

# CHAPTER 1

## Reference

1.1 On 15 October 2015, the Hon Luke Hartsuyker MP introduced the Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015 (the bill) in the House of Representatives.<sup>1</sup>

1.2 On 12 November 2015, the Senate referred the provisions of the bill to the Education and Employment Legislation Committee for inquiry and report by 30 November 2015.<sup>2</sup>

## Conduct of the inquiry

1.3 Details of the inquiry were made available on the committee's website.<sup>3</sup> The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from 24 organisation, as detailed in Appendix 1.

## Background

1.4 In 2008, the Labor government introduced the VET FEE-HELP scheme to the vocational and educational training (VET) sector. VET FEE-HELP is a demand-driven scheme that provides eligible full fee paying students income contingent loans for undertaking higher level VET qualifications (a diploma, advanced diploma, graduate certificate or graduate diploma course).<sup>4</sup>

1.5 VET FEE-HELP is part of the Higher Education Loan Program (HELP) and is enabled by the *Higher Education Support Act 2003* and administered by the Department of Education and Training (the department).<sup>5</sup>

1.6 The VET FEE-HELP scheme was extended to state subsidised students in jurisdictions that agreed to skills reforms to their VET sector (Victoria agreed in 2009). In 2012, other states joined under the Council of Australian Governments

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1 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, pp 11313–11316.

2 *Journals of the Senate*, No. 126, p. 3373.

3 Senate Standing Committee on Education and Employment, Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/VET\\_FEE\\_HELP\\_Reform](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/VET_FEE_HELP_Reform) (accessed 23 November 2015).

4 Australian Government Department of Education and Training, Changes to the VET FEE-HELP Scheme, *Regulation Impact Statement*, August 2015, pp 5–8.

5 Australian Government Department of Education and Training, Changes to the VET FEE-HELP Scheme, *Regulation Impact Statement*, August 2015, p. 8.

National Partnership Agreement on Skills Reform (NPA). The NPA also extended the scheme to state and territory government subsidised students undertaking a limited range of Certificate IV courses on a limited trial basis (the Trial). The Trial will run until the end of 2016.<sup>6</sup>

1.7 In this regard, therefore, reforms to enact greater competition, contestability, and student and employer choice in the VET sector have enjoyed bipartisan political support.

1.8 There has been strong growth in provider and student participation in the VET FEE-HELP scheme. Between 2009 and 2014:

- the number of VET providers approved to participate in the VET FEE-HELP scheme increased from 39 to 224;
- the number of students accessing VET FEE-HELP loans increased from 5 262 to 202 766; and
- the total annual value of VET FEE-HELP loans provided to students increased from \$25.6 million to \$1.76 billion.<sup>7</sup>

1.9 A consequence of the expansion of the VET FEE-HELP scheme and an inadequate regulatory regime has been a surge in enrolments driven by opportunistic and unscrupulous VET FEE-HELP providers.<sup>8</sup>

1.10 The characteristics of this pattern of unscrupulous behaviour are aggressive marketing, inappropriate targeting of vulnerable people, and widespread use of inducements.<sup>9</sup>

1.11 The 2015 report into the operation, regulation and funding of private VET providers in Australia by the Senate Education and Employment References Committee documented much of this unscrupulous behaviour and made several recommendations for reform.<sup>10</sup>

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6 Australian Government Department of Education and Training, Changes to the VET FEE-HELP Scheme, *Regulation Impact Statement*, August 2015, p. 8.

7 Australian Government Department of Education and Training, Changes to the VET FEE-HELP Scheme, *Regulation Impact Statement*, August 2015, p. 5.

8 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11313; Australian Government Department of Education and Training, Changes to the VET FEE-HELP Scheme, *Regulation Impact Statement*, August 2015, p. 5.

9 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 1.

10 Senate Education and Employment References Committee, *Getting our money's worth: the operation, regulation and funding of private vocational education and training (VET) providers in Australia*, October 2015.

1.12 During 2015, the Coalition government introduced a series of reforms to address unscrupulous behaviour and to protect students, taxpayers and the reputation of Australia's VET sector. The reforms covered marketing and inducements, consumer information, debt processes and VET provider standards. The 2015-16 budget included \$18.2 million for measures around stronger compliance costs.<sup>11</sup>

1.13 From 1 April 2015, the government banned VET providers and their agents from offering inducements such as free laptops, cash, and vouchers.<sup>12</sup>

1.14 From 1 July 2015, the government banned VET providers from charging a withdrawal fee. Additionally, VET providers and their agents could no longer market VET FEE-HELP supported training as 'free' or 'government funded', and were no longer allowed to mislead students in any way into believing that VET FEE-HELP is not a loan that is expected to be paid back.<sup>13</sup>

1.15 Furthermore, VET providers must now publish on their websites which agents and brokers they use, and as of 1 July 2015 became responsible for the conduct of their agent or broker. Agents must now disclose to the student the name of the VET provider and the course they are marketing, and must also disclose that they will receive a commission for any referred student enrolment.<sup>14</sup>

1.16 In addition, the government announced that from 1 January 2016, VET providers cannot levy the full debt load up-front and in one go. Instead, students will have a number of opportunities during the course to confirm if they wish to continue to be enrolled, and their debt will be levied accordingly.<sup>15</sup>

1.17 As set out in the following sections, the bill implements the remainder of the government's announced reforms.

## **Purpose of the bill**

1.18 The purpose of the bill is to amend the *Higher Education Support Act 2003* (the Act) to:

- give effect to the government's decision to strengthen the administration of the VET FEE-HELP loan scheme;

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11 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11314.

12 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11314.

13 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11314.

14 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11314.

15 The Hon Luke Hartsuyker MP, Minister for Vocational Education and Skills and Deputy Leader of the House, *House of Representatives Hansard*, 15 October 2015, p. 11314.

- respond to inappropriate market practices;
- introduce complementary actions to improve the quality of outcomes for students; and
- protect students, public monies and the reputation of the broader (VET) sector.<sup>16</sup>

## Overview and key provisions of the bill

### 1.19 The bill:

- introduces new requirements for VET FEE-HELP approved VET providers to establish minimum prerequisites, including minimum numeracy, language, and literacy skills, before allowing student to enrol in a VET course for which they are entitled to receive a VET FEE-HELP loan;
- requires a two business day period between course enrolment and application for a VET FEE-HELP loan to enable students to consider their payment options;
- requires a parent's approval before any student under the age of 18 can request a VET FEE-HELP loan;
- broadens the circumstances in which a student can seek a re-credit of their VET FEE-HELP loan debt balance and remission of a debt where it is proven that, as a result of unacceptable behaviour by the VET provider (or their agent), the student enrolled with the VET provider and subsequently received a VET FEE-HELP loan;
- introduces a minimum registration and trading history requirement as additional eligibility criteria for admitting new VET providers to the VET FEE-HELP loan scheme. This will enhance the integrity of the scheme by ensuring all VET providers are suitably experienced and have had the chance to demonstrate they are quality education and training operators;
- introduces an infringement notice scheme aimed at VET providers who engage in inappropriate marketing and administrative practices found to contravene the civil penalty provisions in Schedule 1A to the Act. Introducing an infringement and civil penalty regime engages Parts 2 to 5 of the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act); and
- will extend the Commonwealth and the National VET Regulator's powers with respect to monitoring and investigation. The bill does this by making the civil penalty provisions and relevant information subject to monitoring by the department and the National VET Regulator under Part 2 (Monitoring) of the Regulatory Powers Act. Similarly, the civil penalty provisions are also made

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16 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 2.

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subject to investigation under Part 3 (Investigation) of the Regulatory Powers Act by the department and the National VET Regulator.<sup>17</sup>

- provides that each of the civil penalty provisions is enforceable by the department under Part 4 of the Regulatory Powers Act.<sup>18</sup>

1.20 Finally, the bill provides for minor technical amendments to be made which are intended to improve the clarity of some requirements of VET providers.<sup>19</sup>

### **Human rights implications**

1.21 The provisions in the bill engage the right to education, the right to privacy, the right to a fair and public hearing, and the rights of the child.<sup>20</sup>

1.22 The bill's statement of compatibility states that the bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>21</sup>

### **Financial impact statement**

1.23 The explanatory memorandum states that the bill would have budgetary implications. The 2015-2016 Budget committed \$18.2 million in departmental funds, including \$3.6 million in capital expenditure, for an increased compliance monitoring regime associated with the reform measures. The introduction of the infringement notice scheme may also result in positive financial impacts on the Commonwealth, depending on the operational impact of the amendments.<sup>22</sup>

1.24 The total savings of the VET FEE-HELP reform measures is estimated at \$350.9 million in fiscal balance terms over the forward estimates period 2015-16 to 2018-19.<sup>23</sup>

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17 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, pp 2–4.

18 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 4.

19 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 4.

20 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, pp 8-11.

21 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. 8.

22 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 5.

23 Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, *Explanatory Memorandum*, p. 5.

**Acknowledgement**

The committee thanks those organisations who contributed to the inquiry by preparing written submissions.