



# Overview – draft legislation to implement the Australian Government’s Job-ready Graduates Package

The Australian Government is amending the law to implement the Government’s *Job-Ready Graduates* package as announced by the Minister for Education, the Hon Dan Tehan MP, at the National Press Club on 19 June 2020. This package contains measures intending to:

- encourage universities to produce job-ready graduates
- create more opportunities for regional and remote students
- direct growth in the higher education sector towards Australia’s regions and national priorities
- ensure universities are more accountable for the outcomes they deliver for students, industry and the wider community.

Draft legislation to implement this package, as well as other measures, has been released for public comment: [the Higher Education Support Amendment \(Job-Ready Graduates and Supporting Regional and Remote Students\) Bill 2020](#) (the Bill).

The draft legislation includes measures to:

- redesign the Commonwealth Grant Scheme (CGS) funding clusters and amend the Commonwealth contribution amounts and student contribution amounts for students in Commonwealth supported places (CSPs) to better align funding per student place to the cost of delivering university education
- introduce a funding envelope for Table A providers, combining funding for CSPs across more levels of higher education, providing more flexibility for Table A providers to transfer CSPs between disciplines and course levels and respond to student demand
- introduce demand driven funding for CSPs for regional and remote Indigenous persons

- provide legislative authority for the National Priorities and Industry Linkage Fund (NPILF) and for the transition arrangements required to implement the Indigenous, Regional and Low Socio-Economic Status Attainment Fund (IRLSAF)
- make certain work experience in industry (WEI) units eligible for CGS funding
- extend and strengthen student protection and provider integrity measures, and other compliance measures, to all higher education providers
- reduce the FEE-HELP loan fee for undergraduate students from 25 per cent to 20 per cent
- reduce the number of months (from six to three) a student must be receiving eligible student support payments to be eligible to receive the Fares Allowance under the Social Security Act 1991 (SS Act).

## **Redesign funding clusters and student contribution bands**

The Commonwealth provides funding for CSPs under Part 2-2 (Commonwealth Grant Scheme) of the *Higher Education Support Act 2003* (HESA). A CSP is jointly funded through a CGS subsidy—also known as the Commonwealth contribution amount—and a student’s contribution amount. The sum of these amounts for all CSPs for an individual provider is commonly referred to as a provider’s ‘base funding’.

The proposed legislation seeks to change where some fields of education sit in the funding clusters (section 30-15 of HESA), as well as change the Commonwealth contribution amounts (section 33-10 of HESA), and maximum student contribution amounts (section 93-10 of HESA) to better align a provider’s base funding to the cost of delivering courses of study.

The draft legislation includes provisions to ensure students enrolled before 1 January 2021 would not be worse off once these changes are made. This arrangement would mean a student enrolled in a course of study prior to 1 January 2021, who selects a unit of study in that course with a higher student contribution amount as a result of this change, would not pay the higher student contribution amount for that unit.

These amendments would commence on 1 January 2021.

## **Introduce funding envelope**

The Government currently allocates CGS funding to Table A providers under two separate maximum basic grant amounts (MBGAs): one for ‘designated courses of study’ and the other for ‘non-designated courses of study’. This means that providers are not currently allowed to use funding for non-designated courses to offer a CSP to a student in a designated course and vice versa.

The proposed legislation would in effect combine all funding for CSPs at Table A providers into a ‘funding envelope’, unless funding for particular courses of study is excluded from that funding envelope. From 1 January 2021, the Government intends to exclude courses of study in medicine from the funding envelope.

The proposed legislation would amend HESA to specify that postgraduate courses of study are no longer designated courses of study, which therefore allows providers to transfer CSPs between bachelor and postgraduate courses. It is intended that sub-bachelor courses would be included in the CGS funding envelope from 1 January 2021.

The draft legislation would also amend subsection 30-27(1) of HESA to provide that a CGS funding agreement for a Table A provider may include an MBGA payable to the provider for a grant year for:

- (i) higher education courses (previously 'non-designated courses of study')
- (ii) designated higher education courses (previously 'designated courses of study').

The proposed funding envelope would contain all of a provider's funding for 'higher education courses'.

The funding envelope arrangement will not affect non-Table A providers. Eligible non-Table A providers will continue to be allocated CSPs by the Minister for Education in accordance with HESA and the *Commonwealth Grant Scheme Guidelines 2012*.

The funding envelope would commence on 1 January 2021.

## **Introduce demand driven funding for CSPs for regional and remote Indigenous persons**

The Government has announced that it will provide CGS funding on a demand driven basis for Indigenous persons from regional and remote areas who enrol at a Table A provider in a non-medical bachelor level course of study. This funding would form part of a provider's total CGS funding but be separate from the proposed funding envelope arrangement.

To achieve this outcome, the proposed legislation would amend subsection 30-27(1) to provide that a CGS funding agreement for a Table A provider may include 'demand driven higher education courses'. This is in addition to the amendment in the proposed legislation to include, in the same subsection, 'higher education courses' (the proposed funding envelope) and 'designated higher education courses'. The proposed legislation will also make other changes to Part 2-2 of HESA to implement this measure.

These amendments would commence on 1 January 2021.

## **Provide legislative authority for the NPILF and the IRLSAF**

The Government announced as part of the package its intention to establish a National Priorities and Industry Linkage Fund (NPILF) and an Indigenous, Regional and Low Socio-Economic Status Attainment Fund (IRLSAF). These funds would operate as grant programs under Part 2-3 (Other Grants) of HESA.

The NPILF will provide grants to Table A providers to incentivise them to engage with industry and, thereby, deliver teaching that will produce job-ready graduates.

The IRLSAF will provide grants to providers to incentivise them to enrol Indigenous, regional and remote, and low socio-economic students.

To establish the NPILF, the draft legislation would amend the HESA to insert a new object under section 2-1 of HESA, insert new statement requirements for providers mission-based compacts under subsection 19-110(3) of HESA, and create a new purpose for which grants can be provided under Part 2-3 of HESA. The draft legislation would also amend subsection 41-10(1) of HESA to allow for transitional arrangements required for the implementation of the IRLSAF. Combined, these amendments will allow the Commonwealth to establish and make payments under Part 2-3 of HESA for the proposed NPILF and IRLSAF.

The new funds would commence on 1 January 2021.

## **Make certain WEI units of study eligible for CGS funding**

Currently, section 33-30 of HESA means that CGS funding cannot be provided for WEI units of study, thereby dis-incentivising providers from offering this mode of study as part of a course.

The draft legislation would remove the broad exclusion of WEI units from CGS funding under subsection 33-30(1) of HESA and instead only exclude WEI units from CGS funding where the student does not pay a student contribution amount for that unit of study, i.e., where there is essentially no engagement between the provider and the student for that unit of study.

This amendment would commence on 1 January 2021.

## **Extend and strengthen student protection and provider integrity measures**

The *Education Legislation Amendment (Provider Integrity and Other Measures) Act 2017* (Provider Integrity Act) introduced various quality and accountability requirements for non-university higher education providers to address concerns stemming from the VET FEE-HELP (VFH) program and the movement of former VFH providers to the higher education sector.

In response to the increased numbers of students studying online during the COVID-19 pandemic, the Government intends to extend measures in the Provider Integrity Act to all providers (including Table A, B and C universities) and introduce new student protection measures in HESA. These changes would support work being done in the sector around best practice approaches to student enrolment and progression, and re-signal the quality of Australia's higher education sector both domestically and internationally.

To strengthen and extend student protection measures in HESA, the draft legislation would:

- extend the application of sections 19-36 to 19-36E of HESA to prohibit all providers from using unscrupulous marketing practices and from submitting requests for Commonwealth assistance on behalf of students
- amend sections 36-5, 36-15 and 104-1 of HESA to require students to be 'genuine students' in order to receive Commonwealth assistance and prevent providers from offering a Commonwealth supported place to a student where that provider completes a request for Commonwealth assistance form on behalf of that student
- amend Division 96 and Division 110 of HESA to include provisions that would prevent providers from pursuing ineligible students for student contribution amounts or tuition fees where the provider is at fault, and
- amend Division 97 of HESA to include provisions with the same objective as the FEE-HELP balance re-crediting provisions contained under sections 104-43 and 104-44 of HESA.

To ensure students are not enrolled in study for which they are not academically suited, the draft legislation would extend the application of section 19-42, and amend section 36-10 of HESA, to require all providers to assess the academic suitability of a student to undertake a unit of study prior to receiving Commonwealth assistance for that unit.

The draft legislation would also amend HESA to impose a limit on concurrent study loads by preventing providers from informing a student they are Commonwealth supported, or eligible for FEE-HELP assistance, where a student enrolls above the maximum 2.0 Equivalent Full Time Study Load (EFTSL) in a 12-month period unless the provider has assessed the student as capable of undertaking this study load.

To strengthen and extend provider integrity and compliance measures, the draft legislation would:

- remove the exemption under section 19-80 of HESA currently preventing the Minister from auditing a Table A provider for matters of compliance with HESA
- extend the application of sections 19-71 to 19-73 of HESA, requiring all providers to co-operate with HESA and Tertiary Education Quality and Standards Agency (TEQSA) Investigators, and keep records of a kind, in the manner and for the period required by the Higher Education Provider Guidelines, and publish information as required by those guidelines.

All of the above amendments would commence on 1 January 2021.

The draft legislation will also include the following amendments that would commence on 1 January 2022:

- extend the objective of the 50 per cent pass rate rule under section 104-1A of HESA to all students requesting FEE-HELP assistance
- include new provisions in HESA to extend the objective of the 50 per cent pass rate rule to Commonwealth supported students.

## **Reduce the FEE-HELP loan fee for undergraduate students from 25 per cent to 20 per cent**

Currently, students obtaining a FEE-HELP loan for an undergraduate course of study at a non-Table B provider incur a loan fee of 25 per cent. The draft legislation would amend subsection 137-10(2)(b) of HESA to reduce the loan fee from 25 per cent to 20 per cent for these students.

This amendment would commence on 1 January 2021.

## **Reduce the waiting period for a student to be eligible for the Fares Allowance**

Under the SS Act, students currently on Youth Allowance, Austudy and the Pensioner Education Supplement who are living away from home to study must be receiving payments for six months before they are eligible to access Fares Allowance for a trip home during the year to their original place of residence, and then back again to their place of study.

The draft legislation would amend subparagraph 1061ZAAB(c)(i) of the SS Act to reduce the total period students must be receiving payments from six months to three.

This amendment would commence on 1 January 2021.

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### **How to comment**

The Department welcomes submissions on the draft legislation on its operation and how it reflects the policy announced by the government in its discussion paper. If you would like to have your say as part of this consultation, please send your submission by 5 pm AEST on Monday 17 August 2020 via email to [Hereform@dese.gov.au](mailto:Hereform@dese.gov.au). Unless otherwise stated in your submission, we will treat your submission as public and it will be published on our website.