the provider or the corporate structure of the provider;
* any major projects undertaken by the provider
* any major purchases of assets by the provider.

##### Giving notice to the Secretary

The provider gives written notice to the Secretary of these events or changes by accessing the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Notice – Provider Changes/Events - [provider name]

Please refer to [section 5.3](#_5.3_When_Secretary) regarding when the Secretary is not required to pay a loan amount to a provider – this includes where the Secretary suspects on reasonable grounds that a provider is not complying with this Act [Act s 20]. The above-mentioned notifiable events may be relevant to the Secretary forming a view that the provider is not complying with the Act.

### Other events

A provider must give written notice to the Secretary of any of the following events within 24 hours of the event occurring [Rules s 111(1)]:

* the provider ceases to provide an approved course
* notice is served on the provider, or proceedings are taken to
	+ - cancel the provider’s incorporation or registration under the *Corporations Act 2001* or similar legislation or
		- dissolve the provider as a legal entity
* the provider comes under a form of external administration referred to in subsection 600H(2) of the *Corporations Act 2001* or an equivalent arrangement
* the provider fails to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*
* the provider is unable to pay all of its debts when they become due
* proceedings are initiated for an order for the provider’s winding up
* at a meeting of the provider, a resolution is made to wind up the provider.

If an approved course provider intends to cease providing a course after it starts but before it is completed, the provider must give the Secretary written notice of the intention as soon as practicable [Rules s 111(2)].

The provider gives written notice to the Secretary of other events by accessing the provider online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Notice – Other events - [provider name]

### 4.4.3 Information regarding displaced students

If an approved course provider ceases to provide an approved course, the provider must give the Secretary the following information, in writing, within 3 business days [Rules s 112]:

* the name of the course
* the full name and contact details of each covered student enrolled in the course
* the part or parts of the course that each covered student is enrolled in
* the amount of the tuition fees for each part of the course in which each covered student is enrolled
* details about the payment of those tuition fees, including the amounts that are covered fees.

The provider gives written notice to the Secretary of this event by sending an email to VETTuitionAssurance@education.gov.au.

Please also refer to arrangements for 2018 as published at [www.education.gov.au/tuition-assurance-and-provider-closures](http://www.education.gov.au/tuition-assurance-and-provider-closures).

### 4.4.4 Annual financial statements

A provider (other than a Listed Course Provider) must give the Secretary general purpose financial statements for each financial year of the provider (within the meaning of section 323D of the *Corporations Act 2001*), within 3 months after the end of the financial year [Rules s 113(1)].

The financial statements must be [Rules s 113(2)]:

* prepared by a qualified accountant (within the meaning of the *Corporations Act 2001*) in accordance with applicable accounting standards; and
* audited by a qualified auditor who is independent of the provider.

The financial statements must be accompanied by the following [Rules s 113(3)]:

* a report by the auditor
* a copy of the auditor’s independence declaration required under section 307C of the *Corporations Act 2001*
* a declaration by a qualified accountant or auditor that the provider has, as at the date of the declaration, complied with all statutory obligations relating to the payment of the following:
	+ - company tax
		- goods and services tax
		- withholding tax, including withholding tax for employees
		- payroll tax
		- superannuation guarantee for employees.

If the provider is part of a consolidated entity, the financial statements must be accompanied by [Rules s 113 (4)]:

* a copy of the most recent consolidated financial statements for the entity prepared in accordance with applicable accounting standards and
* such additional information related to the consolidated entity as determined by the Secretary.

##### Providing annual financial statements

The financial statements and accompanying documents and information must be given to the Secretary in a manner and form approved by the Secretary [Rules s 113(5)]. The required form is the HELP IT System (HITS). Financial documentation should be uploaded to a provider’s ‘Document List’ under ‘Financial Requirements’. For assistance in uploading document in HITS, a provider should access the [HELP Information Technology System (HITS) User Guide.](https://docs.education.gov.au/node/33983)

Providers should notify the department that they have uploaded their annual financial statements to HITS by sending an email to the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Notice – AFS - [provider name]

### 4.4.5 Copies of notices given to other regulators

A provider must give the Secretary a copy of a notice given to the National VET Regulator under section 25 of the *National Vocational Education and Training Regulator Act 2011*, at the same time as the notice is given to the Regulator [Rules s 114(1)].

The provider gives a copy of a notice to the VET Regulator to the Secretary by completing the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Copy of NVR Regulator notices - [provider name]

A provider must give the Secretary a copy of a notice given to the Commissioner of the Australian Charities and Not‑for‑profits Commission under section 65‑5 of the *Australian Charities and Not‑for‑profits Commission Act 2012*, at the same time as the notice is given to the Commissioner [Rules s 114(1)]. When providing the notice to the Secretary, the provider should state to what the notice relates.

A provider must give the Secretary a copy of a notice given to the Commissioner of the Australian Charities and Not‑for‑profits Commission by accessing the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](https://www.education.gov.au/information-vet-student-loans-approved-providers).

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Copy of notice to the Commissioner of ACNC - [provider name]

##### Annual forecasts

An approved course provider must give the following information to the Secretary by a specified date each year [Rules s 116(1)]**:**

* a list of the approved courses offered by the provider
* the mode of delivery for each approved course
* the duration of each approved course
* a list of any approved courses offered by the provider within which a lower level qualification in the Australian Qualifications Framework can be completed
* a list of any courses offered by the provider that lead to multiple qualifications at the same level (for example, 2 diplomas)
* the provider’s academic calendar, including the dates on which courses are expected to be provided and proposed census days
* the expected number of students for each approved course to be offered by the provider in the next financial year
* the expected amounts of VET Student Loans to be used for each approved course to be offered by the provider in the next financial year, based on the expected number of students and the courses and loan caps determination
* the tuition fees for each approved course to be offered by the provider in the next financial year, along with a comparison of:
	+ - if the provider offered the same course in the current financial year—the fees for the course in the current financial year and
		- if the course replaces a course offered by the provider in the current financial year—the fees for the replaced course
* information about the links the provider has with industry and other bodies as required under section 35 of the Rules.
* the most recent results of the provider’s assessment of the matters mentioned in subsection 34(2) of the Rules.
* any other information determined by the Secretary.

The Secretary may determine different information that must be given by different providers [Rules s 116(2)].

##### Providing your annual forecasts

Providers will be notified of the date by which the information is required to be provided either in this manual or by notice on the website at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans).

Annual forecasts should be uploaded to a provider’s ‘Document List’ under ‘Compliance Requirements’. For assistance in uploading document in HITS, a provider should access the [HELP Information Technology System (HITS) User Guide.](https://docs.education.gov.au/node/33983)

##  Approved courses and loan caps

The *VET Student Loans (Courses and Loan Caps) Determination 2016* (the Determination) specifies the courses approved for VET Student Loans and the maximum loan amount for those courses. It also indicates the annual indexation of the loans. The Determination is available here: [www.legislation.gov.au/Series/F2016L02016](http://www.legislation.gov.au/Series/F2016L02016).

##### Qualifying Courses

Providers must only offer VET Student Loans for those diploma level or above courses that have been agreed. That is, the courses must be on the [Determination](https://www.legislation.gov.au/Series/F2016L02016), and must be approved for VET Student Loans as a condition of a provider’s approval.

All courses a provider has been granted scope to deliver through [www.training.gov.au](http://www.training.gov.au) will be visible in HITS (‘Course List’). A provider’s VET Student Loans approved courses will be separately listed under ‘VSL Course List and Fee Limits’ in HITS. Providers should be aware that approval to offer VET Student Loans for courses is dependent on the conditions imposed on a provider’s approval. Providers should rely on their conditions of approval.

There are three Schedules to the Determination. Schedule 1 sets out the approved VET Student Loans courses in three parts and loan caps for those courses in each part. Schedule 2 sets out the approved courses in the Aviation Training Package and the loan caps for those courses. Schedule 3 lists the approved courses for specific providers and the loan caps for those courses.

The Determination will be updated periodically, so any changes to approved courses, including replacing superseded courses, will occur at those times, and not automatically. However, it is the intention for providers to be approved to deliver the replacement course after the course has been listed on the Determination, once provider conditions have been updated to include the replacement course. If the replacement course is already on the Determination a provider will be automatically approved to deliver that course, following an update to the provider’s approval conditions. Administrative arrangements to give effect to this will be determined following the next update to the Determination.

If a provider wishes to offer an additional course under VET Student Loans to those outlined in its conditions of approval, the provider will need to apply to the Secretary of the department. For more information, see section [4.5.1](#_4.5.1__) below.

Where a loan approval is given for a course that is included in the *VET Student Loans (Courses and Loan Caps) Determination 2016* at the time of approval, the loan will be honoured, even if the course is subsequently removed from the determination (and even if the student has not yet commenced study).

We implement that outcome by providing a teach out date against the course in HITS. That means new students cannot have loans approved for VSL, but payments can continue for students who already have approval.

Additionally, to confirm that outcome, all instruments that have previously made changes to the determination have also expressly provided transitional arrangements for courses removed. Typically, they provide something along the lines of ‘For the absence of doubt, if before [the date of the instrument]: (a) the Secretary approved a VET student loan for a student for a course of study listed [for removal in the instrument]; and (b) the student had not completed the course of study; the Secretary may continue to pay amounts from that loan under section 19 of the *VET Student Loans Act 2016* on or after [the date of the instrument], in relation to that course.’

### 4.5.1 Process for approved providers applying for additional courses

Approved course providers will have the opportunity to submit a request for additions to their approved courses twice a year. Providers will need to submit a completed *Request for Additional Courses* form and an evidenced based business **case to the department by 31 March or 30 September annually**.

The *Request for Additional Courses* form is available at <https://docs.education.gov.au/node/43871>.

##### Business Case requirements

The business case must address/provide the following:

* list of the approved courses currently offered
* demonstrated track record of student progression and completion of approved courses, including if appropriate, similar courses to the additional requested courses (that is Certificate III/IV and Diploma levels)
* expected numbers of students for each additional course
* expected total amount of the proposed VET Student Loans to be used for each additional course
* whether the additional course replaces an approved course
* information about the links the organisation has with industry and other bodies relevant to the additional course, and supporting references from industry and other bodies to ensure the additional course meets workplace needs and improves employment outcomes
* the most recent results of the organisation’s assessment of student satisfaction
* details and evidence of Trainer and Assessor qualifications for the additional courses
* whether the course can be delivered within the current VET Student Loans funding or whether an increase to the provider fee limit is being sought.

A completed *Request for Additional Courses* form and the accompanying business case should be submitted using the online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

Choose ‘Other’ from the drop down list and insert the subject line:

Request for additional courses - [provider name]

### 4.5.2 Multiple qualifications

Approved courses must be courses that lead to a qualification of either a diploma, advanced diploma, graduate certificate or graduate diploma in the Australian Qualifications Framework [Act s 14].

The term ‘double diploma’ is not recognised in the Act or the Australian Qualifications Framework as an approved course type.

While students may undertake more than one course in the same study period, for the purposes of the VET Student Loans program, and notwithstanding any relationship between the courses, the student’s enrolments are treated as separate enrolments and all requirements in the Act and theRules apply with respect to each enrolment.

The Determination specifies the maximum loan amount for each approved course. A student may access a VET loan for an amount up to the specified loan cap allocated for each approved course in which the student enrols, provided the student meets all eligibility requirements [Act Division 2 of Pt 2].

Providers are required to provide information to the department about any courses offered that lead to multiple qualifications at the same level (for example, 2 diplomas) as part of the Annual Forecast [Rules paragraph 116(1)(e)].

Providers may set tuition fees for approved courses that are higher or lower than the [**loan cap**](#_Loan_caps) set out in the Determination. Where a student receives credit recognition or recognised prior learning for a particular approved course, it is open to a provider to set a lower tuition fee that is commensurate to the remaining portion of the course the student must complete.

Providers should have regard to section 4.8.9 ‘[Determining tuition fees](#_Refund_of_tuition)’ for further information.

**IMPORTANT NOTE: Where a provider is in any doubt as to its compliance with the requirements of the Act or the Rules, the provider should seek independent legal advice.**

### 4.5.3 Superseded, deleted and non-current courses

**For information regarding superseded courses for VET FEE-HELP grandfathered students see** [section 2.4](#_2.3_Superseded_courses)**.**

Training packages are regularly updated. In the case where a course becomes superseded, non‑current, or deleted (as managed by the Australian Skills Quality Authority [ASQA] and reflected on training.gov.au), affected students accessing a VET Student Loan will continue to have an approved loan for the remainder of study in that course. If not all the loan has been paid out at the time that the course becomes superseded, non-current or deleted, the students can continue to receive loan payments through the student’s provider for that course. From the date the course is removed from the [VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)](https://www.legislation.gov.au/Series/F2016L02016), no new students can enrol under VET Student Loans in that course. Courses that become superseded, non‑current or deleted will be removed from the Courses and Loan Caps Determination in regular updates to the Courses and Loan Caps Determination – expected to occur twice annually. Similarly, replacement (new) courses will be added from time to time to the Courses and Loan Caps Determination. **Loans will not be available for the replacement (new) course until it has been added to the Courses and Loan Caps Determination, and until provider conditions are updated**.

Where students choose or are required to transition from the superseded to the replacement course, a new eCAF application will be required to be submitted by the student prior to the first census day in the replacement course and the student will have access to the maximum loan amount for the new (replacement) course if required.

For providers approved to deliver a course under VET Student Loans, and that course becomes superseded, the provider is automatically approved to deliver the new course under VET Student Loans once the replacement course has been added to the Determination and after provider conditions have been updated, with no change to their provider cap. Further details of the process will be made available in the coming months.

**Note: VET FEE-HELP providers with VET FEE-HELP grandfathered students should refer to** [**chapter 2 of this Manual**](#_2._Managing_existing_1)**.**

### 4.5.4 Loan caps

The majority of approved courses are subject to one of three loan caps, $5000, $10,000 and $15,000, based on NSW Independent Pricing and Regulatory Tribunal (IPART) analysis. These loan caps apply irrespective of the mode of delivery of the course (face-to-face, online, or mixed mode). In recognition of the high costs of delivery and training, a loan cap of $75,000 applies to certain aviation courses.

The maximum course caps that apply at a point in time are as set out in the [Courses and Loan Caps Determination](https://www.legislation.gov.au/Series/F2016L02016) that is applicable to the approved course at the time of the loan approval. Indexation occurs annually from 1 January.

Establishing loan caps on courses does not prevent approved course providers from setting tuition fees above the cap; rather, it sets a ceiling on the maximum loan amount the government may lend a student for tuition fees for the course.

If a student wishes to undertake an approved course with an approved course provider that charges above the allocated loan cap for the course, the student will need to pay for the difference (gap fee) according to the provider’s billing and payment arrangements, which must be consistent with charging tuition fees over [fee periods](#_Fee_periods_1). The rules requiring a provider to proportionately spread tuition fees over the [fee periods](#_Fee_periods_1) of a course apply to the gap fees as well as to the tuition fees covered by VET Student Loans.

##### Changes to loan caps over time, including indexation

Under section 6 of the *VET Student Loans (Courses and Loan Caps) Determination 2016,* the maximum loan amount for a course is indexed on 1 January 2018, and each subsequent 1 January, by multiplying it by the indexation factor for the relevant year.

The eCAF system will automatically apply the indexed amount to the applicable loan for all loan approvals from 1 January 2018, and for every subsequent year. The maximum loan amount for courses approved in 2017 and that are continuing into 2018 will also be increased by the indexed factor. This means that students who have had their loan amount approved in 2017 will not need to reapply to access the increased (indexed) amount in the new year.

##### Tracking students’ course cap ‘balance’

A FEE-HELP limit as well as maximum course caps apply to the amount of loan a student may access for a course. Students are required to meet the eligibility requirements for access to a loan, including ensuring the amount of the loan is not greater than the student’s remaining [FEE-HELP balance](#_FEE-HELP_balance_1). In terms of the maximum course cap available, if students change providers and continue studying the same course, there is no increase to their course cap and their course cap does not ‘re-set’.

There is no functionality in HEIMS currently to check students’ course cap balances.

If the student has accessed a VET Student Loan in the past and is continuing to study the same course with a second provider, the provider should seek relevant information from the student as to when the student applied for the loan for the course (to determine the loan cap that applied at the time) and the amount of loan accessed to date.

##### When a student commences with the second provider

Students will only be able to access VET student loans to continue the course, up to the amount of the remainder of the total course cap (that is for a course with a $15,000 maximum loan cap, if the student has already accessed $10,000 for studies with the first provider, they will only have $5,000 remaining for that course with the second provider).

When creating an eCAF for the student, the ‘Applicable Loan Cap’ field will be pre-populated with the course cap drawn from the [VET Student Loans (Courses and Loan Caps) Determination 2016 (Courses and Loan Caps Determination)](https://www.legislation.gov.au/Series/F2016L02016) list. If the course cap is updated before the student submits their eCAF, the system will automatically reflect the most current maximum loan amount. As evidence of the VET student loans already lent to the student for the course, providers should request that the student provide copies of the ‘Commonwealth Assistance Notices’, which the student would have received from the first provider, throughout the course. Students may also view their ‘MyUniAssist’ record to access reported data. Note, time lags in data reporting should be considered.

### 4.5.5 Gap fees

A tuition fee for a course includes the maximum amount covered by a VET Student Loan (the covered fee) and the remaining tuition cost not covered by the loan – the ‘gap fee’. As part of the tuition fee, the gap fee does not include fees for non-tuition services such as items and equipment that become the student’s physical property and are not consumed in the course (that is maps, charts, textbooks). See [Appendix F](#_Appendix_G_–) for a list of goods and services for which a charge must not be included in the tuition fee for a course. See [Appendix G](#_Appendix_H_-) for a list of goods and services for which a fee must not be charged.

To assist students pay a gap fee or pay all their tuition fees up-front, some providers offer payment plans, which allow payment in instalments or deferred payment.

Providers that offer payment plans should consider whether the terms of their payment plans (for example if loan fees apply or interest is charged as part of the plan) mean that they are engaging in ‘credit activity’ as defined in the *National Consumer Credit Protection Act 2009* (NCCP Act)*.* Credit activity includes activities relating to the provision of credit contracts and credit services (see section 6 of the NCCP Act).

This is relevant as a provider engaging in credit activities will generally need either an Australian credit licence or an authorisation from a credit licensee to engage in credit activities as their representative. These requirements must be in place from the day the credit activities commence. Strict penalties may apply to persons who unlawfully engage in credit activities.

More information about Australian credit licences is available from the [**Australian Securities & Investment Commission**](http://www.asic.gov.au/for-finance-professionals/credit-licensees/do-you-need-a-credit-licence/)**.**

##### Offering scholarships and bursaries

The offering of bursaries, scholarships, or other forms of tuition fee discounts or subsidies to students studying approved courses is not prohibited. However, the offering of any such benefit must not be reasonably likely to induce a prospective student to apply for a VET student loan for a course [Act s 61]. Whether this is reasonably likely in any particular case will depend on a variety of factors including but not limited to:

* how the benefits are marketed
* information provided to prospective students
* the eligibility criteria for access to the benefit, and
* the way in which the amount of the benefit is calculated.

The department notes the inherent difficulty in dissociating bursaries *et cetera* from VET Student Loans when the bursaries are expressly or implicitly determined by reference to the gap between a provider’s tuition fees for a course and the maximum VET student loan amount for that course.

Nevertheless, as for all course provider requirements under the VET Student Loans program, these are matters the department expects individual providers to consider and manage to ensure compliance. See [**‘Inappropriate inducements’**](#_Inappropriate_inducements) for more information.

### 4.5.6 Managing student access with changes to the determination

The loan cap for an approved course set out in the Courses and Loan Caps Determination is indexed on 1 January 2018 and each subsequent 1 January.

In addition, the Minister may amend the Determination over time to add or remove courses or change the loan cap for certain courses.

The loan cap applicable for a student for a course is the amount specified in the Determination as at the date of the student’s enrolment and loan application. Any changes to the loan cap after the date of a student’s enrolment and loan application that reduce the loan cap, do not affect the student’s loan cap for the course.

**Example**

A student commences an approved course and has a loan approved in 2017 with a loan cap of $15,000 and continues their enrolment in that course in 2018. In 2018, the Determination is amended to reflect a revised cap amount of $10,000. The student remains entitled to the $15,000 cap but any student enrolling in the course/requesting a loan after the loan cap is changed to $10,000 is only eligible for a $10,000 VET student loan for the course.

Loan cap amounts will be indexed as provided for by the *VET Student Loans Act 2016* and according to the provisions set out in the VET Student Loans (Courses and Loan Caps) Determination 2016. VET Student Loans course and loan caps will be indexed by using the same the [indexation factor](http://app.heims.education.gov.au/HeimsOnline/IPInfo/Payment/IndexSearch) as applies to the lifetime FEE-HELP limit under the HESA. For students this will mean that upon obtaining a VET Student Loan indexation will be applied automatically to both new and continuing students in respect of units with census dates after 1 January 2018. Refer [section 4.5.4](#_Loan_caps_and) above.

## 4.6 Provision and delivery

To ensure the quality of training, only approved course providers can provide and deliver approved courses.

A provider may outsource the delivery of a course or part of a course to another body provided that the body is another approved course provider or a body registered by TEQSA, or a body approved in writing by the Secretary to deliver the course [Act s 15(1)].

### 4.6.1 What is a third party arrangement (TPA)?

The [Standards for Registered Training Organisations 2015](https://www.legislation.gov.au/Details/F2014L01377) define a ‘third party’ as any party that provides services on behalf of a registered training organisation (RTO), excluding a contract of employment between an RTO and its employee. Services include training, assessment, related education and support services and/or any activities related to the recruitment of potential students. It does not include services such as student counselling, medication or information and communications technology support.

Although a TPA under the VET Student Loans program is not expressly defined, it is proposed for operational purposes to adopt a similar definition/approach as the RTO Standards.

The relationship is one of principal and agent. The approved course provider is the principal and must carry full responsibility for all aspects of delivery, including adherence to the Act and the Rules, quality and standards, teaching by qualified staff, adequate resources and facilities, and adequate measures to protect the welfare of students.

Students undertaking courses, which are delivered by third parties (that satisfy the requirements at s 15 of the Act), must be enrolled with the approved course provider.

The approved course provider must establish suitable data collection and reporting arrangements with the third party delivering training on their behalf. The department may, at any time, issue data requests to the approved course provider seeking information on the third party or partner.

It is the approved course provider’s responsibility to ensure the third party or partner’s website does not contain incorrect or misleading VET Student Loans information and otherwise complies with the VET Student Loans marketing requirements (noting third parties may not use the VET Student Loans logo – refer [section 4.10](#_4.10_Marketing) and the *VET Student Loans Style Guide*).

### 4.6.2 Obligations on TPA partners

It is important that all VET Student Loans information is available to students as if they were studying at the approved course provider with whom the student has enrolled.

All contact with the department, including requests for publications, must be made by the approved course provider and not the third party or partner.

The provider is required to comply with all the requirements in the Act including:

* student eligibility for VET Student Loans
* the determination of census days for parts of courses and units of study
* student grievance provisions
* publishing and reporting requirements and
* considering applications for re‑crediting a student’s FEE-HELP balance.

The identity of the approved course provider must be made clear and transparent in all documentation and marketing material. This information must not be misleading or imply that the third party provider is the approved course provider.

### 4.6.3 Approval of TPA where the partner is not an approved course provider

**Workflow: Does a provider need to apply for approval of third party delivery?**



Providers that wish to obtain approval of proposed third party delivery/ third party arrangements under subparagraph 15(1)(b)(iii) of the Act need to request approval from the department. There is no required form for an application. For the convenience of providers, the department has established a procedure for applications as detailed below in the following sections. Deviation from this procedure may result in delays in a decision.

Applications must be uploaded to HITS and notification of the application must be sent to the department via the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Application – TPA approval request - [provider name]

### 4.6.4 Procedure for assessing applications for third party arrangements

##### Part A – Minimum requirements

An application cannot be assessed unless all of the information below is included, or is available to the department:

1. where applicable
2. unit name and code
3. part of unit name and code
4. course name and code, **or**
5. part of course name and code
6. details of the nominated third party including
7. legal and trading name
8. Australian Business Number (ABN)
9. registered training organisation (RTO) code (if applicable), **and**
10. key personnel
11. details of the technical expertise the nominated third party provides including but not limited to:
12. licences
13. registration under regulations
14. qualifications of staff
15. membership of associations or peak bodies, **or**
16. industry links
17. details of the quality assurance and monitoring arrangements in place by the approved course provider to ensure the approved course provider is cognisant of the standard of delivery by the third party and has quality and regulatory oversight. Details should include:
18. a contract outlining the arrangements for course delivery
19. a compliance strategy
20. roles responsible for oversight of compliance strategy, **and**
21. a communication strategy between the approved course provider and the third party.

This information may be provided in the correspondence with the Secretary. Copies of agreements need not be sent with the application, but may be requested by the department during the assessment process.

1. an explanation as to why the nominated third party cannot become an approved VET Student Loans provider or become TESQA approved, for example, the third party
2. operates as a trust
3. is not an RTO, **or**
4. has insufficient trading history.

**All five elements in Part A must be addressed.**

##### Part B – Listed providers

Where all elements in Part A have been satisfied and the approved course provider is a Listed Course Provider, the proposed third party arrangement will generally satisfy the requirements in this procedure for approval of a third party arrangement under subparagraph 15(1)(b)(iii) of the Act, provided that none of the criteria at Part D apply.

##### Part C - Contributing factors (private approved course providers)

The application must include an explanation as to why the unit, part of a unit, course or part of a course cannot be delivered by the approved course provider or any other approved course provider. The explanation must include, for example, the circumstances listed below:

1. there is no approved course provider in a particular geographic location whether the location is regional, rural, remote or interstate of the course provider.
2. for whatever reason the expertise required to deliver a unit, part of a unit, course or part of a course is not present at the approved course provider.
3. a student wishes to include in their course a particular elective included in the relevant training package that is not offered by the approved course provider or at any other approved course provider.
4. in order to accommodate student demand, the approved course provider chooses to outsource a course but no other approved course provider in the vicinity offers the course in question.
5. ownership relationship/arrangements exist between the third party and the approved course provider.

##### Part D –approved course provider behaviour

Notwithstanding whether the requirements under Part A, Part B and/or Part C have been met, the delegate may ‘not approve’ an application by an approved course provider if any of the following apply.

The approved course provider:

1. does not deliver itself any of the approved courses on its scope of registration
2. has the outcome of an audit by either the Department ASQA pending
3. has received an adverse finding following an audit by the department or ASQA
4. is subject to investigation by any state, territory or Federal Government agency
5. any other matter that the delegate considers relevant where the approval of the application would be inappropriate.

**Refusal to approve a third party agreement is not a reviewable decision.**

Applications must be uploaded to HITS. See the chapter on ‘Uploading a Document’ in the [**HITS User Guide**](https://docs.education.gov.au/documents/hits-user-guide-december-2015)for further information.

The provider must alert the department to its application by accessing the provider online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Application – TPA approval request - [provider name]

## 4.7 Student administration

This section provides information regarding the obligations on providers for managing students’ access to VET Student Loans including:

 [Eligibility](#_Eligibility) [Determining genuine students](#_Determining_genuine_students)

 [Tuition and other fees](#_Toc471374440) [Marketing](#_Marketing)

 [Managing student complaints](#_Processes_and_procedures_3) [Provision of information](#_Providing_fee_information)

 [Re-crediting a FEE-HELP balance](#_Processes__and) [Data reporting](#_Data_reporting)

 [Census days](#_Toc471300329)

### 4.7.1 Student eligibility for VET Student Loans

To be eligible for VET Student Loans, a student must meet the following requirements:

* be studying an [**approved course**](#_Approved_courses)[Act s 10(1)(a); 7(1)(b)]
* be studying with an **approved course provider**
* apply to the government using the [**approved form**](#_Processes_and_procedures_1) and include all relevant information [Act Part 2, Division 4]
* confirm his or her engagement and progression to continue to access the loan throughout the course, when required to do so by the Department
* has a [FEE-HELP balance](#_FEE-HELP_balance) that is more than $0 (ie has not used all their FEE-HELP limit)
* meet the citizenship and residency requirements [Act s 11]:
	+ be an [Australian citizen](#_Australian_citizens) or
	+ a [qualifying New Zealand citizen](#_Qualifying_New_Zealand) or
	+ a [permanent humanitarian visa holder](#_Permanent_humanitarian_visa_1), who is usually resident in Australia.
* meet the academic suitability requirements: the student must have been assessed by the approved course provider as [academically suited](#_When_is_a) to undertake the approved course on the basis of either [Rules s 80]:
* providing their Australian Year 12 Certificate OR
* providing evidence of successful completion of an Australian Qualifications Framework Certificate IV or higher qualification (where the language of instruction is English) OR
* displaying competence at or above Exit Level 3 in the Australian Core Skills Framework in both reading and numeracy through an approved Language, Literacy and Numeracy test (and the provider reasonably believes the student displays that competence) AND
* in addition, the approved course provider must reasonably believe the student is academically suited to under the course; and the student must meet any other specified entry requirements for the course
* meet the enrolment and loan application requirements:
	+ be enrolled with an approved course provider in an approved course
	+ be undertaking the course primarily at a campus in Australia

**NOTE:** A student is not entitled to a VET student loan if the course is undertaken by the student primarily at an overseas campus [Act s 10(2)]. Similarly, if the student intends on studying overseas via distance education for their entire course, they would not meet the requirement to undertake the course primarily at an Australian campus.

* + have applied for a VET student loan for the course in accordance with the loan application requirements. An application for a VET student loan must:
		- meet the [Tax File Number (TFN) requirements](#_Processes_and_procedures_1) – i.e. include the student’s tax file number or a certificate from the Commissioner stating that the student has applied for a tax file number [Act s 17]
		- include the student’s Unique Student Identifier (USI) unless the student is otherwise exempt [Act s 17]
		- have been submitted by the [census day](#_Census_Days) for the first unit for the course for which the student is requesting a loan and no less than [two business](#_Processes_and_procedures_1) days after enrolling [Rules s 10]
		- be in the form approved by the Secretary for the loan [Act s 17] – which is generally the eCAF;
		- where a student is **under 18** years old, must [Rules paragraph 85(2)(b)]:
			* have a parental consent form signed by a responsible parent of the student; (providers must obtain the signed parental consent form prior to submitting enrolment information into the eCAF system); or
			* have evidence of the assessment of receipt of youth allowance on the basis that the student is independent within the meaning of Part 2.11 of the *Social Security Act 1991;* (providers should receive from the student evidence of this assessment in the form of their Centrelink Income Statement noting this assessment).

##### Determining citizenship and visa status

**IMPORTANT NOTE:**

It is the provider’s responsibility to ensure students meet the citizenship and residency eligibility for VET Student Loans. The provider must collect and verify this information **[Rules paragraph 85(2)(c)]**. The following information to assist providers in evidencing citizenship status has been provided by the Department of Immigration and Border Protection.

##### Australian citizenship

An Australian Passport is suitable evidence of Australian citizenship. If the applicant does not have an Australian Passport, the evidence required to demonstrate that an applicant is an Australian citizen may differ depending on whether the applicant was:

* born in Australia before 20 August 1986
* born in Australia on or after 20 August 1986
* born overseas.

##### Applicants born in Australia before 20 August 1986

If applicants do not have an Australian Passport, they will need to provide their full birth certificate issued by an Australian Registry of Births, Deaths and Marriages (RBDM).

An exception to this is where the applicant’s parents were in Australia as diplomats or consular officers at the time of the applicant’s birth. In these circumstances, the applicant will need to provide a citizenship certificate as evidence that they are an Australian citizen.

If the applicant does not have a citizenship certificate they will need to lodge [Form 119 Application for evidence of Australian citizenship](http://www.border.gov.au/Trav/Citi/Curr/evidence-of-australian-citizenship) with certified copies of the required documents and the application fee with DIBP.

##### Applicant was born in Australia on or after 20 August 1986 and one of their parents was an Australian citizen at the time of their birth

If applicants do not have an Australian Passport, and where one (or both) of the applicant’s parents was an Australian citizen at the time of their birth, the applicant should provide their full birth certificate issued by an Australian RBDM **and one** of the following documents to show that one of their parents was an Australian citizen at the time of their birth:

* their parent’s Australian citizenship certificate or
* if their parent was born in Australia before 20 August 1986, their parent’s full birth certificate issued by an Australian RBDM or
* if their parent was born in Australia on or after 20 August 1986, their parent’s full birth certificate issued by an Australian RBDM and their grandparent's Australian birth certificate issued by an Australian RBDM.

If the applicant cannot provide this they should apply for their own evidence of Australian citizenship by lodging [Form 119 Application for evidence of Australian citizenship](http://www.border.gov.au/Trav/Citi/Curr/evidence-of-australian-citizenship) with certified copies of the required documents and the application fee with DIBP.

##### Applicant was born in Australia on or after 20 August 1986 and one of their parents was a permanent resident of Australia at the time of their birth

If applicants do not have an Australian passport, and where one (or both) of the applicant’s parents was a permanent resident of Australia at the time of their birth, they will need to provide **both** of the following documents to prove their Australian citizenship:

* their full birth certificate issued by an Australian RBDM
* their Australian citizenship certificate.

They can apply for an Australian citizenship certificate by lodging [Form 119 Application for evidence of Australian citizenship](http://www.border.gov.au/Trav/Citi/Curr/evidence-of-australian-citizenship) with certified copies of the required documents and the application fee with DIBP.

The following documents are not acceptable as proof of a parent’s permanent residency for VET Student Loan applications:

* parent's foreign passport with a visa label
* Visa Entitlement Verification Online (VEVO) printout
* visa grant notification letter
* Certificate of Evidence of Resident Status (CERS)
* Certificate of Status for New Zealand Citizens in Australia (CSNZCA)
* ImmiCard
* Freedom of Information (FOI) letter from the Department of Immigration and Border Protection.

These documents only provide proof of a person’s visa status on the day they are issued / printed and are not sufficient proof of a parent’s resident status at the time the applicant was born.

##### Applicants born overseas and acquired Australian citizenship by application

As a guide, please refer to the relevant category below:

Applicants will need to provide one of the following documents as evidence of their Australian citizenship:

* an Australian passport
* an Australian citizenship certificate
* a Citizenship by Descent extract
* an Adoption in accordance with the Hague Convention on Intercountry Adoption or bilateral arrangement extract

If an applicant does not have one of the above citizenship documents they will need to apply for a replacement certificate by lodging [Form 119 Application for evidence of Australian citizenship](http://www.border.gov.au/Trav/Citi/Curr/evidence-of-australian-citizenship) with certified copies of the required documents and the application fee with the Department of Immigration and Border Protection (DIBP).

##### Applicant or their parent was born in Papua New Guinea prior to 16 Sep 1975

Papua New Guinea became a sovereign nation on 16 Sep 1975 (PNG Independence Day). Assessing Australian citizenship status of people born in PNG prior to 16 Sep 1975 can be complex. DIBP is aware that in the past this cohort of people has been incorrectly issued with an Australian passport based on an incorrect assessment of their citizenship status. As such, the citizenship status of some applicants born in PNG prior to 16 Sep 1975 must be checked and verified with DIBP.

The applicant should be referred to DIBP to obtain evidence of Australian citizenship by lodging [Form 119 Application for evidence of Australian citizenship](http://www.border.gov.au/Trav/Citi/Curr/evidence-of-australian-citizenship) if:

* evidence of citizenship was issued before 1 Jan 2009 and the applicant was born in PNG prior to 16 Sep 1975; or
* citizenship was acquired by descent before 1 Jan 2009 where the parent(s) was born in PNG before 16 Sep 1975.

A citizenship certificate can be accepted as evidence that the applicant is an Australian citizen if the evidence of citizenship was issued on or after 1 Jan 2009 regardless of the acquisition date or date of birth.

**Applicants need to take DIBP’s application processing times into account before applying for a VET Student Loan.**

##### Becoming an Australian citizen

If a student gains Australian citizenship part way through their course, the student may be eligible for a VET student loan for those parts of a course, yet to be completed, including for parts of a course, which the student is currently enrolled in, for which the census dates have not passed.

A person gains Australian citizenship only after making the pledge of commitment and being issued with Evidence of Australian Citizenship from the [Department of Immigration and Border Protection](https://www.border.gov.au/). For further information regarding Australian citizenship, contact the Department of Immigration and Border Protection.

Please refer to ‘[Determining citizenship and visa status](#_Determining_citizenship_and_1)’ below.

##### Permanent humanitarian visa holders

To confirm if the visa class held by a person applying for a VET student loan is a permanent humanitarian visa contact, the Department of Immigration and Border Protection website at [www.border.gov.au/vevo](http://www.border.gov.au/vevo).

In determining whether a permanent humanitarian visa holder will be resident in Australia for the duration of their course, the provider must disregard any periods spent outside of Australia if the holder:

* cannot be reasonably regarded as indicating an intention to reside outside of Australia for the duration of the course or
* is required to leave Australia to complete the requirements of that course.

##### Qualifying New Zealand citizens

A New Zealand citizen is eligible if they hold a Special Category Visa and:

* has usually been resident in Australia for at least 10 years; and
* was a dependent child aged under 18‑years of age when he or she first was usually resident in Australia and
* has been in Australia for periods totalling 8 years during the previous 10 years and
* has been in Australian for periods totalling 18 months during the previous 2 years [Act s 11)].

Most New Zealand citizens who arrive in Australia are the holders of a temporary visa called a Special Category Visa (SCV). This is not a permanent visa but allows its holder to visit, live and work in Australia indefinitely.

Providers can also find information about HELP eligibility criteria for New Zealand Special Category Visa Holders at [www.education.gov.au/faqs-new-zealand-special-category-visa-holders](https://www.education.gov.au/faqs-new-zealand-special-category-visa-holders).

Other permanent residents/permanent visa holders are NOT eligible for a VET student loan.

##### FEE-HELP limit

There is a set maximum amount a person can borrow over their lifetime for VET Student Loans, VET FEE-HELP and FEE-HELP. This is known as the FEE-HELP limit [*HESA* s 104‑20].

Students are able to access VET Student Loans to pay the amount of any tuition fees for a course up to the designated loan cap band, provided the amount does not exceed their FEE-HELP limit. The department publishes the FEE‑HELP limit in the student information booklets and on the *Study Assist* website at [www.studyassist.gov.au](http://www.studyassist.gov.au/).

As a person uses VET Student Loans, VET FEE-HELP or FEE-HELP to pay their tuition fees, the amount they may borrow in the future is reduced. Once a person has borrowed an amount equal to the FEE‑HELP limit, they are no longer eligible for VET Student Loans, VET FEE-HELP or FEE-HELP to pay further tuition fees. This applies even if a person has partially or fully repaid their VET Student Loans, VET FEE-HELP or FEE-HELP debt.



The FEE-HELP limit is indexed on 1 January each year. If a person has reached their FEE‑HELP limit in a particular year and wishes to enrol in a subsequent or later years they will be able to access any balance remaining up to the FEE-HELP limit, subject to the remaining loan cap for their course. The FEE-HELP limit is a lifetime limit and is not ‘topped up’ by making repayments towards a debt.

##### FEE-HELP balance

A person’s FEE-HELP balance is the limit subtracting any VET Student Loans and other HELP loans (VET FEE‑HELP and FEE‑HELP loans) they have used. Loan fees and indexation of outstanding debts are not included in a person’s FEE-HELP balance.

It is the provider’s responsibility to ensure a student’s entitlement to VET Student Loans, including confirming whether or not the student has accessed a VET student loan for parts of courses or units of study that may not have been reported at the time of enrolment. It is the responsibility of the provider to put in place enrolment procedures to check if a student is likely to exceed their FEE-HELP limit.

##### Example

Betty is a full fee paying student who has a remaining FEE-HELP balance of $2,000. She enrols in four units of study with the same census date. The tuition fee for each unit of study is $600. Even though the total amount of tuition fees for the units is $2,400, Betty is only entitled to $2,000.

Betty would need to pay the balance of $400 to her provider and will not be able to access further loans until indexation is applied to the FEE-HELP limit (from 1 January of the following year) when she would have a small increase to her FEE-HELP limit based on indexation.

|  |  |  |
| --- | --- | --- |
| Transaction | Loans accessed ($) | Balance ($) |
| FEE-HELP Limit (2017) |  | 100,879 |
| FEE-HELP amount used during previous study | - 98,879 | 2,000 |
| Tuition fee – Unit 1 – loan amount | - 600 | 1,400 |
| Tuition fee – Unit 2 – loan amount | - 600 | 800 |
| Tuition fee – Unit 3 – loan amount | - 600 | 200 |
| Tuition fee – Unit 4 Upfront payment -400 |  |  |
|  Loan amount  | - 200 | 0 |
| Upfront payment requiredFEE-HELP balance available |  | **400****0** |

##### Where tuition fees exceed FEE-HELP balance remaining

If a student enrols in a part of a course or unit of study and has sufficient loan cap available, where the tuition fee exceeds the FEE‑HELP limit, the student will only receive a VET Student Loan equal to the remaining FEE‑HELP balance. The provider is responsible for collecting the remaining tuition fee for the part of a course or unit of study.

##### Students enrolled with more than one provider

Where a student does not have enough FEE-HELP balance to cover a part of a course or a unit of study, the department will notify the affected provider via an exception report. The provider is responsible for recovering any outstanding tuition fees from students in line with the provider’s own procedures. The Commonwealth will only pay the provider VET Student Loans and/or VET FEE-HELP and FEE‑HELP up to the available amount of the student’s FEE-HELP balance.

##### Determining a student’s FEE-HELP balance

A commencing student’s FEE-HELP balance will be provided by the provider to the student at the same time as a student’s CHESSN.

A provider can undertake an entitlement search at any time to obtain a student’s remaining balance.

See HEIMSHELP – ‘[A Guide to viewing Student Entitlement Info](http://heimshelp.education.gov.au/sites/heimshelp/Support/Documents/UserGuides/HA-Guide-Viewing-Student-Entitlement.pdf)’ for more information on how to check a student’s FEE-HELP balance.

**NOTES:**

1.      Student entitlement calculations are undertaken nightly, based on the data reported each day.

2.      If the student’s ‘FEE-HELP assistance’ includes liability incurred under VET Student Loans or VET FEE-HELP, the exact amount of their HELP debt will not be accurate until late 2017. Additionally, reported VET Student Loan data may vary after it has been reported due to a retrospective validation process for payment purposes – up to six to eight weeks after reporting, debts passing through the validation process will be sent to the Australian Taxation Office and the debt information will be updated at that time.

### 4.7.2 Loan fee

A loan fee of 20 per cent applies to VET Student Loans for full fee paying-students. The amount of the VET Student Loans debt is the amount of the VET Student Loans provided for a part of a course or unit, plus the VET Student Loan fee. The VET Student Loan fee is not included in a person’s FEE‑HELP balance but is included in a person’s VET Student Loans debt.

##### Example

Adam is an eligible full fee paying student accessing a VET Student Loan for his course. The tuition fee for his first unit of study is $1000, plus a 20 per cent loan fee.

*$1000 x 1.2 = $1200.*

While Adam’s FEE-HELP balance is reduced by $1000, his VET Student Loans debt for the unit is $1200.

Providers report whether a loan fee applies in the [HEIMS](http://heimshelp.education.gov.au/sites/heimshelp/dictionary/pages/data-element-dictionary#nav) data reporting code ‘490 student status’ and code ‘529 loan fee’.

**NOTE:** The loan fee does not apply to state and territory government-subsidised students[Rules s 12]**.**

### 4.7.3 Determining genuine students

As part of stronger monitoring and compliance measures, students accessing VET Student Loans for their course will be required at regular intervals to demonstrate that they are genuine students having regard to the factors listed at subsection 5(2) of the VET Student Loans Rules.

##### Fixed progression points

There are three fixed progression points through the year, at four-month intervals, with delivery dates in February, June and October. Two weeks will be allowed for responses by students.

Providers should contact the department if they believe exceptional relevant circumstances justify departure from the above timing arrangements.

Providers will trigger progression points; this may be done at the individual student level from their eCAF, by spreadsheet, or from a provider’s student management software. Progression points must be triggered at some point within the identified month (exact timing at the discretion of the provider), or when a student returns from a break in their studies (for example, deferral for a period of time, or return after ceasing study). The absence of a provider initiated progression point will be taken to indicate the student is no longer a genuine student. As general principle, the department requires providers to trigger a progression for all students.

Students will be required to indicate that they are continuing to be a genuine student only after at least four months have elapsed since their eCAF application was submitted, or they last indicated that they are a genuine student. A student doing a 12-month diploma, full time, would therefore be required to indicate progression twice. A student studying a course over multiple years would be required to indicate progression a number of times, confirming their continuity as a genuine student over the elongated period.

Demonstration of being a genuine student will be required at the course, rather than at the student, level. That is, a student studying two or more courses concurrently will have two or more loans and be required to complete two progression actions and surveys for both courses.

Completion of progressions by students is directly connected to the making of payments. Where a student fails to complete two consecutive progressions or where a student indicates they have completed or withdrawn, the department may take the view that they should no longer be considered to be a genuine student, and payments will be impacted.

##### Viewing student progression status

Within the eCAF system, providers can view the status of student progressions on the eCAF Dashboard or by going to the Progression tab, and selecting the relevant radio button(s). Progressions that have been created, where the invitations have been sent and where the students have signed into the eCAF system but not completed the progression form, will be counted as outstanding progressions. Providers will be able to see which students have completed the progression and their intentions for study, but will not have access to the survey responses.

Providers are not required to, (but the department recommends) monitor completions and students’ intentions about future study (particularly in relation to cessation and deferral).

The department asks that providers communicate to students about the arrangements, such as having to complete and submit the form within 2 weeks of receiving the invitation email, and encourage students to participate in the student progression process. It would of course however be inappropriate for providers to direct students about the responses to provide, or to put students in a position where they are otherwise compelled, or reasonably feel compelled, to answer in a particular way.

##### Reasonably engaged in the course

Students must demonstrate that they are reasonably engaged in the course [Rules, paragraph 5(2)(a)].Please refer to the heading ‘[Factors that may indicate a lack of engagement](#_Factors_that_may)’ below for further guidance on this topic.

Reasonable engagement includes where:

* the student has satisfied course requirements for the course or participated in assessment activities for the course [Rules paragraph 5(2)(c)]
* if the course is an online course—the number of occasions on which the student has logged in to the course is not insignificant [Rules paragraph 5(2)(d)].

##### Student awareness

Another factor that may be taken into account to determine whether a student is a ‘genuine student’ is whether the student has knowledge of the course requirements, and the cost and duration of the course [Rules, paragraph 5(2)(b)].

In accordance with subsection 98(1) of the Rules, the provider must provide students with information prior to enrolment, including about tuition fees and other fees that apply to the course, and about their rights and obligations when enrolling in a course and applying for a VET student loan.

This is included in the [Checklist at Appendix B](#_Appendix_C_–). The checklist is provided for the convenience of providers.

##### Student satisfies course requirements

Another factor that may be taken into account is whether the student has satisfied course requirements for the course or participated in assessment activities for the course [Rules paragraph 5(2)(c)]

##### Student login to online course

Another factor that may be taken into account is, if the course is an online course— whether the number of occasions on which the student has logged into the course is not insignificant [Rules paragraph 5(2)(d)]. If the number of occasions is ‘insignificant’ then this suggests that the student is not genuine.

##### Study load

Another factor that may be taken into account, is if the student is enrolled in more than one course – whether the number of enrolments and associated course loads would make successful completion of a course by the student impossible or highly improbable. If the number of the enrolments and associated course loads would make successful completion of a course by the student impossible or highly improbable, this suggests that the student is not genuine [Rules, paragraph 5(2)(f)].

In determining whether the number of enrolments and associated course loads would make successful completion of a course impossible or improbable, a provider may take into account:

* whether the student is studying full-time or part-time
* the number of contact hours for the course including practicums;
* the nature of the assessments for the courses
* a student’s employment commitments and/or
* any family or caring responsibilities.

**The above indicators are provided for guidance only and do not limit the department (or a provider) from taking into account other relevant factors.**

##### Communication

Adequate communication between students, the provider and the department are essential in demonstrating that a student is a genuine student. Providers should encourage students to maintain up-to-date contact details.

The following are each factors to be taken into account in determining whether or not a student is a genuine student, whether:

* the student has provided up to date contact details to enable the department to contact the student to verify the student’s enrolment in the course [Rules paragraph 5(2)(e)], and
* when required to do so, the student has communicated his or her agreement for the Secretary of the department to continue to use the VET student loan to pay tuition fees for the course [Rules paragraph 5(2)(g)].

**In accordance with paragraph 98(2)(n) of the Rules, before enrolling a student in an approved course, providers should inform students should about the importance of notifying the provider of any change of contact details. This is included in the** [Checklist at Appendix B](#_Appendix_C_–). **The checklist is provided for the convenience of providers.**

##### Factors that may indicate a lack of engagement

Factors which may suggest that a student is not reasonably engaged with their course include:

* if the student has satisfied course requirements for the course or participated in assessment activities for the course [Rules paragraph 5(2)(c)]
* if the course is an online course—the number of occasions on which the student has logged in to the course is not insignificant [Rules paragraph 5(2)(d)].
* if the student has not logged into the student portal at their provider up to and including the day before the census day for a unit
* if the student has not accessed course materials
* if the student fails to attend more than a specified number of classes in a row and/ or
* if the student has no communication with the provider after enrolment in the course

The above indicators of a possible lack of engagement are provided for guidance only and do not limit a provider from determining its own benchmarks for suitable progress.

It would be open to a provider to use its discretion whether to cancel a student’s enrolment in a course or part of a course for poor attendance or insufficient progress. Where possible, a provider should consider exercising its discretion to cancel the student’s enrolment before the census date for a unit or part of a course. Where a provider cancels a student’s enrolment (for any reason) after the census date, providers must comply with the‘[Processes and procedures for a provider’s cancellation of enrolment](#_Toc477960264)’.

##### Secretary not required to pay loan amounts

The Secretary is not required to pay a loan amount for a student for a course if the Secretary is satisfied that the student is not a genuine student [Act subparagraph 20(c)(ii)]. Further the Secretary has the discretion to re-credit a student’s FEE-HELP balance where satisfied that the student is not a genuine student [Act paragraph 71(3)(b)].

##### Demonstrate adequate course completion rates

Providers will also need to demonstrate adequate course completion rates and satisfactory levels of student engagement and satisfaction to maintain their approval. Approved course providers will be required to submit unit of study and course completion data to the department. All submitted data must be accompanied by a statutory declaration (signed by an authorised senior officer) attesting to its validity.

##### Absence of student engagement

The absence of student engagement will also be monitored through compliance measures. The Secretary may require a provider to be audited to determine whether its students are genuine students [Act paragraph 45(2)(b)]. In addition, the Secretary may impose conditions on a provider’s approval and issue a compliance notice or consider suspension or revocation.

### 4.7.4 Students who fail a unit or part of a course

If a student who is accessing a VET Student Loan fails a unit and is required to re-sit the unit, the student may access a VET Student loan in a subsequent attempt at that unit. However, the course cap and remaining FEE-HELP lifetime limit continue to apply.

A provider may provide the student with an updated [Statement of Covered Fees](#_Providing_a_VET), recognising that the student’s tuition fees for the course have changed. Although this statement is to be provided to the student after enrolment and prior to the first census date, the increased course cost for the student due to the failed unit will alter the information that had been provided in the statement. Therefore, the provider may wish to provide an updated statement with the student’s next [VET Student Loan Fee Notice](#_Providing_a_VET_1).

It is a matter for a provider whether its policy and procedures provide for the cancellation of a student’s enrolment in a course or part of a course for insufficient progress. If a provider elects to cancel a student’s enrolment after the census day for a unit or part of a course, it must act in accordance with the ‘[Processes and procedures for cancellation of enrolment](#_Toc481649866)’.

## 4.8 Processes and procedures

An approved course provider must have in place, and act in accordance with, the processes and procedures set out at section 48 of the Act.

The application of these requirements covers all approved course providers with respect to all students enrolled in approved courses who are or could be eligible for a VET Student Loan, whether or not they choose to apply for a loan. (This excludes students who do not meet the residency requirements, such as international students).

**Processes and procedures summary**

* [Processes and procedures relating to student entry](#_Student_entry)
* [Processes and procedures for enrolment in courses](#_Processes_and_procedures)
* [Processes and procedures for information relating to applications for VET Student Loans](#_Processes_and_procedures_1)
* [Processes and procedures for students to withdraw from a course](#_Toc471374411)
* [Processes and procedures for cancellation of enrolment](#_Processes_and_procedures_2)
* [Processes and procedures for managing student complaints](#_Processes_and_procedures_3)
* [Procedures and procedures in relation to fees](#_Toc471374440)
* [Processes and procedures for re-crediting a FEE-HELP balance](#_Processes_and_procedures_4)
* [Processes and procedures for handling information](#_4.8.16__)

### 4.8.1 Staff training in processes and procedures

An approved course provider must train its officers on the processes and procedures that are relevant to the officer’s duties and responsibilities [Rules s 78].

### 4.8.2 Processes and procedures publishing requirements

An approved course provider must publish the processes and procedures prominently on its website in a way that is easily accessible without the need for login information – that is, must not require a person to submit their personal information in order to view the information [Rules s 79].

Where the legislation identifies that a provider must publish information about VSL on its website, a provider should ensure that the content is published in a way that meets the requirements of both the Rules and the Act. For example, some of the information that a provider must publish includes:

* all the administrative requirements a provider must undertake to determine a student to be academically suited to undertake a particular approved course
* fee information for students for approved courses
* census days
* how students must submit their eCAFs prior to the first census day for which they wish to access a loan and
* student grievance processes.

### 4.8.3 Process and procedures relating to student entry

An approved course provider’s student entry procedures must:

* specify the requirements a student must meet to be determined to be academically suited to undertake a particular approved course [Rules s 80].
* specify that the results of assessing a student’s competence in reading and numeracy under the procedure must be reported to:
	+ the student as soon as practicable after the assessment and
	+ the Secretary in the form, manner and by the time requested by the Secretary [Rule s 81]
* describe the process (including the tools) for validly and reliably assessing a student’s competence in reading and numeracy against the Australian Core Skills Framework [Rules s 82].

##### When is a student academically suited?

The student entry procedure must specify that a student is academically suited to a course when:

* the provider reasonably believes the student is academically suited [Rules paragraph 80(1)(c)] and
* the student satisfies any entry requirements for the course set out in the provider’s procedure [Rules paragraph 80(1)(b)] and
* the student satisfies one of the following requirements:
	+ the provider obtains a copy of a Senior Secondary Certificate of Education that has been awarded to the student by an agency or authority of a State or Territory for the student’s completion of year 12 [Rules paragraph 80(2)(a)] or
	+ the student is assessed using an approved assessment tool, as displaying competence at or above Exit Level 3 in the Australian Core Skills Framework (ACSF) in both reading and numeracy and the provider reasonably believes that the student displays that competence [Rules paragraph 80(2)(b)] or
	+ the provider obtains a copy of a certificate that a qualification at level 4 or above in the Australian Qualifications Framework(AQF) has been awarded to the student by a body registered to award the qualification in the AQF in Australia and the course was delivered in English [Rules paragraph 80(2)(c)].

##### Important clarification regarding qualifications issued prior to 1995

For the purposes of paragraph 80(2)(c) of the Rules, the reference to the Australian Qualifications Framework (**AQF**) is taken to include the predecessor frameworks to the AQF:

* Australian Council on Awards in Advanced Education (**ACAAE**) [1971 – 1984]: *Nomenclature and Guidelines for Awards in Advanced Education* (1972) and *Guidelines for the National Registration of Awards in Advanced Education*
* The Australian Council on Tertiary Awards (**ACTA**) [1985 – 1989]:  *Guidelines for the National Registration of Awards*
* Australian Education Council *Register of Australian Tertiary Education (RATE)* [1990 – 1999]

These documents are available on the AQF website at: [www.aqf.edu.au/previous-versions-of-the-aqf](https://www.aqf.edu.au/previous-versions-of-the-aqf).

Further, the reference to ‘a qualification at level 4 or above’ is taken to be equivalent to an ‘Advanced Certificate’ or above, as described by the predecessor bodies ACTA and RATE, issued from 1985 onwards. It is taken to be equivalent to an ‘Associate Diploma’ or above, as issued by the predecessor body ACAAE from 1971 – 1984.

**PLEASE NOTE: Where a provider relies on a qualification issued under the AQF or a predecessor framework to the AQF to ascertain a student’s academic suitability to undertake a course, the provider must still satisfy the general requirement that the provider must also reasonably believe that the student is academically suited to undertake the course** [Rules paragraph (80)(1)(c)]**.**

##### Senior Secondary Certificate requirements

An approved course provider can only accept a copy of a year 12 certificate from an Australian State or Territory. Alternatives that will **NOT** be accepted include

* a letter from the student’s school confirming they completed year 12
* a lower level VET qualification
* Tertiary Preparation Certificate and
* any program with reading and numeracy components that allow students to achieve Exit Level 3.

##### Where a student cannot provide a copy of a certificate

If a student cannot provide a copy of a qualification certificate for their Australian Qualifications Framework level 4 or above qualification, a provider may accept from the student a copy of their authenticated transcript from the Student Identifiers Register, as specified under the *Student Identifiers Regulation 2014* (section 5)*,* as proof, provided it evidenced completion of the relevant qualification.

The *Student Identifiers Regulation 2014 (*section 5*)* specifies what a USI transcript must include. The USI transcript will only ever reflect study undertaken since 1 January 2015 that has been reported by a training provider through the AVETMISS process. In some circumstances, study may have been successfully completed by a student but not show on the individual’s USI transcript. Examples of this situation include where the:

* training provider has not yet reported training through the AVETMISS reporting cycle (private providers only report annually, whereas TAFEs report quarterly)
* individual has requested and received a personal exemption from the Student Identifiers Registrar from obtaining a USI
* training provider has obtained an exemption from the Regulator from reporting the training to NCVER
* training provider has closed and has not reported training outcomes
* training provider did not include USI when reporting training outcomes to NCVER.

##### Assessing competency in reading and numeracy

An approved course provider’s student entry procedure must:

* describe the process (including the tools) for validly and reliably assessing a student’s competence in reading and numeracy against the ACSF
* specify as a tool to be used as part of that process a tool that is approved by the Secretary and published on the department’s website (see *VET Student Loans* *Language Literacy and Numeracy (LLN) assessment tool information* at [www.education.gov.au/vet-student-loans](http://www.education.gov.au/vet-student-loans)) and
* require that process to be conducted with honesty and integrity **[Rules s 82(1)]**.

##### Results of assessments

A provider’s student entry procedure must specify that the results of assessing a student’s competence in reading and numeracy under the procedure are to be reported:

* to the student as soon as practicable after the assessment and
* to the Secretary in the form, manner and by the time requested by the Secretary [Rules s 81].

A provider’s student entry procedure must specify that the provider must retain these results for at least 5 years [Rules s 105].

##### LLN assessment re-sit

If a student fails to achieve the required standard of language, literacy and numeracy (LLN) on sitting, the student may re-sit based on the provider’s assessment of readiness. The Australian Council for Educational Research’s (ACER’s) recommendation is that at least 3 months between assessments should provide enough time for progress to be made and improvement to be able to be demonstrated. This would allow time for the learner and the provider to implement any targeted LLN support and to have sufficient time for the learner to improve their LLN skills to the required level. Re−sit within 3 months will be a risk indicator.

Providers must retain the student’s assessment undertaken as well as the results for 5 years and must provide these if requested by the Secretary or delegate.

Providers are reminded of the requirement for the assessment test and results of pre‑requisite assessments to be retained for 5 years and reported to the Secretary when requested.

##### Approval of an external LLN assessment tool

The Secretary may, on application by an approved course provider or a Commonwealth, State or Territory government agency (refer ‘[Applications](#_Applications)’ section below), approve a tool for assessing a student’s competence in reading and numeracy [Rules s 82(2)]. The Secretary must be satisfied that the tool is a valid, reliable, fair and well‑constructed way of assessing whether competence is at or above Exit Level 3 in the ACSF. Except where an application is from a Commonwealth, State or Territory government agency, the tool must be appropriately verified and evaluated using evidence-based assessment by a suitably qualified independent body (refer ‘[Independent Review](#_Independent_review)’ section below).

##### Applications

An application from an approved course provider must contain the following information, evidence and other material:

1. Applicant approved course provider’s name
2. Contact information for the approved course provider for the purposes of the application
3. Registered business name of the applicant approved course provider (if different)
4. Any other business name(s) of the applicant approved course provider
5. Business address of the applicant approved course provider
6. Name/description of the language, literacy and numeracy (LLN) testing tool(s) proposed for approval (including version and other relevant identifiers as necessary)
7. Name and other relevant details of body/person undertaking the review of the proposed LLN testing tool
8. Certification/information from the body/person undertaking the review of the proposed LLN testing tool, as follows:
* Name/description of the LLN testing tool(s) reviewed (including version and other relevant identifiers as necessary)
* Declaration of any potential conflicts of interest, or that there are no conflicts of interest, and specifically:
1. certification of their independence from the tool assessed
2. certification of their independence from ‘selling’ adult LLN assessment tools
3. certification of their independence from the applicant RTO
4. Details of their particular relevant qualifications, skills, knowledge and experience, and specifically:
5. details of their expertise in reviewing LLN testing tool(s)
6. details of their expertise in LLN assessment, including with the Australian Core Skills Framework
7. Certification of their findings (including sufficient details of those findings, and relevant details of the evidence and other materials relied upon in reaching those findings), documented in accordance with Appendix I ‘Checklist of auditable requirements for LLN testing instrument’, to the document *Assessment of LLN testing tools and processes for the VET Student Loans Program*, as published by the department from time to time. Copies of the evidence and other material relied upon in reaching the findings are to be submitted with the checklist.

Applications that do not meet the above requirements may be considered invalid.

Applications must be uploaded to HITS. See the chapter on ‘Uploading a Document’ in the [HITS User Guide](https://docs.education.gov.au/documents/hits-user-guide-december-2015)for further information.

The provider must alert the department to its application by completing the provider online enquiry form at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers)**.**

Choose ‘Other’ from the drop down list and insert the subject line:

Application – LLN tool- [provider name]

##### Assessment of an application

Bodies wishing to apply for approval of an external LLN tool should access *Assessment of LLN testing tools and processes for the VET Student Loans program,* which is available on the department’s website at: [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

In deciding whether to approve an assessment tool the department is required to have regard to:

* criteria for approval of tools for testing competence in reading and numeracy against the Australian Core Skills Framework and
* measures for quality assurance of such tools.

##### Independent review

An approved course provider must arrange to have the assessment tool they propose for approval independently reviewed. In determining the appropriateness of the body or person that has undertaken the review, the department will give particular weight to the following:

* absence of real or apparent bias or conflict of interest, particularly indicated by:
	+ independence from the product assessed (e.g. absence of propriety, commercial or financial interest; not involved in its development; not involved in its use; not associated with an organisation that uses the tool et cetera)
	+ independence from ‘selling’ adult LLN assessment tools (that is no current, material commercial, financial or similar interests)
	+ independence from the applicant registered training organisation (RTO) (for example not employed or subcontracted by the RTO to provide training and assessment; no other involvement or interest in the operations of the RTO et cetera)
* has the necessary expertise, particularly indicated by:
	+ expertise in conducting such approval or auditing processes, preferably within the VET sector
	+ expertise in adult LLN assessment including with the ACSF.

The findings of the body or person, including sufficient details of those findings, and relevant details of the evidence and other materials relied upon in reaching those findings*,* should be documented against the *‘*Checklist of Auditable Requirements for Foundation Skills assessments’ included at Appendix I of *Assessment of LLN testing instruments and processes for the VET Student Loans program.* The review by the independent expert must be evidence based.

The review and assessment of a body or person that does not meet the above criteria, or does not appropriately document findings, is unlikely to be given weight in the decision making process.

##### Decision not to approve an assessment tool

If a provider has requested approval of an assessment tool and does not agree with decision, the provider may apply to the Secretary to review the decision.

The application must:

* be in a form approved by the Secretary; and
* be made within 30 days after the day on which the written notice of the reviewable decision was given to the provider, or within such further period as the Secretary allows [Rules s 83(2)].

Details as to the form of the request for review will be made available in the notification of decision.

##### Use of a tool by providers

Provider use of the tool comes with the responsibility of developing a procedure for recording the results of the assessments [Rules s 81].

An approved course provider’s student entry procedure must specify that assessment results must be reported to the student as soon as practicable after the assessment and to the Secretary, if and when required [Rules s 81].

The assessment process must be conducted with honesty and integrity [Rules s 82].

An approved course provider must retain documents obtained or assessments undertaken for the purposes of assessing a student’s academic suitability for at least five years [Rules s 105].

As and when assessment tools are approved, details will be published on the department’s website. Whenever feasible we will aim to approve an assessment tool not only for the applicant provider, but also for all providers.

The following are taken to have been approved:

* Core Skills Profile for Adults as mentioned in subparagraph 38(1)(b)(i) of the Higher Education Support (VET) Guideline 2015
* a tool for assessing a student’s competence in reading and numeracy that is approved under subsection 38(2) of theHigher Education Support (VET) Guideline 2015 published at <https://docs.education.gov.au/node/39981>.

### 4.8.4 Processes and procedures for enrolment in courses

An approved course provider’s processes and procedures must provide for equal and fair treatment of all students seeking to enrol in an approved course [Rules s 84(1)].

An approved course provider must have open, fair and transparent procedures that the provider reasonably believes are based on merit for making decisions about:

* the selection of students seeking to enrol as VET students in VET units of study with the provider and
* the treatment of such students [Rules s 84(2)].

However, this does not prevent a provider from taking into account that a student may be enrolled in an approved course in accordance with an arrangement that:

* was entered into between the provider and an employer or industry body and
* limits or restricts enrolments in some or all of the places in the course [Rules s 84(3)].

### 4.8.5 Processes and procedures relating to loan applications

The Government electronic Commonwealth Assistance Form (eCAF) was released on 1 January 2017. In accordance with paragraph 17(2)(a) of the Act, all approved course providers are required to use the Government eCAF as the student application form for a VET Student Loan from 1 July 2017. Approved course providers require access to the eCAF system.

**Students must submit the eCAF prior to the first census day for which they wish to access a loan.** [Act paragraph 17(2)(c); Rules s 10(2)]**.**

Note, the eCAF system meets web accessibility requirements – and is web accessible for use with a screen reader. In exceptional circumstances only, and on a case-by-case basis on individual application, providers may seek approval to use the paper form (CAF). See ‘**Paper CAFs**’ section below for more information.

##### Using the eCAF

To access the eCAF system, providers must complete and return to the department the **eCAF System Access Request** form for each individual officer requesting access to the system, and/or the **eCAF API system access request** form for a provider service account. The completed forms must be sent to **VSLDataandIT@education.gov.au**.

On accessing the eCAF system, providers can find answers to frequently asked questions under the ‘Help’ tab. The department will update these answers regularly, and for this reason providers should check these periodically. **NOTES**

**1.** Providers must supply accurate student enrolment information in the eCAF. If there are inaccuracies in this information, students will be directed to their respective providers for correction.

**2. Providers cannot delete an eCAF once it has been submitted by a student. However, a provider may be able to delete an eCAF that has not been submitted by the student, if the student does not wish to access a VET Student Loan.**

##### Paper CAFs

Should there be an exceptional circumstance of the student warranting use of a paper form, providers are required to seek, in advance, case by case approval to use the paper form outlining the relevant circumstances applicable to the student. Approval outlining the exceptional circumstances must be sought for each individual student, well in advance of census days.

Exceptional circumstances are limited to disability that prevents screen or internet use, cultural or religious restrictions that preclude use of technology, detention in correctional facilities where internet access is not permitted and remote locality where internet is not available.

An up to date version of the paper form for the student’s completion will be forwarded on each occasion if approval is granted. The form must be completed by students prior to the census day from which they wish the loan to apply. Special reporting requirements apply if approved, and these are detailed to the provider at the time of the individual approval.

**Note: technical system issues do not constitute exceptional circumstances**.

### 4.8.6 Electronic communications between students and the Commonwealth

The Secretary will not treat an application by a student for a VET student loan made by electronic communication as having been signed by the student if the communication does not contain:

* the student’s student identifier; and
* the student’s tax file number (or certificate from the Commissioner stating that the student has applied for a tax file number); and
* an acknowledgement by the student that he or she has read and understood the application; and
* a confirmation by the student of the accuracy of the information in the application [Rules s 152].

##### Collection and verification of certain information

The provider’s processes and procedures must require the collection and verification of the following information and documents relating to a student applying for a student loan including:

* information about the student’s identity and date of birth
* if the [student is under 18](#student_is_under_18), information that:
	+ one of the signatories to the application is a responsible parent of the student (by submission of the signed parental consent form) or
	+ the student has received youth allowance on the basis that the student is independent within the meaning of Part 2.11 of the *Social Security Act 1991* (provider’s should receive from the student evidence of this assessment in the form of their Centrelink Income Statement)
* information and documents to establish that the student meets the citizenship and residency requirements in section 11 of the Act
* if the student has applied for, but not been issued with a tax file number (TFN), a certificate from the Commissioner that the student has applied for a TFN.

##### Students under the age of 18

From 1 July 2017, providers are required to obtain a parental consent form before entering new enrolment data for an intended eCAF.

**IMPORTANT NOTE:** The Secretary is not required to pay a loan amount for a student for a course if the student has not given the Secretary the student’s tax file number [Act s 20(a)] or the student’s student identifier [Act s 20(b)].

##### Monitoring student engagement and progression

As part of stronger compliance measures, students will use the eCAF (after 1 July 2017) to demonstrate they are engaged with their training. Students will be required to indicate continuing engagement only after at least four months have elapsed since their eCAF application was submitted, or they last indicated engagement. The absence of student engagement will be monitored through compliance procedures and may prompt an investigation of student lack of engagement which may trigger the remission of debts. See section ‘[Determining genuine students](#_Determining_genuine_students)’.

##### Providing a TFN

**IMPORTANT: ATO will not provide TFNs to providers**

Neither the Act nor the Rules enable a provider to access a student’s tax file number (TFN) directly from the Australian Taxation Office (ATO). The provision of TFNs to providers occurred under the VET FEE-HELP scheme through the ‘authorised contact’ arrangements. In September 2016, the department requested the ATO to stop giving a person’s TFN to providers. Providers must seek TFNs from the eCAF system (or from students via the paper form in limited circumstances only where the provider has first sought approval from the department to use the paper form). Providers should have regard to the rules, processes, procedures and penalties regarding handling of TFNs.

##### Provision of TFN by students

If a student cannot remember their TFN they can call the ATO on 13 28 61.

Students who do not have a TFN should apply for one by completing a *Tax file number – application or enquiry for individuals* (NAT1432) form available from the ATO.

Without a TFN included in the student’s electronic application for a loan (eCAF), providers will not be paid the loan amount [Act s 20(a)] and providers cannot recover the course fee from students [Acts s 56]. Providers cannot recover course fees from the student where those fees were indicated in the Statement of Covered Fees as being covered by a loan.

As a TFN is usually provided within 28 days of application to the ATO, it is essential for students to apply early to ensure they have their TFN on or before the census date. If a student applies for a TFN less than one month before the relevant census date, the student should request one of the following:

* a Certificate of application for a TFN issued by the ATO
* a copy of their online application summary and barcode matched receipt issued by Australia Post.

If a student has not received their TFN by 10 days before the census date, the student should provide this certificate or receipt to their provider as proof of having applied so that the provider may monitor subsequent provision of the TFN.

Where a student does not supply a TFN in the initial VET Student Loans application (eCAF), the student will still be able to complete the eCAF for a VET Student Loan by uploading their ‘*certificate of application for a TFN*’.  If the eCAF does not have either the TFN, or Certificate of Application for a TFN uploaded, it is not able to be submitted by the student and the student will need to pay for their studies upfront or alter their study plans.

Once the student receives their TFN from the ATO the student will need to contact their provider immediately. The student should ask the provider to re-open the eCAF to enable the student to update their TFN.  The provider will put the eCAF into ‘revision status’ to enable the student to input their TFN.  Once in ‘revision status’, the eCAF system will send an email to the student indicating they can update their TFN in their eCAF record. The student will update their TFN and then resubmit the eCAF.

This must be completed within 6 weeks of the first census date included in the eCAF. It is important that providers advise students that even though they have uploaded a ‘Certificate of application for a TFN’, the students must provide the TFN as soon as they receive this from the ATO. Without a TFN, the loan amount will not be paid to the provider and the student will not be able to use the loan for that study period.

In addition, to ensure that the provider is able to follow up on these students, providers may run an eCAF exception report to identify all students who have not provided a TFN and have submitted a ‘Certificate of application for a TFN’. The reports are available from the eCAF dashboard. Providers may also access and search for eCAFs without TFNs directly in the eCAF system or via the API links from the providers’ student management systems. Refer to the eCAF Help guide for more information.

##### New procedure for verifying TFNs

When a provider submits a student's VET Student Loans debt record in HEIMS, the TFN will be automatically sent for verification (with the ATO). If the student's TFN and personal details match, the student's HELP debt will be transferred to the ATO.

TFN verification ensures that each TFN is confirmed as belonging to a particular student before their associated HELP debt is accepted by the ATO. The ATO verifies the TFNs by matching the details it has for the student with those the provider has reported to HEIMS.

More information relating the verification of TFNs can be found at: <http://heimshelp.education.gov.au/sites/heimshelp/support/revisions/pages/reporting-student-help-debts-to-the-ato>.

##### Retention of information relating to an application

A provider’s processes and procedures must specify that the provider must retain for at least 5 years the documents collected for the purposes of applications by students for VET Student Loans [Rules s 105].

### 4.8.7 Processes and procedures relating to a student’s withdrawal from a course

A provider’s processes and procedures must include:

* procedures for a student to withdraw from an approved course, or a part of an approved course and
* a procedure for a student to enrol in a part of an approved course with the provider in circumstances where the student had earlier withdrawn from the part of the course undertaken with the provider [Rules s 86(1)].

The procedures for a student to withdraw from an approved course, or a part of an approved course, before a census day for the course, or the part of the course, must not involve financial, administrative or other barriers to the withdrawal [Rules s 86(2)].

##### What should a withdrawal process and procedure include?

A provider **may** require a student to follow its internal withdrawal procedure provided that doing so does not impede a student’s withdrawal on or before the census date for a unit or part of a course or whole course.

A provider’s withdrawal process **should** include:

* any method determined by the provider for students to formally communicate their intentions to the provider, including an online or paper form generated by the provider
* confirmation to the student of their withdrawal, including the date and time of the student’s withdrawal, the unit of study, part of a course or whole course from which the student withdrew and the relevant census day
* confirmation as to whether the student has incurred a debt for the unit, part of the course or whole course (noting that no debt may be incurred if the student withdraws prior to the census day)
* advice to the student regarding the special circumstances requirements if applicable to the student’s circumstances
* information about the refund of upfront payments (see ‘[Refund of tuition fees where student withdraws by the census day](#_Refund_of_tuition_1))

##### Can providers offer counselling to students who want to withdraw?

A withdrawal procedure **may** include an optional counselling service for students wishing to withdraw from their studies, provided that it

* does not pressure a student into remaining enrolled
* does not pressure a student to enrol in a different course
* occurs within a timeframe that allows the student to withdraw on or before the census date if the student still so chooses.

##### What cannot be included in a withdrawal process and procedure?

For withdrawals on or before the census day from a unit of study, part of a course or whole course, provider **must not** charge:

* a withdrawal fee
* an administration fee
* a fine or penalty
* a fee determined to be a disincentive to withdrawing from a unit, part of a course or whole course
* any portion of the tuition fees for the unit, part of the course or entire course from which the student is withdrawing

##### Re-enrolling a student who has withdrawn

If a student withdraws from an approved course, or a part of an approved course, the course provider must not, after the withdrawal, re-enrol the student without the written permission of the student [Rules s 86(3)].

##### Refund of tuition fees where student withdraws by the census day

Where a student withdraws their enrolment in an approved course on or before the census day, they must not incur tuition fees for the course or part of the course, to which the census day applies [Act s 58].

This applies to all of the tuition fees for the course or part of the course to which the census day relates. Therefore it includes:

* VET Student Loans covered fees
* any gap fees
* upfront payment of tuition fees
* gap fees or tuition fees paid through a loan from the provider.

Where the student has paid tuition fees upfront to the provider or through a loan from the provider, the provider must refund this amount to the student.

##### No penalty for withdrawing enrolment on or before census day

Where:

* a provider enrols a student in a course on the basis that some or all of the tuition fees for the course are covered fees (i.e. covered by a VET student loan); and
* on or before a census day for the course the student requests in writing that the provider cancels the enrolment,

any of the following actions by the provider may give rise to a civil penalty of up to 120 penalty units (currently $25,200 for individuals and $126,000 for corporations):

* the provider fails to cancel the enrolment before the end of the census day [Act s 59(1)] or
* the provider charges a fee (however described) for cancelling the enrolment [Act s 59(2)].

Further the following may also give rise to a civil penalty of up to 120 penalty units – where a provider enrols a student in a course on the basis that some or all of the tuition fees for the course are covered fees; and the provider engages in conduct that:

* prevents the student from cancelling the enrolment; or
* unnecessarily inconveniences the student in relation to cancelling the enrolment [Act s 59(3)].

### 4.8.8 Processes and procedures relating to cancellation of enrolment by a provider

The processes and procedures for cancelling a student’s enrolment must:

* require the provider to inform the student concerned of a proposed cancellation and
* provide the student with at least 28 days to initiate grievance procedures before the cancellation takes final effect and
* provide for the cancellation to take final effect only after any grievance procedures initiated by the student have been completed and
* set out the circumstances in which fees for the course, or the part of the course, concerned will, or will not be, refunded [Rules s 87].

### 4.8.9 Processes and procedures relating to student complaints

A provider must have a grievance procedure to deal with complaints from its students about academic matters and non-academic matters [Rules s 88].

The grievance procedure must:

* clearly set out the procedure, including required internal and external stages
* encourage the timely resolution of complaints, including by specifying reasonable periods for dealing with each stage of a complaint
* contain the internal and external stages
* clearly state that there is no charge for the internal stage or external stage
* provide for implementation of decisions made in following the grievance procedure
* provide for due consideration of recommendations arising from the external stage
* require the provider to allow parties who have used the procedure to access the records of that use, but otherwise keep the records confidential [Rules s 88(2)].

##### Internal stage

The internal stage of the grievance procedure must include:

* a process for the lodging and hearing of a formal complaint
* a requirement for written notice of a decision on the formal complaint to be given to the complainant, with the notice to include:
	+ the reasons for the decision
	+ advice about how to appeal the decision
* a process for appealing the decision to an independent senior officer of the provider, or to an internal committee or unit with appropriate expertise
* a requirement for written notice of the decision on appeal to be given to the appellant, with the notice to include:
	+ the reasons for the decision
	+ advice about how to have the decision reviewed and
* a provision enabling each party to this stage of the procedure to be accompanied or assisted by another person, at that party’s cost [Rules s 88(3)].

##### External stage

The external stage of the grievance procedure must include:

* a process for having a decision on appeal reviewed by an external and independent person or body with appropriate expertise
* a provision enabling each party to the review to be accompanied or assisted by another person at the review, at that party’s cost and
* a requirement for written notice of the decision on review to be given to each party, with the notice to include the reasons for the decision [Rules s 88(4)].

##### VET Student Loans Ombudsman

The establishment of a VET Student Loans Ombudsman on 1 July 2017 does not remove the requirement for providers to have a decision on appeal reviewed by an appropriate external independent person. The VET Student Loans Ombudsman will act as the external dispute resolution body to conduct investigations, and make recommendations in relation to VET loan assistance (i.e. VET Student Loans and VET FEE‑HELP) and compliance by VET providers with the Act, the HESA and any legislative instruments under either of those Acts. The Ombudsman will report on its investigations and recommend that providers and others take action, or stop certain behaviour, to address identified problems and provide redress to affected students.

For matters which do not fall within the scope of the VET Student Loans Ombudsman’s jurisdiction (for example matters relating to personal information held by the provider or matters that do not relate to loan assistance disputes), the provider must ensure that the external stage of the grievance procedure makes appropriate provision for external and independent review.

The provider must keep appropriate records, for at least 5 years, for each use of the grievance procedure [Rules s 105(g)].

##### Providers’ obligations

Approved VSL providers are taken to be members of the external dispute resolution scheme (the VET Student Loans Ombudsman) for the purpose of meeting this obligation under the Act [Act s 25(2)(h); s 42BA *Ombudsman Act 1976* (Ombudsman Act)].

* All providers must:
	+ comply with the requirements of the VET Student Loans Ombudsman [Act s 42C]
	+ fully cooperate with the VET Student Loans Ombudsman to ensure compliance with the Ombudsman Act [Act s 46]
* For example, providers will be required to produce information or documents relevant to an investigation where this has been requested by the Ombudsman. A breach of this obligation may result in a criminal offence (under s 36 of the Ombudsman Act) and/or a civil penalty up to $12,600 [Act s 46].
* Further, where providers do not take adequate and appropriate action within a reasonable time following recommendations made by the VET Student Loans Ombudsman, a report will be provided to the Minister which will then be tabled in Parliament – making the actions of providers subject to public and Parliamentary scrutiny.
* The department will monitor data detailing whether providers have or have not implemented the recommendations of the VSL Ombudsman.

Further information on the VET Student Loans Ombudsman is available at: [www.ombudsman.gov.au/about/vet-student-loans-ombudsman](http://www.ombudsman.gov.au/about/vet-student-loans-ombudsman).

### 4.8.10 Process and procedures relating to fees

Students may access VET Student Loans to obtain a loan for course tuition fees. As VET Student Loans may only cover tuition fees, any other fees and charges must be borne by the student. The requirements around other fees that are incidental to study are to help ensure that any upfront costs to students are kept to a minimum and to what may reasonably and fairly be charged to a student.

##### Determining tuition fees

A provider must determine the tuition fees for each approved course it offers [Act s 55].

In determining tuition fees an approved course provider must not have regard to any of the following:

* any matter related to the manner or timing of payment of tuition fees by students or payment of loan amounts by the Secretary to the provider (for example, different fees should not be charged based on whether a student pays upfront or requests a loan or pays prior to a certain date before the census day)
* fees payable for anything other than student access including student entry, administration, tuition or assessment for a course
* fees payable for goods and services whether essential to the course or not, or any fine or penalty that may be imposed on a student [Rules s 118].

Note that section 118 of the VSL Rules sets out in full other requirements in relation to determining tuition fees.

See also ‘[What cannot be included in a withdrawal process and procedure?](#_What_cannot_be_1)’

Examples of fees and charges that are not covered fees, and examples of fees and charges that may be charged in addition to tuition fees are set out in [Appendix F](#_Appendix_G_–).

##### Students not liable for covered fees

If an approved course provider enrols a student in a course, the provider must give the student a written statement as to whether or not the enrolment is accepted on the basis that some or all of the tuition fees for the course will be covered by a VET student loan [Act s 56].

The statement must be given in accordance with section 129 of the Rule*s*. See **‘**[Providing a VET Student Loan statement of covered fees](#_4.11.2__)**’.**

A provider contravenes subsection 56(4) of the *VET Student Loans Act 2016* if the provider requires a student to pay covered fees.

This means that where a student enrols in a course with the understanding that part of the student’s fees are covered fees, and the Secretary is not required to pay the loan amount for the student, the **provider must not require or ask the student to pay the provider the amount of the covered fees**.

A Civil penalty of 120 penalty units applies.

##### Providing and publishing fee information for students

Before enrolling a student in an approved course, a provider must give to the student information about (among other things) the tuition fees for the course and any fees other than tuition fees that are payable for the course [Rules paragraphs 98(2)(b) and (c)].

Providers must publish tuition fees on their website in a readily accessible way no later than the day before a student enrols in a course (on the basis that some or all of the fees are covered by a VET student loan) [Act s 57(b)].

##### Giving the Secretary a list of fees

A provider must give to the Secretary, in the manner and form approved by the Secretary, in relation to each approved course offered by the provider, a list of the fees charged for the course including the tuition fees for each part of the course [Rules s 115(1)]. The provider must update the list whenever there is a change to the fees charged for the course [Rules s 115(2)].

The *My Skills* website ([www.myskills.gov.au](http://www.myskills.gov.au)) is the required form for giving to the Secretary the list of the current and up to date fee information, including tuition fees and other fees, for approved courses under the VET Student Loans program [Rules s 115(3)]. Further, under subsection 115(2), the list must be updated whenever there is a change to the fees charged for the course.

**IMPORTANT NOTE: Providers must publish course fees on MySkills prior to 1 July 2017 with respect to the 2017 calendar year and with respect to all approved courses for which the provider is approved to offer loans. Thereafter for subsequent calendar years, the list must be uploaded by 1 December of the previous year, or prior to enrolling students in approved courses, whichever is the earlier.**

For guidance on how to publish tuition fees on the My Skills website, providers should access the [My Skills User Guide - Add/Edit Course Price Information](https://www.myskills.gov.au/media/1412/my-skills-user-guide-add-edit-course-fee-information.docx).

##### Charging of tuition fees

Different requirements apply to charging of tuition fees by:

* approved course providers that are Table A providers, and
* other approved course providers.

Table A providers are the higher education providers listed at subsection 16-15(1) of HESA.

##### Charging of tuition fees by Table A providers

An approved course provider that is a Table A provider may charge a student tuition fees for an approved course provided by the provider only in a way that is consistent with:

* the delivery of the course, and
* the student’s participation in the course [Rules s 120].

##### Charging tuition fees by other approved course providers

The following sections re ‘Fee periods,’ ‘Length of fee periods,’ ‘Charging tuition fees over periods of the course’ and ‘Exemption from fee period requirements to comply with State or Territory funding arrangements’ apply to the charging of tuition fees by approved course providers, which are not Table A providers.

For information about refunding tuition fees see ‘[Refund of tuition fees where student withdraws by the census day](#_Refund_of_tuition_1)’

##### Fees other than tuition

An approved course provider must not charge fees other than tuition fees unless the provider has processes and procedures for ensuring that students understand the following:

* that the fees are not for tuition
* the purpose of the fees
* the student’s total liability for the fees
* when and how the fees are to be paid [Rules s 93(1)].

Examples of fees and charges that are not covered fees but are fees and charges that may be charged separately are set out in [Appendix F](#_Appendix_G_–).

Also note matters that cannot be regarded in [determining tuition fees](#_Determining_tuition_fees).

##### Fees that cannot be charged

An approved course provider’s processes and procedures in relation to fees other than tuition fees must not require fees to be paid for:

* assessments to determine whether a student is academically suited to undertake a course and
* applying for enrolment, or enrolling in, an approved course [Rules s 93(2)].

Examples of other goods and services for which a provider must not charge a fee is at [Appendix G](#_Appendix_H_-).

### 4.8.11 Recognition of prior learning (RPL), fees and reporting requirements

For the purposes of reporting Recognition of prior learning (RPL), RPL is defined as the acknowledgement of a person's skills and knowledge acquired through previous training, work or life experience, which may be used to grant status or credit in a unit.  The granting of status or credit by an institution or training organisation to students for existing qualifications or units of competency completed or previously formally recognised at the same or another institution or training organisation does not constitute RPL.

The [*Standards for Registered Training Organisations (RTOs) 2015*](https://www.legislation.gov.au/Details/F2014L01377/Download) (the Standards) deal with RPL as a method of assessment against a training product’s requirements (refer Standard 1).  We note the Users’ Guide to the Standards (currently accessible at[*www.asqa.gov.au/sites/g/files/net2166/f/Users\_Guide\_to\_the\_Standards\_for\_Registered\_Training\_Organisations\_RTOs\_2015.pdf*](http://www.asqa.gov.au/sites/g/files/net2166/f/Users_Guide_to_the_Standards_for_Registered_Training_Organisations_RTOs_2015.pdf)*)* on page 26 regarding Clause 1.12 of the Standards, relevantly states:

*“[r]ecognition of prior learning is simply a form of assessment of a learner’s competence. Recognition of prior learning uses evidence from formal, non-formal and informal learning (rather than from specific assessment activities directed by the RTO). This evidence is often combined with assessment activities sometimes known as ‘challenge testing’. As such, recognition of prior learning must be conducted with the same rigour as any other form of assessment”.*

We further note that page 55 of the Users’ Guide relevantly states, in relation to granting of status or credit:

“*[n]ote that providing credit for previous studies is not a recognition of prior learning (RPL) process. RPL is a form of assessment of the competence of a person, while providing credit is recognising the equivalence of studies previously undertaken and completed successfully”.*

##### Fees

Providers must determine the tuition fees for each approved course it offers [Act s 55], summarised in [section 4.8.10](#_4.8.10__) of this manual). In determining tuition fees for an approved course, a provider must not have regard to fees payable for anything other than assessing whether a student is academically suited to undertake the course, enrolment in the course, tuition for the course, examination for the course and award of a qualification for completion of the course [Rules paragraph 118(1)(b)]. Note that this section of the VSL Rules, sets out in full other requirements in relation to determining tuition fees.

Where a student receives recognised prior learning for a particular approved course, it is open to a provider to set a lower tuition fee that is commensurate to the remaining portion of the course the student must complete. Determining tuition fees are discussed in [section 4.8.10](#_4.8.10__) of this manual.

If the provider is satisfied that the fee that it charges for the assessment of RPL for the student is within the definition of tuition fees (noting the types of fees listed in paragraph 118(1)(b) of the VSL Rules), a student can access a VSL loan for a tuition fee that covers the charge for the assessment of RPL, as for other tuition fees.

Where the provider’s procedure is that only an ‘RPL assessment fee’ is charged (rather than providing additional tuition and requiring the student to enrol in the standard teaching unit, as only RPL assessment is required with no additional tuition), this RPL assessment fee can constitute a tuition fee for which the student can access a VSL loan so long as the provider is satisfied that this RPL assessment fee satisfies the requirements of paragraph 118(1)(b) of the VSL Rules. RPL unit enrolment is required and the tuition fee for RPL should be reported.

RPL unit reporting requirements are detailed below.

##### Charging and reporting RPL

Note, unless the exemption regarding compliance with State or Territory subsidy funding arrangements applies [Rules s 24], fees covered by VSL loans and other tuition fees for approved courses must meet the requirements of sequential and reasonably apportioned fee charging – ie. the fees must be spread across at least three census days over three periods for the course [Rules s 122 and 123]. This includes for RPL units. Providers should note that the Secretary is not required to pay a loan amount for a student for a course if, relevantly, the Secretary suspects on reasonable grounds that the course provider is not complying with the VSL Act [Act, s 20(f)]. This includes where the provider fails to comply with the requirements of the Rules in relation to tuition fees such as sequential and reasonably apportioned fee charging.

If the tuition fee charged for a unit is purely an RPL assessment fee, this is required to be reported with a value against the RPL indicator.  If the unit is fundamentally a teaching unit, the value against the RPL indicator will be zero. Full details of the reporting requirements are covered in the HEIMSHELP coding notes and glossary.  The glossary provides an RPL definition ([http://heimshelp.education.gov.au/sites/heimshelp/resources/glossary/pages/glossaryterm?title=Recognition of prior learning](http://heimshelp.education.gov.au/sites/heimshelp/resources/glossary/pages/glossaryterm?title=Recognition%20of%20prior%20learning)) as well as a PDF document explaining how RPL should be reported (<http://heimshelp.education.gov.au/sites/heimshelp/Resources/Documents/Reporting-RPL-Diagram.pdf>).

### 4.8.12 Fee periods

A provider must determine at least three fee periods for an approved course and may determine different fee periods for different students. For example part time students may have longer fee periods [Rules s 123].

The fee periods of the course must be sequential and together equal the duration of the course, be of equal (or approximately equal) length based on the estimated duration of the course and each contain at least one census day for the course [Rules s 123(2)].

This requirement ensures students incur debts as they progress through a course and not in one hit at the commencement of the course.

##### Length of fee periods

The length of a fee-period depends on the duration of the course. Providers should structure their courses so that there is sufficient time between enrolment and the start of a course to accommodate the 2-business day gap for requesting a loan and the time period required for issuing VSL Fee Notices. The department may refer information to ASQA regarding the delivery of courses that do not appear to align with expected volume of learning as published in the AQF.

There is no requirement to publish fee-periods, however there must be a minimum of one census day in each fee period and they must be reasonably sequential and proportionate. Refer to the Example Fee Period diagram below.

The length of fee periods that are yet to start may be changed proportionally to the change in time for the overall duration of the course. However, the changed fee periods must be of equal, or approximately equal length. For example if a student switches from full time to part time study the length of their course – and consequently of their fee periods – may increase [Rules s 123(3)].

It will also allow students to indicate to the department their progression and engagement throughout their course in order to continue to access the loan. See section ‘[Fixed progression points](#_Fixed_progression_points)’.

##### Example Fee Period diagram



##### Charging tuition fees over periods for a course

An approved course provider that is not a Table A provider (that is, not a public university) must only charge tuition fees for an approved course as follows:

* the fees to be covered by VET Student Loans, and any other tuition fees, are to be reasonably apportioned over:
	+ the fee periods for the course, and
	+ the parts of the course included in the fee periods, and
* none of the tuition fees for the course are to be payable outside a fee period for the course [Rules  s 122].

**Example**

|  |  |  |
| --- | --- | --- |
| Distribution of fees |  |  |
| Total course cost $15,900 Course loan cap $15,000 |  | **HEIMS code** |
| 1st Fee period | 2nd Fee period | 3rd Fee period |  |
| 1st census day | 2nd census day | 3rd census day | **Totals** |  |
| Loan amount | $5,000 | $5,000 | $5,000 | **$15,000** | 558 |
| Gap fee | $300 | $300 | $300 | **$900** | 381 |
| **Total** | **$5,300** | **$5,300** | **$5,300** | **$15,900** | 384 |

An approved course provider may charge on the basis of an estimate of tuition fees if at the time the course begins the provider does not know:

* the total of the tuition fees for the course, or
* the duration of the course, or
* whether a student will need to pay all of the tuition fees usually payable for the course [Rules s 122(2)].

The estimate cannot exceed the maximum tuition fees mentioned in marketing of the course. If the actual total of the tuition fees for the course exceeds the estimate, the provider may charge the excess only during the final fee period for the course.

##### Fee periods and complying with State or Territory funding arrangements

A provider does not have to comply with the fee period requirements if compliance with these requirements would be inconsistent with an arrangement the provider made with an authority of a State or Territory, and:

* the provider is fully complying with that arrangement, and
* the provider has provided a written notice to the Secretary describing the arrangement, the provider’s full compliance with the arrangement, and how the arrangement prevents the provider from complying with the above and the extent of the non-compliance [Rules s 124].

The provider gives written notice to the Secretary of fee periods and complying with State or Territory funding arrangements by accessing the provider online enquiry form at: <https://www.education.gov.au/information-vet-student-loans-approved-providers>.

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Notice – Fee period exemption - [provider name]

The department will then liaise with the provider regarding providing required information.

### 4.8.13 Variations to tuition fees

A provider may only vary a published tuition fee for a course or a part of a course:

* if the Secretary has given the provider written approval of the proposed variation, or
* if the change:
	+ occurs before the published census date; and
	+ does not disadvantage students enrolled in, or seeking to enrol in that course or part of the course; and
	+ is necessary to correct an administrative error or deal with a change in circumstances [Rules s 126(1)].

While providers do not need to notify the department of variations to tuition fees that do not disadvantage students, they must publish the varied information on their website as soon as practicable after making that decision.

This section does not apply in relation to a course offered under an arrangement that:

* was entered into between the provider and an employer or industry body and
* limits or restricts enrolments in some or all of the places in the course [Rules s 126(3)].

### 4.8.14 Variations to tuition fees that disadvantage students

Approval of the Secretary of the department is required for proposed variations that will disadvantage students, such as increasing a tuition fee [Rules s 126].

The request must include:

* the name of the affected unit of study and unit of study code
* the course to which the unit forms a part
* what change is being made
* details of when the provider first became aware of the need to change
* the commencement date for the unit
* the current census day for the unit
* the current tuition fee
* the intended increase in the tuition fee
* the last day a person may enrol in the unit without incurring the increase
* the number of students who are eligible for VET Student Loans and enrolled in the unit of study
* whether the students have been advised of the possible variation, and
* why the Secretary should approve the request.

The Secretary will give written notification of the decision. The variation cannot be made unless the Secretary has provided notice of approval.

Providers can request approval by uploading the request into HITS. See the chapter on ‘Uploading a Document’ in the [HITS User Guide](https://docs.education.gov.au/documents/hits-user-guide-december-2015)for further information.

The provider must alert the department to its request by accessing the provider online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

Under ‘Frequently asked questions’ scroll to the last option on the list (‘Click here if you still need help’), then choose ‘New VET Student Loans’ from the drop down list and then choose ‘Other’. Insert in the enquiry text field:

Request for variation to tuition fee - [provider name]

### 4.8.15 Processes and procedures relating to re-crediting a FEE-HELP balance

An approved course provider must have processes and procedures for explaining the re-crediting of students’ FEE‑HELP balances under Part 6 of the Act [Rules s 89].

The processes and procedures must explain [Rules s 89]:

* that a student’s FEE‑HELP balance can be re‑credited under Part 6 of the Act
* that a student may apply to the provider for the student’s FEE‑HELP balance to be re‑credited under section 68 of the Act because of special circumstances
* that a student may apply to the Secretary for the student’s FEE‑HELP balance to be re‑credited under section 71 of the Act because:
	+ the provider, or a person acting on the provider’s behalf, engaged in unacceptable conduct in relation to the student’s application for the VET student loan, or
	+ the provider has failed to comply with the Act or an instrument under the Act and the failure has adversely affected the student
* that special circumstances are circumstances that are beyond the student’s control; do not make their full impact on the student until on or after the census day for a course, or the part of a course; and make it impracticable for the student to complete the requirements for the course, or the part of the course, during the student’s enrolment in the course, or the part of the course
* that applications for re‑crediting under section 68 of the Act must be made within 12 months after the census day for the course, or the part of the course, concerned, or within that period as extended by the provider
* that applications for re‑crediting under section 71 of the Act must be made within 5 years after the census day for the course, or the part of the course, concerned or within that period as extended by the Secretary
* the processes available to students in relation to reconsideration and review of decisions whether or not to re‑credit FEE‑HELP balances, including relevant time limits that apply (see [Appendix E](#_Appendix_E_–_1))
* that there is no charge for reconsideration or review of decisions, other than review by the Administrative Appeals Tribunal (AAT)
* that the Secretary of the Department of Education and Training may re‑credit a student’s FEE‑HELP balance in relation to special circumstances if an approved course provider is unable to act or is being wound up or has been dissolved; or has failed to act and the Secretary is satisfied that the failure is unreasonable.

##### Re-crediting by provider for special circumstances

Section 68 of the Act provides for re-crediting of a student’s FEE‑HELP balance by a provider on behalf of the Secretary in [special circumstances](#_Special_circumstances_beyond).

Where the provider is satisfied that special circumstances apply, the provider must re-credit the person’s FEE‑HELP balance with an amount equal to the VET student loan that has been used to pay the tuition fees for the course or part of the course [Act s 68].

A course provider must, on the Secretary’s behalf, re-credit a student’s FEE-HELP balance if:

* the student applies to the provider in writing for the re-credit, and
* the application is made:
	+ within 12 months after the census day for the course, or the part of the course, or
	+ within such longer period for the application as allowed by the provider, and
* the provider is satisfied that “special circumstances” prevented, or will prevent, the student from completing the requirements of the course or the part of the course.

Where a provider allows a person to defer completion of their studies regarding a course, or part of a course, the 12-month application period applies from the end of the extended period for the course.

A provider has the discretion to refund any other payments the person made in respect of the course in line with its own policies, which should be accessible to the student. It is open to providers to use the ‘special circumstances test’ in deciding whether to refund a student’s upfront payment.

##### Meaning of ‘special circumstances’

Circumstances are special circumstances under the Act, if a student can demonstrate to the satisfaction of the provider that the circumstances were [Act s 68]:

* beyond the student’s control and
* did not make their full impact on the student until on, or after, the census day for the course, or the part of the course, and
* made it impracticable for the student to complete the requirements for the course, or part of the course, during the student’s enrolment.

##### Special circumstances beyond a person’s control

Examples of circumstances that may be considered beyond a person’s control might include a motor vehicle accident or the worsening of a serious illness may meet the criteria.

##### Special circumstances that do not make full impact until on or after the census date

Circumstances could be considered not to make their full impact on the person until on or after the census day for the VET unit of study if the person’s circumstances occurred:

* before the census day, but worsen after that day
* before the census day, but the full effect or magnitude did not become apparent until after that day; or
* on or after the census day.

Students do not need to demonstrate they were unable to withdraw from the course prior to the census day.

##### Special circumstances arising from pre-existing conditions

A circumstance that first occurred before the census day may satisfy the special circumstances requirement where it worsens after that day or the full effect or magnitude does not become apparent until after that day.

For example, a person may have an illness or other underlying, pre‐existing condition or incapacity prior to the census day for a course, but that condition may worsen, or the person may suffer from an aggravation, deterioration or serious episode, after the census date.

Alternatively, the full implications of a person’s condition may not have been apparent until after the census day. This may be because recovery does not go to plan, or the degree of disability or incapacity for study is not fully realised until after the census day.

The provider must consider whether the person’s circumstances changed on or after the census day and when the full effect or magnitude of the circumstances became apparent, taking into account any additional circumstances, including continuation of a pre‐existing condition that may have affected the person on or after the census day.

##### Circumstances that made it impracticable to complete a course

The term ‘impracticable’ is defined as ‘not practicable, that which cannot be put into practice with the available means’. The provider should keep this definition in mind when deciding whether a student’s circumstances made it impracticable for them to complete a course, or part of a course. In considering whether circumstances are special circumstances because they make it impracticable for the student to complete the requirements of the course, or part of the course, during the student’s enrolment, the provider must consider:

* whether the student could do enough private study, or attend training sessions and other activities, or engage online, to meet course requirements
* whether the student could complete any required assessable work, or demonstrate competencies required, and
* whether the student could complete any other requirements arising from the student’s inability to do the above [Rules s 145].

Circumstances that make it impracticable for the person to complete the requirements for their course may include (among other things):

* medical circumstances – for example where a person’s medical condition has changed to such an extent that he or she is unable to continue studying
* family or personal circumstances – for example death or severe medical problems within a family, or unforeseen family financial difficulties which affect the student to such an extent that it is unreasonable to expect a person to continue studies, or
* the student’s employment related circumstances – for example where a person’s employment status or arrangements have changed so the person is unable to continue their studies and this change is beyond the person’s control [Rules s 146].

##### Requirements for making decisions

The provider should consider the person’s application as soon as practicable and must notify the person of its decision and the reasons for making the decision [Act s 68(5)].

Decisions regarding re-crediting a person’s FEE-HELP balance are reviewable [Act s 74]. The person must be advised the time limit for applying for a review of a decision is 28 days after the day on which the person was notified of the decision, or within such longer time as the decision maker allows [Act s 76(2)].

##### Reviewable decisions

Certain decisions in the Act are ‘reviewable decisions’. This means an affected person may request the decision maker to review the decision and apply to the AAT for a review of the reconsidered decision. These decisions are set out at section 74 and are:

* where the Secretary is the decision maker:
	+ under section 18 – a decision to approve or not approve a VET student loan
	+ under section 36 – a decision to revoke the approval of an approved course provider
	+ under section 68 – a decision not to re-credit a student’s FEE-HELP balance for special circumstances
	+ under section 71 – a decision to or not to re-credit a student’s FEE-HELP balance for unacceptable conduct
* where the course provider is the decision maker:
	+ under section 68 – a decision not to re-credit a student’s FEE-HELP balance for special circumstances.

Where a decision is not a reviewable decision under the Act, the decision maker may still reconsider the decision if satisfied there is sufficient reasons to do so [Act s 81].

##### Provider decisions regarding re-crediting a student’s FEE-HELP balance

A decision by a provider not to re-credit a person’s FEE-HELP balance is reviewable [Act s 74].

Please see the [Review procedure flowchart](#Review_procedure_flowchart) for an illustration of the information provided below.

A review of a decision may be requested by the person affected by the original decision [Act s 76], or without a request if the provider is satisfied there is sufficient reason to do so [Act s 77].

An approved course provider must appoint a review officer to reconsider reviewable decisions made by the provider - i.e. a decision made under section 68 not to re‑credit a person’s FEE-HELP balance (for special circumstances).

The review officer must be appointed by the chief executive officer of the provider or a delegate of the chief executive officer.

A review officer must not review a decision they were involved in making and must occupy a position that is not lower than that occupied by the person who made the original decision [Act s 79].

Each application should be examined and determined on its merits. The provider should consider the person’s claims, together with any independent supporting documentary evidence that substantiates these claims.

##### Review by review officer

The review officer must reconsider the decision and either [Act s 76(4)]:

* confirm the decision or
* vary the decision or
* set the decision aside and substitute a new decision.

The review officer must provide written notice of the decision and provide a statement of the reasons for making the decision [Act s 76(5) and (6)]. The review officer must advise, in the notice, of the person’s right to appeal to the Administrative Appeals Tribunal (AAT) for a review of the reviewer’s decision if the person is unsatisfied with the outcome [Administrative Appeals Tribunal Act 1975 s 27A].

If the reviewer does not give the person a notice of the decision within 45 days after receiving the person’s request, it is taken that the reviewer has confirmed the original decision [Act s 76(8)].

The provider may find it useful to maintain an up-to-date register of appointments of review officers. For further information on the review process see [Appendix E](#_Appendix_E_–_1).

##### Applications outside the time-period

In circumstances where an application for review is made outside the application period (that is, 28 days after the person was notified of the decision), and the provider has not extended this time, the person should be advised the application has been refused on the basis the person is out of time. In these circumstances, it is not necessary for the provider to address whether the special circumstances test has been satisfied.

##### Review by the Administrative Appeals Tribunal

A person may apply to the Administrative Appeals Tribunal (AAT) for review of a review officer’s decision and may supply additional information to the AAT they did not previously supply to the provider, including the review officer.

The department will receive notification from the AAT that a person has lodged an application for a review of a review officer’s decision. The department is the respondent for cases that are before the AAT.

Once the department has received notification from the AAT that the person has applied for the reconsideration under section 37 of *the Administrative Appeals Tribunal Act 1975*, the department must lodge the following documents with the AAT within 28 days:

* a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision, and
* every document or part of a document that is in the reviewer’s possession or under the reviewer’s control and is considered by the reviewer to be relevant to the review of the decision by the AAT.

The department will notify the provider, in writing, that an appeal has been lodged. To enable the department to meet the 28-day timeframe, the provider must, within a further 5 business days of being requested, provide the department with copies of all the documents it holds that are relevant to the appeal. These documents should be sent by courier or express post to meet the 5-business day requirement. The provider should keep any originals and copies of the documents in line with its normal recording keeping practices.

Once the documents are received, the department may choose to review the original decision.

The provider’s review officer may also reconsider the decision even though an appeal has been made to the AAT at any time up until the AAT makes a final decision. If a decision is made to re-credit a person’s FEE-HELP balance the provider must advise the department.

However, until a person withdraws their AAT appeal or the appeal is dismissed or otherwise dealt with by the AAT, the department is still required to comply with the requirement under section 37 of the *Administrative Appeals Tribunal Act 1975* to lodge the statement, and relevant documents described in the two dot points above, with the AAT. Therefore, the provider must still forward all relevant documents to the department within 5 business days, unless advised not to do so by the department. The department will deal with cases from that point and advise the provider of the outcome.

##### Reporting the remission decision to the department

Where a decision results in the re-crediting of a person’s FEE-HELP balance, the provider will be notified and must report this outcome via submission of a HEIMS revisions file. The provider is required to repay to the Commonwealth any amounts of VET student loan the provider received from the Commonwealth on the person’s behalf through subsequent reconciliations, unless the department decides to issue a separate invoice [Act, s 22].

##### Treatment of students seeking review

An approved course provider’s processes and procedures must ensure that a student is not victimised or discriminated against for:

* seeking a review or reconsideration of a decision
* using the provider grievance processes or procedures or
* making an application for re-crediting the student’s FEE‑HELP balance [Rules s 90].

##### illustration of the review proceedure flowchart between the student, provider, the department through to the ATO.Review procedure flowchart

##### Re-crediting by the provider where course not provided to completion

A provider must, on the Secretary’s behalf, re-credit a student’s FEE-HELP balance if:

* the student has not completed the requirements for the course, or the part of the course, because the provider ceased to provide the course, or the part of the course after it started but before it was completed, and
* it is impractical for the student, under the approved tuition assurance arrangement for the course, to finish the course or an equivalent course [Act s 69(1)].

The amount re-credited must be equal to the amounts of the VET Student Loans that have been used to pay tuition fees for the student for the course, or the part of the course [Act s 69(2)].

If the provider re-credits the student’s FEE-HELP balance, the provider must notify the student and the tuition assurance scheme operator of the student for the course, as soon as practicable [Act s 69(3)].

##### Re-crediting by Secretary

The Secretary may act in place of a provider and re-credit a student’s FEE-HELP balance under section 68 of the Act, for special circumstances, or under section 69 of the Act, where a course has not been provided to completion. The Secretary may exercise this discretion where the course provider is unable to do so or is being wound up or has been dissolved or where the course provider has unreasonably failed to act [Act s 70].

In addition, the Secretary may re-credit a person’s FEE-HELP balance where the person has been subject to ‘unacceptable conduct’ within the meaning of Division 2 of the Rules [Act s 71(1)].

The Secretary may also re-credit a student’s FEE-HELP balance if the Secretary is satisfied of one or more of the following:

* the student is not an eligible student
* the student is not a genuine student
* the student does not have a tax file number
* the student does not have a student identifier (that is a USI within the meaning of the *Student Identifiers Act 2014*) [Act s 71(3)].

Further the Secretary may re-credit a student’s FEE-HELP balance where:

* the provider has failed to comply with the Act (including the Rules, other instruments made under the Act and the HESA and any instrument made under the HESA to the extent they relate to the Act), and
* the failure has adversely affected the student [Act s 71(4)].

##### Unacceptable conduct

A student may apply to the Secretary of the department for a re-credit of their FEE-HELP balance if a provider has engaged in unacceptable conduct in relation to an application for a VET student loan under sections 71 and 72 of the Act because:

* + the provider, or a person acting on the provider’s behalf, engaged in unacceptable conduct in relation to the student’s application for the VET student loan, or
	+ the provider has failed to comply with the Act or an instrument under the Act and the failure has adversely affected the student [Rules paragraph 89(2)(c)].

Unacceptable conduct is defined as [Rules s 148]:

* [unconscionable conduct](#_What_is_unconscionable) (whether or not a particular individual is identified as having been disadvantaged by the conduct) [Rules paragraph 148(1)(a)]
* misleading or deceptive conduct [Rules paragraph 148(1)(b)]
* the [making of a representation](#making_of_a_representation) with respect to any [future matter](#future_matter), such as the doing of, or the refusing to do, any act, if the maker of the representation does not have [reasonable grounds](#reasonable_grounds) for making the representation [Rules paragraph 148(1)(c)]
* advertising tuition fees for the course where there are reasonable grounds for believing that the provider will not be able to provide the course for those fees [Rules paragraph 148(1)(d)]
* use of physical force, or harassment or coercion, in connection with the application or enrolment in the course [Rules paragraph 148(1)(e)]

These definitions do not limit one another [Rules s 148(2)].

##### Making of a representation with respect to any future matter etc - guidance about what this means

* **making of a representation** means through words or actions stating or suggesting something.
* For example, this would cover a statement made in a provider’s promotional material or made verbally to a student when they were enrolling.
* **future matter** means anything that is to happen in the future, whether it is a prediction, a forecast or a certainty.
* For example, this would include whether a course will be an approved course in the future, or whether the provider will be approved under the VET Student Loans program.
* **reasonable grounds** means knowledge or evidence which would lead a reasonable person to come to the same conclusion.
* For example, if a provider has received a letter of confirmation from the department about a particular matter then this would be ‘reasonable grounds’ for believing that it would occur, but if the provider has heard this from a friend of a friend about a particular matter, then this would not be reasonable grounds.

For example under paragraph 148(1)(c) of the Rules it is unacceptable conduct for a provider to:

* tell a student that they should enrol in a course as VET Student Loans will be available for the course in the future when there is no basis for this; or
* suggest that the provider’s fee limit or conditions of approval allow it to enrol a student in a course on the basis that a VET student loan will be available, when its provider fee limit or condition of approval does not allow this.

##### What is unconscionable conduct?

In deciding whether conduct is unconscionable, the Secretary may have regard to the following [Rules s 148(3)]:

* the relative strengths of the bargaining positions of the persons concerned
* whether the student was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of another person
* whether the student was able to understand any documents related to the application for the VET Student loan
* whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the student or a person acting on behalf of the student
* whether the provider, or person acting on the provider’s behalf, failed to disclose anything to the student
* the extent to which the provider, or person acting on the provider’s behalf, acted in good faith.

##### Timing

A student has 5 years from the census day for the course or part of the course concerned to apply for a re-credit of their FEE-HELP balance based on provider [unacceptable conduct](#_Unacceptable_conduct) or the circumstances set out in subsection 71(3) and 71(4) of the Act [Rules s 149(2)]. However, the Secretary may extend this period [Rules s 149(3)].

##### Applications

The application must set out the grounds on which the applicant’s FEE‑HELP balance is to be re‑credited [Rules 149(4)].

The application must include the following to the extent that they are known to the applicant [Rules 149(5)]:

* details of the course to which the application relates
* details of the provider of that course
* the loan amount that is to be re‑credited
* the applicant’s student identifier (if any), and
* any documents supporting the application.

##### Application process

The department will assess an application by a student for re-credit of their FEE-HELP balance in cases of provider or agent unacceptable conduct. Before making a decision, the delegate for the Secretary of the department must give to the provider a notice in writing stating they are considering making the decision. The notice will describe the proposed decision and state the reasons why the delegate is considering making it.

The notice will invite the provider to make a written submission to the department (within 28 days) on why that decision should not be made. In deciding whether to make the decision the delegate must consider any submissions received within the 28 day period.

The delegate will give the student and the provider a written notice of the decision and reasons for the decision as soon as practicable after the decision is made.

Students wanting more information should be directed to the ‘Debt complaints’ page at [www.education.gov.au/debt-complaints](https://www.education.gov.au/debt-complaints) .

The *Cancellation of a VET Student Loan Debt (unacceptable conduct) Application is* linked to this page***.***

### 4.8.16 Processes and procedures relating for handling information

An approved provider must have processes and procedures for handling information [Rules 94(1)].

The processes and procedures must:

* provider for the management of students’ personal information in accordance with the Australian Privacy Principles; and
* provide for students to access their personal information; and
* provider for students to have incorrect personal information corrected; and
* provide accurate information about the use and disclosure of personal information collected by the provider, including that the information may be disclosed to the Commonwealth and tuition assurance scheme operators [Rules 94(2)].

## 4.9 Census Days

A census day is a date by which a student’s enrolment in the course or part of the course can be cancelled without the student incurring tuition fees for the course or part of the course [Act s 58(3)].

Although a student requests a loan for a course, the student becomes financially liable for the tuition fees on a ‘part of a course’ (or unit of study) basis at the end of the census day for that unit.

A unit of study may comprise a group of units of competency or one unit of study may equal one unit of competency. This is a matter for a provider to determine while bearing in mind the requirement that the tuition fees for the course must be reasonably and proportionately distributed across at least three sequential fee periods (therefore at least three census days/three units) over the course.

Many rules apply at a unit level, such as publishing fees, issuing notices, reporting fees and withdrawal and penalty provisions.

### 4.9.1 Determining census days

A provider must set census days for each course [Act s 58(2)]. There must be at least 3 census days for the course. Each census day for part of the course must be at least 20 per cent of the way between when that part of the course starts to be provided and when a student is reasonably expected to complete that part of the course [Rules s 131].

The duration of a course should include any normal study breaks, assessments and/or exam periods. Supplementary exams should not be included, as all students do not normally undertake these. If final exam dates are unknown, the last day of the exam period is used as the end of the course or part of course. Census days must not fall on a day when a student cannot lodge a withdrawal from their course. The census date should not fall on non‑business days. This information must be made clear to students. Refer to section ‘[Processes and procedures relating to a student’s withdrawal from a course](#_Toc477960261)’ regarding barriers to withdrawal.

A census day calculator is available on the department’s website at: [www.education.gov.au/census-dates](https://www.education.gov.au/census-dates). If using a Microsoft Excel workbook, the formula =((B1-A1)\*0.2)+A1 may be used, where column A equals commencement date and column B equals completion date.

**NOTE**: The calculator does not return dates occurring on a Saturday or Sunday. Where calculated date occurs on a weekend, the date of the following Monday is returned. It is a provider’s responsibility to check whether the date returned is a public holiday. Where the date returned is a public holiday it is advisable to set the census date on a subsequent business day.

**Example**

A part of a course has a start date of 10 July 2017 and an end date of 12 December 2017. The census date cannot be set before 10 August 2017, which is 20 per cent of the way through the part of the course.



### 4.9.2 Flexible enrolments

A census day to accommodate rolling intakes or flexible enrolments can be a statement indicating when the census day falls. For example, if part of the course is 12-weeks duration, a statement that the census day falls on day one of week four satisfies this requirement. A census day cannot be earlier than 20 per cent of the way through the part of the course.

### 4.9.3 Publishing census days

The provider must publish census days for each course it provides or intends to provide on or before the earliest enrolment date for a course, or part of a course, enabling students to access information about the census date before they enrol. The information must be in an easily accessible location displayed prominently on the provider’s website and which does not require login information [Rules s 132].

### 4.9.4 Variations to census days

A provider may only vary a published census day if the change:

* occurs before the census day; and
* does not disadvantage students enrolled in that course; and
* is necessary to correct an administrative error or to deal with a change in circumstances [Rules s 133(1)].

In any other circumstances, the provider must obtain the Secretary’s approval prior to varying the census day [Rules s 133(1)(a)].

The Explanatory Statement to the VET Student Loans Rules 2016 indicates an example of an administrative error as 'a typographical error in the published census day'. It is up to the provider to apply this provision in accordance with the overall intent of the section, and the particular circumstances of the student.

This section does not apply in relation to a course offered under an arrangement that:

* was entered into between the provider and an employer or industry body and
* limits or restricts enrolments in some or all of the places in the course [Rules s 133(3)].

A provider must publish prominently on its website any variation to a census day as soon as practicable [Rules s 134].

### 4.9.5 Variations to census days that disadvantage students

Approval of the Secretary of the department is required for proposed variations to census days that do not satisfy section 4.9.4 of this Manual, such as bringing the published census day forward in time [Rules s 133(1)](a) and s 133(2)].

The request must provide all information and include:

* the name of the affected unit of study and unit of study code
* the course to which the unit forms a part
* what change is being made
* details of when the provider first became aware of the need to change
* the commencement date for the unit
* the end date for the unit
* the current census day for the unit
* the last day a person may enrol in the unit without incurring tuition fees
* the number of students who are eligible for VET Student Loans and enrolled in the unit of study
* whether the students have been advised of the possible variation and
* why the Secretary should approve the request.

The Secretary will give written advice of the decision. The variation cannot be made unless approval has been advised.

Providers can request approval by uploading the request into HITS. See the chapter on ‘Uploading a Document’ in the [HITS User Guide](https://docs.education.gov.au/documents/hits-user-guide-december-2015)for further information.

The provider must alert the department to its request by completing the provider online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

Choose ‘Other’ from the drop down list and insert the subject line:

Request for variation to census day - [provider name]

## 4.10 Marketing

The Act and the Rules contain a number of provisions relating to marketing. It is the responsibility of approved course providers to implement business practices in line with the legislative requirements and to assess the risk of those practices not meeting the legislative requirements.

Providers should note that the marketing provisions (section 60 – 64 of the Act) are civil penalty provisions. Breaching section 60 (Misrepresenting VET Student Loans) may give rise to a maximum civil penalty of up to 240 penalty units. Breaching section 61 (Offering certain inducements) may give rise to a maximum civil penalty of up to 120 penalty units. Breaching any of sections 62 (Engaging in cold calling), 63 (Use of third party contact lists) or 64 (Other marketing requirements) may give rise to a maximum civil penalty of up to 60 penalty units.

### 4.10.1 Misrepresenting VET Student Loans

An approved course provider must not represent that a VET student loan is not a loan or does not have to be repaid [Act s 60].

### 4.10.2 Offering inducements

An approved course provider must not offer or provide a benefit or cause a benefit to be offered or provided that would be reasonably likely to induce a person to apply for a VET student loan for a course [Act s 61].

This does not apply in relation to the following benefits [Rules, s 136]:

* the content and quality of the course
* the amount of the tuition fees for the course
* the availability of a VET student loan for the course
* marketing merchandise of up to a total value of $30 per person.

##### Inappropriate inducements

Generally the list of inappropriate inducements includes items which could be used by the student outside of the period of the VET unit or course of study, or are unrelated to the course such as travel, entertainment, hospitality or accommodation services, vouchers redeemable for goods or services and money.

Providers may have regard to the following when determining whether a benefit represents an inappropriate inducement – depending on the circumstances, these factors would be less likely to suggest that the benefit is an inappropriate benefit:

* there is no immediate benefit to the person, as the person would still be required to complete the course in order to obtain the benefit.
* the benefit in itself would not be a replacement for the course of study.
* the monetary value of the benefit is unlikely to induce a student to enrol in a course.

**DISCLAIMER:**

**This information is provided as a basic guide to assist providers to determine whether they require independent legal advice to ensure compliance. It should not be relied upon as legal advice or as an excuse for inappropriate behaviour.**

### 4.10.3 Engaging in cold-calling

An approved course provider must not when cold-calling another person to market, advertise or promote a course, mention the possible availability of VET Student Loans for students undertaking the course [Act s 62(1)].

Cold-calling includes making unsolicited contact with a student (or prospective student) in person, or by telephone, email or other form of electronic communication [Act s 62(2)].

### 4.10.4 Use of third party contact lists

An approved course provider must not use contact details received from another person to contact a student (or prospective student) to market, advertise or promote a course or enrol the student in a course, and in so doing mention the possible availability of a VET student loan [Act s 63].

This does not apply where the student (or prospective student) has given express consent to be contacted by the particular approved course provider [Rules s 138(1)]. A student is taken to have provided express consent if all the following are met [Rules s 138(2)]:

* information in the request was presented clearly, and set out the specific purpose for which the student’s personal information would be used if consent were given, and
* the request was prominent, and
* the student was able to give consent in a separate optional tick box from other consents, and
* the request was not a required field to be answered in order for a person to submit other information, and
* the request did not include a default tick for consent, and
* the request named the provider, and
* the request detailed any referral fee or other fee that would be paid to the person who made the request and any other benefit that would be provided to the person who made the request.

A student is also taken to have provided express consent if the student initiates contact with a third party for the purposes of giving information to a provider, or getting information from a provider, relating to education and training [Rules s 138(3)]. The purpose of this provision is to allow students who are deliberately seeking information on courses from a particular provider to agree to being contacted.

### 4.10.5 Other marketing requirements

The approved course provider must ensure that any marketing of an approved course it is offering or provides prominently mentions [Rules s 140]:

* the provider’s name, registered business name (if any), and any other business name it uses; and
* the code included for the provider as a registered training organisation on the National Register; and
* the maximum tuition fees for the course.

### 4.10.6 Information about fees

An approved course must not be marketed unless the tuition fees for the course (including tuition fees for units/parts of courses) have been published on the provider’s website in way that is readily accessible by the public. In addition, maximum course fees must be published on the *MySkills* website at [www.myskills.gov.au](http://www.myskills.gov.au)) [Rules s 141]. See [‘Giving the Secretary a list of fees’](#_Giving_the_Secretary_2))

### 4.10.7 Marketing that mentions VET Student Loans

An approved course provider must ensure that any marketing in which the provider mentions the possible availability of a VET student loan (however described) for students undertaking a course [Rules s 142]:

* prominently mentions:
	+ the provider’s name and any registered business name or other business name that the provider uses
	+ the provider’s RTO registration code
	+ that VET Student Loans will not be approved for students who do not meet eligibility requirements and
	+ that a VET student loan gives rise to a HELP debt that continues to be a debt due to the Commonwealth until it is repaid
* presents the information above in a font size that is approximately the same as any other marketing information that accompanies it and
* if the marketing is online, presents the information covered above on the same webpage as the other marketing of the course and
* if the marketing uses the VET Student Loans logo, presents the logo in accordance with the style guide for the use of the logo published on the department’s website (see [**Section 4.10.9**](#_4.10.9__) below).

### 4.10.8 Social Media

An approved course provider must ensure that any marketing of the provider or its courses through social media does not mention the possible availability of a VET student loan for students undertaking a course [Rules s 143].

Social media includes, for example, Facebook, Instagram and Twitter. This list is not intended to be exhaustive. The Explanatory Statement to the VET Student Loans Rules 2016 provides as follows:

*Section 143 prohibits an approved course provider from marketing the provider or its approved courses through social media in a way that mentions the possible availability of a VET student loan (however described). The section is intended to enhance the protection of students by prohibiting aggressive marketing practices. Social media includes, for example, Facebook, Instagram and Twitter.*

YouTube is considered to be a social media platform and should not mention the possible availability of a VET Student Loan.

### 4.10.9 Branding

An approved course provider must ensure the approved VET Student Loans logo is used in its complete and original form as provided by the Department. It cannot be rearranged or split into individual elements.

An approved course provider may use or co-brand the VET Student Loans logo with their own organisation’s logo and visual identity. The approved placement for the VET Student Loans logo is to the right of an approved course provider’s own logo.

The VET Student Loans Logo may be published on an approved course VET Student Loans provider’s website on the page outlining information about VET Student Loans. It may not be used on any other materials or printed publications such as office stationery, business cards, letterheads, signs and pamphlets. The VET Student Loans Logo may not be used by third parties.

The *VET Student Loans Style Guide* is available from **www.education.gov.au/vet-student-loans.**

**IMPORTANT NOTE:** Providers are only to use the VET Student Loans logo on their own website on the page that provides information about VET Student Loans, not on the approved provider’s homepage, or in multiple locations throughout the website. The provider must also provide a link back to the Department of Education and Training’s VSL web page ([www.education.gov.au/vet-student-loans-students](http://www.education.gov.au/vet-student-loans-students)). The logo is not to be used on any other materials or printed publications such as office stationery, business cards, letterheads, signs and pamphlets. This information is in accordance with the department’s published style guide at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers).

### 4.10.10 Use of Brokers or Agents

As part of ensuring only quality providers are responsible for providing approved courses and enrolling students, there are strict limits on an approved course provider’s use of brokers or agents.

An approved course provider must not enter into an arrangement with another person for that person to do any of the following in relation to an approved course [Act s 49]:

* enrol students, or accept an application to enrol students, in the course
* provide information or advice in relation to VET Student Loans for the course
* assist students to complete or submit applications for a VET student loan for the course
* assist, or provide support for, students who could be eligible for a VET student loan for the course to complete any assessments required to show that students are academically suited to undertake the course.

This prohibition against arrangements with brokers or agents applies whether the arrangement is in writing or not.

This prohibition does not apply in relation to an arrangement that is a contract of employment [Act s 49] or with a member of the Australasian Conference of Tertiary Admission Centres [Rules s 96].

This is a civil penalty provision, giving rise to a civil penalty of up to 60 penalty units.

## 4.11 Provision of information to students

##### Provider administration obligations for approved VET Student Loans courses

As an approved provider to offer approved courses for VET Student Loans, there are many aspects of the legislation that will apply across all VET Student Loans courses the provider is approved to offer.

The provider’s obligations in some cases extend to all current and prospective students undertaking an approved course with a provider regardless of whether that student is accessing VET Student Loans. The definition of a student, for the purposes of VET Student Loans, includes prospective students. This means that for a provider, it must ensure that the same administrative processes apply for any student undertaking an approved course.

### 4.11.1 Providing information before enrolment

Before enrolling a student in an approved course, an approved course provider must give the student a range of information. This information is listed at section 98 of the Rules. An optional checklist is at [Appendix B](#_Appendix_C_–) for use by providers if they wish. These obligations apply to all current and prospective students undertaking an approved course with a provider regardless of whether the student is accessing a VET Student Loan.

### 4.11.2 Providing a VET Student Loan Statement of Covered Fees

When an approved course provider has enrolled a student in a course, the provider must give the student a written statement as to whether or not the enrolment is accepted on the basis that some or all of the tuition fees for the course will be covered by a VET student loan. Where tuition fees are covered by a VET student loan, they are known as ‘covered fees’ [Act s 56].

The statement must:

* be titled the ‘VET Student Loan Statement of Covered Fees’ [Rules s 129] and
* must include certain information about the provider and course [Rules s 129 and paragraph 99(4)(a) to (i)]:
	+ the student’s name, residential address, phone number and email address
	+ the provider’s name, any other business name that the provider uses and the provider’s RTO registration code
	+ the date of the notice
	+ the student’s student identification number as issued by the provider
	+ the student’s Commonwealth Higher Education Student Support Number (CHESSN), if available
	+ the student’s student identifier (USI);
	+ the name of the course .

If the enrolment is accepted on the basis that only some of the tuition fees for the course will be covered—show the amounts of the tuition fees that will, and will not, be covered by the VET student loan [Act paragraph 56(2)(b)].

An approved course provider must give the notice to the student after the student enrols in the course and before the first census day for the course.

A sample of a VET Student Loan Statement of Covered Fees is provided at [Appendix C](#_Appendix_D_–). However providers are responsible for ensuring that their VET Student Loan Statement of Covered Fees meets the requirements of section 56 of the Act and section 129 of the Rules.

**The VET Student Loan Statement of Covered Fees can be given at the same time and as part of the same notice as the VET Student Loan Fee Notice for the first fee period of the course** [Rules s 129(3)]**.**

### 4.11.3 Providing a VET Student Loan Fee Notice

An approved course provider must provide to a student enrolled in an approved course, regardless of whether the student wishes to access a VET Student Loan, a ‘VET Student Loan Fee Notice*’* in relation to each fee period[Rules s 99].

The requirement is that an approved course provider must give a student enrolled in an approved course a ‘VET Student Loan fee notice’. This requirement applies in relation to students who are enrolled in an approved course who are potentially eligible for VET Student Loans and those who have applied for a VET Student Loan. This requirement does not apply for those students who clearly do not satisfy the citizenship and residency requirements, such as international students.

The VET Student Loan Fee Notice must be provided to the student at least 14 days before the first census day in the fee period. More than one census day can be included in the fee notice – for example, a provider may wish to provide one fee notice for a term or semester’s study.

Providers that are not public universities must not give the notice to the student more than 42 days before the beginning of the fee period.

Information to be included in the VET Student Loan Fee Notice is at subsection 99(4) of the Rules and includes the following:

* the student’s name, residential address, phone number and email address
* the provider’s name, any other business name that the provider uses and the provider’s RTO registration code
* the date of the notice
* the student’s student identification number as issued by the provider
* the student’s Commonwealth Higher Education Student Support Number (CHESSN) if available
* the student’s student identifier (USI)
* the name of the course
* the names of the parts of the course included in the fee period
* an identifying code for each part of the course included in the fee period
* the census day for each part of the course included in the fee period
* for each part of the course included in the fee period:
	+ the amount of the tuition fees that are to be covered by a VET student loan, and
	+ the amount of HELP debt the student will accrue (which could be up to 120% of the loan amount concerned), and
	+ the amount of the tuition fees that is to be paid by the student, and when the amount must be paid
* a statement that:
	+ withdrawal of the student’s enrolment in a part of the course before the census day for the part of the course must be in accordance with the provider’s procedure, and
	+ if the student withdraws from a part of the course before the census day for the part of the course, the student will not incur a VET student loan debt for the part of the course and will receive a refund for any up-front payment of tuition fees
* information about how to withdraw, including where to find a copy of the provider’s procedure for withdrawal
* information on the student’s right to request the correction of information contained in the notice in accordance with the provider’s information handling procedure
* advice that the student may be required to communicate the student’s agreement for the Secretary to continue to use a VET student loan to pay tuition fees for the course
* advice that a VET student loan will not be used to pay the covered fees for a part of the course if the student advises the provider before the census day for the part of the course that the student does not want the tuition fees to be paid using a loan
* advice that any VET student loan debt will remain a personal debt until it is repaid to the Commonwealth.

**A sample notice that combines the information required in the VET Student Loan Statement of Covered Fees and the VET Student Loan Fee Notice is at** [Appendix C](#_Appendix_D_–)**. However this sample is provided for guidance only and providers are responsible for ensuring that they meet the legislative requirements.**

### 4.11.4 Providing a Commonwealth Assistance Notice

An approved course provider must give a student who is enrolled in a part of course on the census day for that part of the course, and who has a VET student loan for the course, a notice that is known as a ‘Commonwealth Assistance Notice’ [Rules s 100].

The notice needs to be given to the student between the census day for the part of the course and 28 days after the census day. A notice can cover more than one part of the course (that is include more than one census day) provided the information is provided in relation to each part of the course and is compliant with the 28-day timeframe in all cases.

Information to be included in the Commonwealth Assistance Notice is at paragraph 100(4) of the Rules and includes the following:

* the student’s name, residential address, phone number and email address
* the provider’s name and any other business name that the provider uses
* the date of the notice
* the student’s student identification number as issued by the provider
* the student’s Commonwealth Higher Education Student Support Number (CHESSN)
* the student’s student identifier (USI)
* the name of the course
* the name of the part of the course
* an identifying code for the part of the course
* the census day for the part of the course
* the student’s tuition fees for the part of the course
* the amount of the student’s tuition fees that are covered by a VET student loan
* the amount of HELP debt the student will accrue (which could be up to 120% of the loan amount)
* the amounts of any payments of the tuition fees made by the student
* information on the student’s right to request the correction of information contained in the notice in accordance with the provider’s information handling procedure.

**A sample notice for the Commonwealth Assistance Notice is at** [Appendix D](#_Appendix_E_–)**. However this sample is provided for guidance only and providers are responsible for ensuring that they meet the legislative requirements.**

### 4.11.5 How notices are to be provided

The approved course provider must send the VET Student Loan Fee Notice and the Commonwealth Assistance Notice to:

* the student’s personal email or
* the student’s postal address or
* to the student by another method agreed by the student [Rules s 99(8) and s 100(7)].

Providers should note that a student’s email address issued by the provider or its agent is not considered the student’s personal email address.

## 4.12 Retaining information and documents

An approved course provider must retain documents and information related to the operation of the Act and the Rules for 7 years or as otherwise specified in the Rules [Act s 51]. The Rules provide that the following information and documents must be retained for 5 years [Rules s 105]:

* the information provided to a student under section 98 before the student enrolled in an approved course
* documents obtained or assessments undertaken for the purposes of determining a student’s academic suitability
* records of the student’s enrolment, including the day and time the student enrols in the course or a part of the course
* information and documents collected for the purposes of, or in relation to, an application by a student for a VET student loan
* if applicable, the day and time the student gives the provider an application for a VET student loan
* all correspondence between the provider and the student (or the student’s parent or guardian) in relation to the course, including notices issued to the student
* records of each use of the provider’s grievance procedure
* the census days and tuition fees for approved courses
* a copy of each version of a process or procedure required under this instrument, and the dates when the version was current
* marketing and promotional material relating to approved courses.

## 4.13 Dealing with personal information

An approved course provider must comply with the Australian Privacy Principles (APP) in relation to personal information obtained for the purposes of the Act. The APPs are set out in the *Privacy Act 1988* (**Privacy Act**) and deal with the collection and management of personal information [Act s 54].

Where a provider fails to comply with the APPs, this constitutes an act or practice involving an interference with the privacy of the individual concerned for the purposes of section 13 of the Privacy Act. This may be the subject of a complaint under section 36 of the Privacy Act.

The provider must have a procedure under which a student enrolled with the provider may apply to the provider for, and receive, a copy of personal information that the provider holds in relation to the student.

Providers should note that there are offences under the Act in relation to the misuse of personal information. See [Appendix A](#_Toc339446938) of this Manual for further information [Division 2, Part 9 of the Act].

##### Use of information

Under the Act, each of the following VET officers may use VET information in his or her capacity as a VET officer [Act s 92(1)]:

* an officer of a Tertiary Admission Centre
* an officer of an approved course provider
* an officer of a tuition assurance scheme operator that is a party to an approved tuition assurance arrangement
* an officer of an approved external dispute resolution scheme operator.

Further a VET officer may disclose VET information to another VET officer if the officer believes on reasonable grounds that the disclosure is reasonably necessary for the purposes of the exercise of the powers, or the performance of the functions or duties, in relation to this Act [Act s 92(2)].

**Providers should note that Commonwealth officers and the Secretary have further, broader powers to use or disclose VET information (see sections 91, 93, 94, 95 of the Act).**

## 4.14 Data reporting

Approved course providers are required to report data for all students studying in approved courses who are eligible to apply for a VET student loan – i.e. VET submissions must include data for all students who, on the census day/date for a part of a course or unit of study:

* deferred all or part of their tuition fees through VSL or
* paid their tuition fees upfront, directly to the provider (whether or not the fees have in fact been paid – refer reporting information below).

Data submitted by providers is used in monitoring a provider’s compliance with the Act and Rules, publishing information and for submission of student debt information to the ATO. Civil penalties apply for failing to provide required data or providing false or misleading data.

The coding requirements for the VET Student Loans for 2017 are the same as the 2017 reporting requirements for VET FEE-HELP. All details of the 2017 and 2018 reporting requirements are available on [HEIMSHELP website](http://heimshelp.education.gov.au/sites/heimshelp/2017_data_requirements/2017vet/pages/vet-2017#nav).

**NOTE:** There are likely to be adjustments to data reporting in line with interim IT solutions put in place. This section will be updated to inform of any changes to be made and refer to the HEIMS and VET Student Loans websites.

In addition, providers should access the ‘Data Provision and Statutory Declarations For 2017 Monthly Census Dates’ fact sheet available on the VET Student Loans website: <https://docs.education.gov.au/node/43281>**.**

Payment of tuition fees from students for units of study/parts of courses should be reported against data element 381: Amount paid up front (<http://heimshelp.education.gov.au/sites/heimshelp/2017_data_requirements/2017dataelements/pages/381>).

The amount of VET Student Loans debt for a unit of study/part of course should be reported against data element 558: HELP debt amount (<http://heimshelp.education.gov.au/sites/heimshelp/2017_data_requirements/2017dataelements/pages/558>).

The total amount charged for a unit of study/part of course is reported against data element 384: Total amount charged (<http://heimshelp.education.gov.au/sites/heimshelp/2017_data_requirements/2017dataelements/pages/384>).

The coding note for data element 558 (HELP debt amount) states that the HELP debt amount (i.e. the VET Student Loans debt amount) must equal the *Total amount charged* less the *Amount paid up front*.

The *amount paid up front* is the amount of the total tuition fee that is not being covered by a VET Student Loan. If, on the census day for the unit of study/part of the course, the student has not yet paid the full upfront payment because the provider has entered into a payment plan or similar arrangement with the student, that is a matter between the student and the provider. It does not affect the amount to be reported on Element 381, which should reflect the tuition fee less the loan amount, rather than the amount paid or collected to date.

### 4.14.1 Equivalent Full time Study Load

Providers will need to determine the Equivalent Full time Study Load (EFTSL) for their parts of courses or units of study. The EFTSL value is how long it will take a student studying full time to complete the part of course or unit. The EFTSL value is the same regardless of the mode by which students are undertaking their study, but will be different for fulltime or part time students.

For guidance on how to determine EFTSL see [Appendix I](#_Appendix_J_-).

### 4.14.2 What data needs to be reported?

Approved course providers are required to submit to the Secretary, and verify, certain data. These include:

* student data – information on student enrolments, and the personal details of students in receipt of a VET loan
* course data – information on the provider’s approved courses
* unit of study completions and course completions submissions – details of students’ completion of courses and parts of courses.

### 4.14.3 Data certification

All student enrolment and course completion data must be quality checked and confirmed as accurate and complete by either the Chief Executive Officer or Chief Finance Officer of the provider’s organisation.

Data must be certified via the lodgement of a Statutory Declaration signed by either the Chief Executive Officer or Chief Financial Officer, in the HELP IT System (HITS) as part of each data reporting submission. There will not be a verification process in HEIMS, however from February 2018 records that have failed the payment validation process (which allows 2 – 3 months for rectification) will be invalided in HEIMS.

### 4.14.4 Reporting deadlines

A key aspect of the VET Student Loans reporting requirements is the (generally monthly) timeframes for data reporting.

|  |
| --- |
| **Data reporting timeframes** |
| **Data type** | **Reporting timeframe** |
| student enrolment data | monthly |
| course completions | monthly |
| unit of study completions\* (ongoing) | quarterly |
| unit of study completions\*  | monthly |
| **\* IMPORTANT NOTE:** The status of all units must be reported quarterly **while their status is ‘ongoing’ (ie. Element 355, Code 4)**. Once a unit is completed, **its status changes from ‘ongoing’ to a completed status (Element 355, Codes 1, 2, 3 or 5)**, providers should not wait until the next quarterly reporting date but **report this change by the next monthly reporting date;** that isthe 7th day of the following month. |

Further details of reporting requirements, and all documents referred to in the Notice, are available at the ‘[VET Data Collections - 2017 Reporting Requirements](http://heimshelp.education.gov.au/sites/heimshelp/2017_data_requirements/2017vet/pages/vet-2017)’ page and the ‘[VET Data Collections – 2018 Reporting Requirements](http://heimshelp.education.gov.au/sites/heimshelp/2018_data_requirements/2018vet/pages/vet-2018#nav)’ page at the HEIMSHELP site.

### 4.14.5 Publishing data

The Secretary is required to publish information relating to the operation of the VET Student Loans Program within 42 days after the end of the period of 6 months after 1 January and 1 July in each year. The information to be published includes:

* the number of approved course providers that operated during the reporting period
* for each of those providers [Act s 103A]:
	+ the name of the provider; and
	+ the value of VET Student Loans approved by the Secretary for approved courses offered by the provider during the reporting period; and
	+ the number of students who undertook approved courses offered by the provider during the reporting period and whose tuition fees for the courses were paid (whether in whole or in part) using VET Student Loans; and
	+ the number of such students who completed approved courses during the reporting period; and
	+ the amount of tuition fees charged to such students by the provider during the reporting period.

Providers may view VET Student Loans Statistical reports via a link from [www.education.gov.au/vet-student-loans](https://www.education.gov.au/vet-student-loans). For VET FEE-HELP statistics, providers are able to access the reports from[www.education.gov.au/vet-fee-help-statistics](http://www.education.gov.au/vet-fee-help-statistics)**.**

### 4.14.6 Electronic communications

If a student is required or permitted to sign an electronic communication to a provider, the provider must have in place a method the student can use to identify him or herself in the communication and to indicate his or her approval of the information communicated [Rules s 151].

Where the method is used, the student is taken to have signed the communication and indicated their approval of the information.

For example the identification method could involve the student using a student identification number issued by the provider. However, where it does, the provider must:

* verify the identity of each student to whom it issues a student identification number, and
* take all reasonable precautions to ensure there is no unauthorised access to, or use of, a student identification number issued by the provider, and
* ensure that each student to whom it issues a student identification number is advised that the student is personally responsible for protecting their student identification number.

Electronic communications between providers and students or between providers and the Commonwealth must be conducted by means of systems that:

* are secure
* provide for disaster recovery and
* are sufficiently up to date [Rules s 154]**.**

### 4.14.7 Electronic communications between students and providers

If a student is required or permitted to give information or a document to an approved course provider by way of a fax, email, web-based communication or any other form of electronic communication, the provider must ensure that the information technology system to be used for giving the information is [Rules s 153]:

* accessible – the provider has informed the student that the information or document is to be given using the system, and has authorised the student to use the system
* secure – so that the student’s information or documents can be accessed only by persons authorised by the student
* able to store information so that it is readily accessible by the student
* accessible in respect of applications for VET Student Loans
* for a student who makes a VET Student Loans application electronically (noting section ‘[Processes and procedures relating to loan applications](#_Toc477960257)’ regarding eCAF applications directly to the Commonwealth):
	+ accessible by the student using a student identifier, and
	+ able to automatically generate a date field on the request, and
	+ is able to generate printable receipts for the student.

# 5. Payments to approved course providers

Providers will be paid monthly in arrears of the provider submitting student liability data through the Higher Education Information Management System (HEIMS). Providers must submit student liability data for all [census days](#_Toc471300329) that have occurred in each month by the 7th of the following month.  The department will monitor student [course caps](#_Toc481649813) and [provider fee limits](#_Provider_fee_limit_1) as part of the assessment of eligibility of submitted data for payment. Payment for all eligible student data is processed on the 1st of the next month. From February 2018 records that have failed the payment validation process (which allows 2 – 3 months for rectification) will be invalided in HEIMS.

It is important to note that providers are responsible for monitoring student loans to ensure they do not exceed their provider fee limit. Should a provider report loans in excess of its provider fee limit, the Secretary is not required to pay any loan amount in excess of the provider fee limit. The provider will need to resolve the resulting situation with the students – which may involve not charging the student tuition fees for the course or part of the course (having regard to section 56 of the Act and that students are not liable for covered fees). The provider would also need to amend the student debt records in HEIMS.

##### Data Reporting Statutory Declarations

Payments will not occur unless a valid and accurately completed Statutory Declaration is uploaded into the HELP IT System (HITS). Data must be certified as being true and correct and evidencing genuine students’ enrolment, debt and completions data via the lodgement of a Statutory Declaration signed by either the Chief Executive Officer or Chief Financial Officer. The Statutory Declaration must be uploaded in HITS as part of each data reporting submission (ie. each month). The required Statutory Declaration form ‘*Statutory Declaration - VET FEE-HELP and VET Student Loans*’ is available on the department’s website at [www.education.gov.au/information-vet-student-loans-approved-providers](https://www.education.gov.au/information-vet-student-loans-approved-providers). Providers should read the ‘Data Provision and Statutory Declarations for Monthly Census Days’ Fact sheet, available on the website, which further outlines data reporting and quality assurance information, and also refer to[section 4.14](#_Toc471285754) **‘Data reporting**’.

##### Reporting timetable

The reporting timetable for monthly payment in arrears is at [Appendix H](#_Appendix_I_-). This is by way of guidance only, noting that the Act gives flexibility to the department as to the timing of its payments [Act s 19].

## 5.1 Provider fee limit

A provider fee limit is a maximum dollar amount for VET Student Loans that can be paid to an approved course provider for a particular period of time and/or for particular approved course(s) [Act s 34(3)]. This provider fee limit is calculated using the capped loan amounts for each approved course as specified in the VET Student Loan (Courses and Loan Caps) Determination 2016 and any consequent amendments.

The capped loan amount may be larger or smaller than the tuition fees that a provider has decided to charge for a course. A provider fee limit is imposed on the provider as a condition of approval.

This is different from the fee periods for a course. For more information, see ‘[Fee periods](#_4.8.12__)’.

Providers may have options about how they utilise their provider fee limits. For example, if an approved course provider has been approved to offer loans for eight different courses, and no separate fee limit for any one of those courses has been imposed, they can choose how many loans they offer for each of the courses, provided the total provider fee limit does not exceed the maximum specified in their approval documentation.

If the provider has been given a fee limit for a course, there is not the same flexibility. The maximum limit for the course cannot be exceeded.

**Example**

A provider offers an approved course which has a loan cap of $15,000 (as specified in the Courses and Loan Caps Determination).

The course includes three census days and on each census day the student becomes liable for $5,000 of the covered fee for the course. Over a 12 month period three census days occur – which means that each student accessing a VET student loan for a course will be liable for $15,000 of the covered fee for the course over the 12 month period. The provider could therefore enrol 10 full time students on the basis that a certain portion of their course would be covered by VET Student Loans.

The provider’s fee limit for the course is $150,000 for a 12 month period.



The effect of the fee limit for this provider is that only 10 students can access a VET Student Loan for the course in the 12-month period at this provider.

If there were more census days for one or more students within the relevant period, then the number of students able to access VET Student Loans would be lower. If students were studying part time, the number of students may be higher.

**IMPORTANT NOTE:** The consumption of a provider’s fee limit is based on when a unit census day falls, not when the payment is made. Therefore, a unit with a census day in December 2017 will be assessed for payment on 1 February 2018 against the provider’s 2017 fee limit.

## 5.2 Process for applying for an increase to a provider fee limit

Recognising the need for flexibility, the department will consider requests from providers to apply for a variation to their conditions to allow for an increase to their provider fee limit [Act paragraph 34(1)(b)]. Requests will be accepted by the department by 31 March or 30 September annually.

**IMPORTANT NOTE:** In exceptional circumstances, for example where a provider supports the ongoing study of students affected by a provider closure, requests may be considered outside of this timeframe.

Providers must use the *Request to vary VSL Fee Limit* form, which is available from the department’s website at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers) , and provide an evidence-based business case to support their request (see [5.2.1](#_5.2.1__) below).

Requests, including form and business case, should be submitted using the online enquiry form at [www.education.gov.au/information-vet-student-loans-approved-providers](http://www.education.gov.au/information-vet-student-loans-approved-providers). Choose ‘Other’ from the drop down list and insert the subject line:

Request to vary provider fee limit - [provider name]

### 5.2.1 Business Case Requirements

The business case must include details for each course for which the provider is seeking an increase. It should be no longer than three pages and include, as a minimum, the requirements listed below:

* list of the approved VSL courses currently offered
* the proposed fee limit increase for each currently approved course
* the rationale based on market need for each of the courses where an increase is requested
* demonstrate a track record of student progression and completions for approved courses where an increase is requested
* expected numbers of students for each course where an increase is requested
* the most recent results of the organisation’s assessment of student satisfaction for the courses where an increase is requested and
* the proposed student intake per course where relevant to support students from ceased providers, where relevant.

## 5.3 When Secretary is not required to pay loan amount

The Secretary is not required to pay a loan amount for a student for a course if any of the following applies [Act s 20]:

* the student has not given the Secretary the student’s tax file number
* the student has not given the Secretary the student’s student identifier (USI)
* the Secretary is satisfied that the student:
	+ is not an eligible student or
	+ is not a genuine student
* payment of the amount would breach a provider fee limit
* the loan amount is greater than the student’s FEE‑HELP balance
* the Secretary suspects on reasonable grounds that the course provider is not complying with this Act
* the approval of the course provider has been revoked or suspended, or has expired.

Where the Secretary decides not to pay a loan amount for a student for a course, the Secretary will notify the provider as soon as practicable.

## 5.4 When the provider must repay loan amounts

A course provider will be required to repay loan amounts in certain circumstances where

* [students’ FEE-HELP balance](#_Students’_FEE-HELP_balance)s are re credited [Act s 22(1)]
* the provider was paid a loan amount purportedly under the Act that [was not payable](#_Loan_amount_was) [Act s 22(2)]
* the [provider exceeded its provider fee limit](#_Loan_amount_exceed) [Act s 22(3)]
* there is debt due to the Commonwealth by the provider [Act s 22(4)]
* there is a debt from one or more loan amounts that would otherwise be payable to the course provider in relation to a student [Act s 22(5)]
* if a debt is recovered from a loan amount that is otherwise payable in relation to a student, the amount recovered is taken to have been paid to the course provider in relation to the student [Act s 22(6)].

### 5.4.1 Students’ FEE-HELP balance re-credited

A provider must pay to the Commonwealth an amount equal to the loan amount that was:

* used to pay tuition fees for a student for a course, and
* re-credited to the student’s FEE-HELP balance.

For example, this would require repayment of a loan amount by a provider where a student’s FEE−HELP balance is re-credited:

* for special circumstances (under section 68 of the Act),
* where the provider has ceased to provide a course (under section 69 of the Act),
* where the Secretary acts in place of the provider in either of the above situations (under section 70 of the Act),
* or where there has been unacceptable conduct by the provider (under section 71 of the Act).

### 5.4.2 Loan amount was not payable

A course provider must pay to the Commonwealth an amount equal to any amount that was purportedly paid to the provider under the Act that was not payable. For example, where the payment has been erroneously made or made based on false information.

### 5.4.3 Loan amount exceed provider fee limit

A course provider must pay to the Commonwealth an amount equal to any amount paid to the provider that exceeded a provider fee limit imposed on the provider.

An amount that a course provider must pay under this section is a debt due to the Commonwealth by the provider. The Commonwealth may recover the debt from one or more loan amounts that would otherwise be payable to the course provider in relation to a student. If a debt is recovered from a loan amount that is otherwise payable in relation to a student, the amount recovered is taken to have been paid to the course provider in relation to the student.

# Appendices

## Appendix A – Civil penalties and criminal offences

| **Short description provisions including civil penalty units and offence provisions** | **Act** |
| --- | --- |
| **Loans to students**  |
| Provider completes, or assists a student to complete, anything the student is required to do for the purposes of determining whether the student is ‘academically suited’ to undertake an approved course.****120 penalty units**** | s12(3) |
| Provider completes any part of an application for a VET student loan that the student is required to complete.120 penalty units | s17(5)  |
| Provider collects information for the purpose of, or in relation to, applications by students for VET Student Loans, and provides the collected information or information based on the collected information to the Secretary, and the information so provided omits a material particular or is incorrect in a material particular (note: Providers need to verify information collected).120 penalty units | s17(6) |
| **Ensuring compliance** |
| Provider fails to comply with a compliance notice given by the Secretary.60 penalty units | s43(4)  |
| Failure of a person [broader than provider] to cooperate fully with an auditor in relation to a compliance audit60 penalty units | s45(5) |
| Provider fails to cooperate fully with a listed body including a VET Regulator, the Secretary, an employee of the Department or consultant engaged by the Commonwealth, the operator of an approved external dispute resolution scheme of which the provider is a member in ensuring compliance with, and the efficient and effective administration of the Act.60 penalty units | s46 |
| **General requirements** |
| Provider fails to comply with the Rules made under section 48 of the Act (that is. Division 1, Part 7 of the Rules) in respect of having specified processes and procedures in place.60 penalty units | s48(5) |
| **Brokers and Agents** |
| Provider must not enter into an arrangement which provides for another person to enrol students or accept applications for enrolment, provide information or advice in relation to VET student loans, assist students to complete applications or assist students to complete any assessments required to show academic suitability.60 penalty units | ss49(1) |
| **Information** |
| Provider fails to comply with the Rules made under subsection 50(1) (that is, Division 3, Part 7 of the Rules) in respect of provision of particular information to students.60 penalty units | s50(2) |
| *Strict liability Offence:* Provider fails to comply with the Rules made under subsection 50(1) (that is, Division 3, Part 7 of the Rules) in respect of provision of particular information to students.60 penalty units | s50(3) |
| Provider fails to retain documents and information in accordance with section 51, including as specified in Division 4, Part 7 of the Rules (made under section 51).60 penalty units | s51(3) |
| *Strict liability offence:* Provider fails to retain documents and information in accordance with section 51, including as specified in Division 4, Part 7 of the Rules (made under section 51).60 penalty units | s51(4) |
| Provider fails to comply with the ongoing information requirements including as set out in Division 5, Part 7 of the Rules (made under section 52).60 penalty units  | s52(4) |
| *Strict liability offence*: Provider fails to comply with the ongoing information requirements including as set out in Division 5, Part 7 of the Rules (made under section 52).60 penalty units | s52(5) |
| Provider fails to comply with a notice given under subsection 53(1) to provide information or documents to the Secretary.60 penalty units | s53(4) |
| *Strict liability offence:* Provider fails to comply with a notice given under subsection 53(1) to provide information or documents to the Secretary.60 penalty units | s53(5) |
| **Fees** |
| Provider fails to comply with requirements under the Rules in relation to determining tuition fees for approved courses (that is with Division 6, Part 7 of the Rules).120 penalty units | s55(3) |
| Provider requires a student to pay fees that are covered by a VET student loan (covered fees) (where enrolment is accepted on the basis that some or all tuition fees are ‘covered fees’).120 penalty units | s56(4) |
| Provider does not have publicly and readily available on its website (that is, has not published) the tuition fees for a course by the day before the enrolment of a student in an approved course where enrolment is accepted on the basis that some or all tuition fees are ‘covered fees’.60 penalty units | s57 |
| **Census days** |
| Provider fails to determine or publish a ‘census day’ for a course in accordance with the Rules (that is Division 7, Part 7 of the Rules).60 penalty units  | s58(6) |
| Provider varies a ‘census day’ not in accordance with the Rules (that is Division 7, Part 7 of the Rules).60 penalty units  | s58(7) |
| Provider fails to cancel the enrolment of a student before the end of the census day where the provider has been requested to do so in writing by the student on or before the census day.120 penalty units | s59(1) |
| Provider charges a fee to cancel the enrolment of a student where the provider has been requested to cancel enrolment in writing by the student on or before the end of the relevant census day.120 penalty units | s59(2) |
| The provider engages in conduct that prevents, or unnecessarily inconveniences, the student from cancelling their enrolment.120 penalty units | s59(3) |
| **Marketing** |
| Provider misrepresents that a VET student loan is not a loan or does not have to be repaid.240 penalty units | s60 |
| Provider offers or provides a benefit, or causes a benefit to be provided, that would reasonably likely induce a person to apply for a VET student loan for a course. (Note: does not apply in relation to a benefit specified in Subdivision A, Division 8, Part 7 of the Rules).120 penalty units | s61(1) |
| Provider cold-calls (that is, unsolicited contact in person, via telephone, email or other electronic means) another person to market, advertise or promote a course and in the course of doing so mentions the possible availability of a VET student loan.60 penalty units | s62(1) |
| Provider uses third party contact lists to market, advertise or promote a course and in the course of doing so mentions the possible availability of a VET student loan. (Note: does not apply in relation to the circumstances specified in Subdivision B, Division 8, Part 7 of the Rules). 60 penalty units | s63(1) |
| Provider fails to comply with any requirements in relation to marketing of courses that could be covered by a VET student loan set out in the Rules (that is with Subdivision C, Division 8, Part 7 of the Rules).60 penalty units | s64(2) |
| **General provisions**  |
| Provider fails to comply with requirements in relation to electronic communications set out in the Rules (that is with Division 1, Part 9 of the Rules).60 penalty units | s102(2) |
| Provider fails to comply with a requirement from the Secretary under subsection 103(4) to release or publish information about it (such as, completion rates, enrolment numbers, courses offered etc.).60 penalty units | s103(5) |
| A person (broader than provider) fails to provide information to the Secretary in accordance with the written notice for information given by the Secretary under section 104(1).60 penalty units | s104(4) |
| *Strict liability offence*: A person (broader than provider) fails to provide information to the Secretary in accordance with the written notice for information given by the Secretary under section 104(1).60 penalty units | s104(5) |
| A person gives information or a document to a VET officer or otherwise under or for the purpose of the Act (including the Rules etc.) and the information or document is false or misleading (in a material particular), or omits any matter or thing without which the information or document is misleading (in a material particular). (Note: see also offences under Criminal Code s 137.1, 137.2))240 penalty units  | s106(3) |
| **Offences for misuse of personal information [broader application than just provider]** |
| A person commits an offence if: the person is, or has been, a VET officer; and the person has obtained or generated personal information in his or her capacity as a VET officer; and the person: (i) uses the information; or (ii) discloses the information to another person.Imprisonment for 2 years. | s99(1) |
| A person commits an offence if the person uses personal information and the information was disclosed to an agency, body or person under section 95; and the use of the information is not for a permitted purpose.Imprisonment for 2 years. | s100(1) |
| A person commits an offence if: the person discloses personal information; and the information was disclosed to an agency, body or person under section 95; and either or both of the following apply: (i) the disclosure is not for a permitted purpose (ii) the disclosure is to a person who is not an officer or employee of, or engaged by, the agency, body or person to whom the information was disclosed under section 95. Imprisonment for 2 years. | s100(3) |
| A person commits an offence if:* the person causes any unauthorised access to, or modification of, personal information; and
* the personal information is VET information:

(i) that is held on a computer; and(ii) to which access is restricted by an access control system associated with a function of the computer; and* the person intends to cause the access or modification; and
* the person knows that the access or modification is unauthorised; and
* one or more of the following apply [Note, absolute liability applies to the following]:

(i) the information is held on a computer of an approved course provider;(ii) the information is held on behalf of an approved course provider;(iii) the information is held on a computer of a Tertiary Admission Centre;(iv) the information is held on behalf of a Tertiary Admission Centre.Penalty: Imprisonment for 2 years. | s101(1) |

## Appendix B – Checklist of information to be provided to students prior to enrolment

| Information required to be provided prior to enrolment (see section 98 of the Rules) | Information provided 🗹 |
| --- | --- |
| 1. All information required to be provided under the [Standards for Registered Training Organisations (RTOs) 2015](https://www.legislation.gov.au/Details/F2014L01377) that relates to ensuring that each learner is properly informed and protected.
 | ☐ |
| 1. The tuition fees for the approved course
 | ☐ |
| 1. Any fees other than tuition fees that are payable for the course
 | ☐ |
| 1. The student’s options for paying tuition fees, including:
	* + - 1. payment by the student as fees become due and
				2. a VET student loan
 | ☐ |
| 1. Information about VET Student Loans, including that:
	* + - 1. it is a loan from the Commonwealth, and
				2. the loan will remain a personal debt until it is repaid to the Commonwealth, and
				3. the loan may, until the debt is repaid, reduce a student’s take‑home (after‑tax) wage or salary and may reduce the student’s borrowing capacity, and
				4. a student may wish to seek independent financial advice before applying for a loan.
 | ☐ |
| 1. The criteria for being an eligible student for a VET student loan (see sections 9 – 12 of the Act)
 | ☐ |
| 1. The application process for a VET student loan (see section 17 of the Act)
 | ☐ |
| 1. An explanation that the student may be required during the course to communicate his or her agreement that the Secretary continue to use the VET student loan to pay tuition fees for the course (student progression and engagement requirements)
 | ☐ |
| 1. The maximum amount of a VET student loan that may be available for the course, and an explanation that the amount of the loan cannot be greater than the student’s remaining FEE‑HELP balance
 | ☐ |
| 1. The total VET student loan debt a student may incur if the student receives the maximum VET student loan referred to paragraph 9 above.
 | ☐ |
| 1. An explanation that the tuition fees will be reasonably apportioned across a specified number of sequential fee periods and that each fee period will contain at least one census day
 | ☐ |
| 1. Information about census days, including:
	* + - 1. the meaning of a census day (see subsection 58(3) of the Act), and
				2. that a student may cancel the student’s enrolment in the course or part of the course using the provider’s procedure for withdrawal, and
				3. if a student withdraws before the census day for a course or part of a course, the student will not incur a VET student loan debt for the course or part of the course and will receive a refund for any tuition fees already paid for the course or part of the course
 | ☐ |
| 1. How to access the following on the approved course provider’s website:
	* + - 1. the tuition fees for the course
				2. the census days for the course
				3. the provider’s procedures for withdrawal from the course and cancellation of enrolment
				4. other procedures the provider is required to have under the Rules
 | ☐ |
| 1. Advice that it is important for an enrolled student to notify the provider of any change of contact details
 | ☐ |
| 1. Advice that the department will contact the student to verify the student’s enrolment in the course
 | ☐ |

## Appendix C – Sample – VET Student Loan Statement of covered fees and Fee Notice

|  |
| --- |
| **Note: This is a sample of a VET Student Loan Statement of Covered Fees and VET Student Loan Fee Notice. Providers are responsible for ensuring that their VET Student Loan Statement of Covered Fees meets the requirements of section 56 of the Act and section 129 of the Rules and the VET Student Loan Fee Invoice meets the section 99 of the Rules. The VET Student Loan Statement of Covered Fees may be given to the student along with the VET Student Loan Fee Notice for the first fee period of the course.** |

**VET Student Loan Statement of Covered Fees and VET Student Loan Fee Notice**

|  |  |
| --- | --- |
| Date of Notice | 27 March 2017 |

|  |  |
| --- | --- |
| Student name | FIRST NAME(S) SURNAME |
| Residential address | STREET SUBURB POSTCODE |
| Phone number | XXXX XXX XXX |
| Personal email  | NAME@gmail.com |
| Student ID number | XXXXXX |
| CHESSN | XXXXXXXXXX |
| USI | 3AT88DH9U5 |
| Provider name | ABC Training |
| Business name(s) | Training pathways |
| RTO code (Provider’s registration code) | XXXX |

**IMPORTANT INFORMATION**

**If you do not want to continue studying in the below mentioned part of your course you must withdraw on or before the census day (see below) in accordance with [name of provider]’s withdrawal procedure. [Name of provider]’s withdrawal procedure is available here: [insert URL]. If you do not withdraw from the mentioned part of your course on or before the census day you will incur a VET Student Loan debt for the amount indicated below.**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Course code | Course name | Unit/part course code | Unit/part course name | Census day / upfront payment date | Tuition fee covered by VSL | Loan fee | Tuition fee to be paid by student upfront (i.e. not covered by VSL) |
| ICT50115 | Dip of Information Technology | [BSBCRT501](http://training.gov.au/Training/Details/BSBCRT501) | Originate and develop concepts  | 10 April 2017 | $525 | $105 | Nil |
| ICT50115 | Dip of Information Technology | [BSBWHS501](http://training.gov.au/Training/Details/BSBWHS501) | Ensure a safe workplace  | 10 April 2017 | $600 | $120 | Nil |
| **IMPORTANT NOTES:**1. **This statement given that the your enrolment was accepted on the basis that some or all of the tuition fees for your course will be covered by VET Student Loans.**
2. **If you believe that the information contained in this notice is incorrect, you have the right to request a correction in accordance with [name of provider]’s information management procedure which is available here [insert URL].**
3. **You may be required to communicate your agreement for the Secretary of the Department of Education and Training to continue to use a VET student loan to pay the tuition fees for your course (the progression and engagement requirement).**
4. **A VET student loan will not be used to pay the covered fees for a part of your course if you advise [provider name] before the census day that you do not want to access a loan for your tuition fees. This communication must be in writing and you should keep a copy for your records.**
5. **Any VET student loan debt will remain a personal debt until it is repaid to the Commonwealth.**
 | **Total tuition fee covered by VSL** | **Total loan fee** | **Total tuition fee to be paid by student upfront** |
| $1125 | $225 | Nil |
| **Total HELP debt/liability** |  |
| **$1350** |

## Appendix D – Sample - Commonwealth Assistance Notice

|  |
| --- |
| **Note: This is a sample of a Commonwealth Assistance Notice (CAN) only. Providers are responsible for ensuring that their CAN meets the requirements of section 100 of the Rules.** |

**Commonwealth Assistance Notice**

|  |  |
| --- | --- |
| Date of Notice | 5 May 2017 |

|  |  |
| --- | --- |
| Student name | FIRST NAME(S) SURNAME |
| Residential address | STREET SUBURB POSTCODE |
| Phone number | XXXX XXX XXX  |
| Personal email  | NAME@SERVER.com |
| Student ID number | XXXXXX |
| CHESSN | XXXXXXXXXX |
| USI | 3AT88DH9U5 |

|  |  |
| --- | --- |
| Provider name | ABC Training |
| Business name(s) | Training Pathways |
| RTO code | XXXX |

IMPORTANT INFORMATION

If you believe that any information contained in this notice is incorrect, you have the right to request a correction in accordance with [name of provider]’s information management procedure which is available here [insert URL].

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Course code | Course name | Unit/part course code | Unit/part course name | Census day/upfront payment date | Tuition fee covered by VSL | Loan fee | Tuition fee payable by student upfront (i.e. not covered by VSL) | Tuition fees already paid by student upfront | Tuition fees payable by student upfront by upfront payment date |
| ICT50115 | Dip of Information Technology | [BSBCRT501](http://training.gov.au/Training/Details/BSBCRT501) | Originate and develop concepts  | 10 April 2017 | $525 | $105 | Nil | Nil | Nil |
| ICT50115 | Dip of Information Technology | [BSBWHS501](http://training.gov.au/Training/Details/BSBWHS501) | Ensure a safe workplace  | 10 April 2017 | $600 | $120 | Nil | Nil | Nil |
|  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  | Total tuition fee covered by VSL | Total loan fee |  |  |  |
|  |  |  |  |  | $1125 | $225 |  | Nil | Nil |
|  |  |  |  |  | Total HELP debt/liability |  |  |  |
|  |  |  |  |  | **$1350** |  |  |  |

## Appendix E – Notice of rights of review

When a reviewable VET decision has been made or reconsidered the person must be provided with a notice of rights of review along with the reasons for the decision/reconsideration. (Reviewable decisions are set out at section 74 of the Act and include ‘special circumstances’ decisions made by a provider under section 68 of the Act. Other decisions, which are not reviewable, may be reconsidered under section 81 of the Act).

A copy of the AAT Code of Practice for Notification of Reviewable Decisions and Rights of Review is available at [www.comlaw.gov.au/Series/F2006B11660](http://www.comlaw.gov.au/Series/F2006B11660).

The first rights of review notice needs to be provided after a reviewable decision has been made. An example of this is as follows (however, providers are responsible for ensuring that they satisfy the legislative requirements for such a notice):

**THIS TYPE OF NOTICE SHOULD ONLY BE PROVIDED WHEN A REVIEWABLE DECISION HAS BEEN MADE**

|  |
| --- |
| REVIEWABLE DECISION – REVIEW RIGHTSIf you think this decision is wrong, you may request reconsideration of this decision by someone who was not involved in making this decision. You will need to make your request in writing and must include the following information:* the date of this decision and
* the reasons why you are requesting reconsideration.

You should also include any additional evidence that you think is relevant to the reconsideration of the decision. Send or deliver the reconsideration request to: [INSERT POSTAL ADDRESS or EMAIL ADDRESS]Time limits apply. Your application must be made within 28 days after the day on which you were notified of the decision. [Or insert greater time period – but no less than 28 days: *VET Student Loans Act 2016,* section 76(2).]On receiving a request for reconsideration, [INSERT NAME, POSITION] will:* review the original decision
* consider the reasons why you are requesting a reconsideration
* assess any new evidence provided by you
* provide you with a written notice of the decision, with a statement of reasons.

If you do not receive a response within 45 days of your request for reconsideration, the original decision is taken to be confirmed.If, after [INSERT NAME, POSITION] has reconsidered the decision, you are dissatisfied with the outcome, you may apply to the Administrative Appeals Tribunal (AAT) for a review of decision. The application must be lodged at the AAT within 28 days of receiving notice of [INSERT NAME, POSITION]’s decision. You will be provided with further information about this process at the time you are notified of that decision.See [www.aat.gov.au](http://www.aat.gov.au) for further information on this process. |

## Appendix F – Fees that are not covered by VET Student Loans

Charges for some goods and services must not be included in the tuition fee for a course, as a loan is not available. A provider must not have regard to any of the following when determining VET tuition fees. Therefore a separate fee will need to be charged for any of the following, subject to the requirement that to charge fees other than tuition fees, the provider must have processes and procedures in place that meet the requirements of section 93 of the Rules

|  |  |
| --- | --- |
| **Fees and charges** | **Examples** |
| Goods or services not essential to the course | * access to internet and computer facilities, except where these are required as part of a course
* printing of notes from the internet or a portable hard drive or disc
* graduation ceremonies where students are not required to attend the ceremony to obtain their award
 |
| Alternative forms of access to goods or services essential to the course, (where the provider also provides readily available access in another form at no additional cost to students) | * lecture notes or recordings, provided that lectures are made readily available to students free of any additional charge (as lectures would be covered by tuition fees)
* electronic provision of essential information if the information is also made readily available free of charge in another form (e.g. at the library or through the provider’s intranet)
* reading material, such as anthologies of required readings, provided these texts are also made readily available free of charge (e.g. at the library or through the provider’s intranet).
 |
| Course related goods or services that students have the choice of acquiring from a supplier other than the provider and are for:equipment or items that become the student’s physical property and are not consumed in the course ORfood, transport and accommodation costs associated with the provision of field trips that form part of the course  | * artwork supplies
* fabric for sewing class
* musical instruments
* protective clothing or footwear
* tool kits
* stethoscopes
* dance shoes
* reference texts
* meals, snacks, beverages
* bus tickets or airfares
* hotels or camping fees
 |
| Fines or penalties imposed principally as a disincentive (for something other than withdrawing from all or part of a course) and not to raise revenue or cover administrative costs | * library fines
 |

## Appendix G – Goods and services for which a separate fee must not be charged

A provider must not charge separate fees for the following goods and services. These goods and services may be covered by VET tuition fees. These are examples only and do not represent an exhaustive list.

|  |
| --- |
| Examples |
| **course materials, such as subject outlines, reading lists, tutorial or seminar topics and problems, assignment and essay questions and requirements or guidelines for the presentation of work**  | Equipment and manuals which a professional in the field would not be required to own, such as:fixtures in a clinic, laboratory or workshop large items of equipment and relevant workshop guides required for their use |
| **Access to library books, periodicals and guides** | Examinations or assessments, including practical assessment, for example, which requires the services of musical accompanists |
| **Clinic, laboratory or workshop materials such as anaesthetics, chemicals, filters, fuel, fertilisers, animal feed or crops used in practical sessions or research** | Re-assessment of results (as part of the provider’s assessment quality assurance procedures) where a student has failed an assessment and thereby failed a subject or VET unit of study. This does not include where reassessment occurs through the student re-enrolling in the subject or VET unit of study after failing it  |
| **Access to computers or other online resources** | Mailing charges associated with distance education  |
| **Application or enrolment fees for enrolment or enrolling in an approved course** | Course notes provided as part of distance education |
| Assessment fees for determining whether a student is academically suited to undertake a course |

## Appendix H – Reporting and Payment Schedule 2017

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Payments Per Year | 1st  | 2nd  | 3rd  | 4th  | 5th  | 6th  | 7th  | 8th  | 9th  | 10th  | 11th  | 12th  |
| Census Days to | 31 Jan | 28 Feb | 31 Mar | 30 Apr | 31 May | 30 Jun | 31 Jul | 31 Aug | 30 Sep | 31 Oct | 30 Nov | 3 Dec |
| Payment Dates | 1 Mar  | 1 Apr | 1 May | 1 Jun | 1 Jul | 1 Aug | 1 Sep | 1 Oct | 1 Nov | 1 Dec | 1 Jan ’18 | 1 Feb ‘18 |

**NOTES:**

1. Information relating to census days occurring in the month must be reported by the 7th of the following month (see section ‘[Reporting deadlines](#_Reporting_deadlines)’).
2. Payment will be made, following data monitoring and analysis and compliance checking, on the 1st of the next month.
3. The consumption of a provider’s fee limit is based on when a unit census day falls, not when the payment is made. Therefore, a unit with a census day in December 2017 will be assessed for payment on 1 February 2018 against the provider’s 2017 fee limit.

## Appendix I – Equivalent full-time student load

Equivalent full-time student load (EFTSL) is a measure of the study load based on a student undertaking a course on a full-time basis over an academic year. An academic year is determined by the provider based on its operations. EFTSL is used in data reporting via [HEPCAT](#_System_requirements).

NOTE: A provider may mirror the Full Year Training Equivalent (FYTE) values when calculating or reporting EFTSL.

A typical full time student load for a one-year course will have an EFTSL of 1.0. A student studying at less than a full-time student load would incur an EFTSL less than 1.0. For example, EFTSL for a part-time student undertaking half of the full-time student load would be 0.5; a quarter of the full-time student load would be 0.25 and so on.

For the purposes of VET FEE-HELP and VET Student Loans data reporting, the provider determines the EFTSL for each course and unit of study against study undertaken by full‑time students. The provider may use a number of methods to determine EFTSL. For example, students may have to undertake a certain number of competencies, VET units of study or complete a minimum number of nominal hours in a full academic year to be considered a full-time student for the full year to have a calculated EFTSL of 1.0.

The provider determines the EFTSL value for each VET unit of study that makes up each course it offers. The EFTSL value of a VET unit of study is determined by calculating the proportion of the full‑time study load of one academic year the unit of study or part of the course represents.

When calculating the length of units of study, the provider must include supervised and unsupervised learning or training necessary to cover the material associated with the delivery and assessment of the unit of study and time spent in workplace learning or industry placement.

**Reporting EFTSL for part time students**

For providers needing to report a student based on the amount of hours the following examples would apply:

For example, if you assume that 720 hours is equal to one year’s full-time study:

* then a course that requires 720 hours’ study is 1 EFTSL. If the course is broken up into 4 equal parts, of 180 hours each, then each part is 0.25 EFTSL.
* alternatively, if the course requires a total of 1080 hours study (= 720 x 1.5) then the total EFTSL for the course is 1.5. If the course is broken into three equal parts of 360 hours each, then each of these has an EFTSL of 0.5 (or 1/3 of 1.5).

*[NB both examples assume that 720 hours is equal to one year’s full-time study for the courses listed]*

## Appendix J – Provider resources

The following provider resources are available at:

[www.education.gov.au/information-vet-student-loans-approved-providers](https://www.education.gov.au/information-vet-student-loans-approved-providers)

**Factsheets**

[Cost Recovery Implementation Statement – information on cost recovery](https://docs.education.gov.au/node/44501)

[Data Provision and Statutory Declarations for 2017 Monthly Census Dates](https://docs.education.gov.au/node/43281)

[Process for approved providers applying for additional courses](https://docs.education.gov.au/node/43766)

[Process for approved providers applying to increase their provider fee limit](https://docs.education.gov.au/node/44906)

VET Student Loans Course Caps Indexed Amounts

[VET Student Loans Student Engagement and Progression](https://docs.education.gov.au/node/44421)

[VET Student Loans Statistics](https://www.education.gov.au/vet-student-loans-statistics)

**Forms**

[Provider request for additional courses form](https://docs.education.gov.au/node/43871)

Provider request to vary VSL Fee Limit form

[Statutory Declaration - VET FEE-HELP and VET Student Loans](https://docs.education.gov.au/node/42981)

[VET Student Loans Parental Consent Form](https://docs.education.gov.au/node/44141)

**Newsletters**

[HELP newsletters](https://www.education.gov.au/newsletters)

[VET Student Loans Newsletter to Providers - April 2017](https://docs.education.gov.au/node/44091)

**User Guides**

HITS User Guide

eCAF User Guide (available within the eCAF system)

Information

**Compliance**: [www.education.gov.au/vet-student-loans-and-vet-fee-help-compliance-0](http://www.education.gov.au/vet-student-loans-and-vet-fee-help-compliance-0)

**LLN assessment tool information**: [www.education.gov.au/language-literacy-and-numeracy-lln-assessment-tool-information](http://www.education.gov.au/language-literacy-and-numeracy-lln-assessment-tool-information)

**Tuition assurance**: [www.education.gov.au/tuition-assurance-and-provider-closures](http://www.education.gov.au/tuition-assurance-and-provider-closures)