CHAPTER 1

Introduction

Reference

1.1 On 11 October 2012, the Senate referred the provisions of the Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012 (the bill) to the Senate Education, Employment and Workplace Relations Legislation Committee (the committee) for inquiry and report by 19 November 2012.

1.2 The bill was introduced in the House of Representatives by Senate by the Parliamentary Secretary for Higher Education and Skills, Ms Sharon Bird MP, on 19 September 2012. The bill was read for the first time in the Senate on 11 October 2012.

Conduct of inquiry

1.3 The committee contacted a number of organisations inviting submissions to the inquiry by 26 October 2012. Details of the inquiry were also made available on the committee's website.[1]

1.4 Submissions were received from 7 individuals and organisations, as detailed in Appendix 1.

Purpose of the bill

1.5 The Explanatory Memorandum (E.M.) states that the bill aims to improve the Higher Education Loan Program (HELP) schemes, particularly VET FEE-HELP through implementation of the recommendations arising from the VET FEE-HELP Post Implementation Review. In particular the bill's intention is to strengthen the integrity and quality framework underpinning the HELP schemes, improve information sharing and transparency with the national education regulators, improve arrangements for the early identification of low quality providers, and facilitate better management of risk to students and public monies.[2]

1.6 The EM states that the bill would achieve these outcomes by:

- implementing a risk managed approach to provider approvals and administrative compliance, including consideration of reports by the national education regulators;
- implementing more effective suspension and revocation actions;
- simplifying the guidelines around VET FEE-HELP;

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1 Committee website

2 Explanatory Memorandum, p. 1.

- improving the flexibility of the census date requirement;
- providing enabling legislation for specified certificate IV level qualifications to be eligible for VET FEE-HELP; and
- improving Ministerial and Secretarial delegation arrangements.

Key provisions of the bill

Schedule 1

1.7 Item 4 would remove the current requirement for a VET FEE-HELP provider to be a body corporate, and provides that the Minister may approve a provider if they are of a kind specified in the VET Guidelines (provided for in Schedule 3). The Schedule would also provide an alternative means for the Minister to approve an applicant as a VET provider when they are a low risk applicant. The additional provision would allow approval without the Minister needing to be satisfied that an applicant (both the body and the key decision makers in it) were fit and proper for the purpose. Various other Items in the Schedule make associated changes.[3] Taken together, the changes are directed at easing the process for Ministerial approval of providers who are deemed to be low risk.

1.8 Item 14 would expand the financial information to which the Minister must have regard in making a decision about an applicant's financial viability to include not only annualised financial information already required under the Act, but also any more recent information that the Minister may require to be produced for the purposes of making a well-informed decision.

1.9 Items 25 to 33 amend the definition of 'VET course of study' to expand the Minister's powers to determine the course qualifications applicable for VET FEE-HELP, through the specification of a course in the VET Guidelines. This is necessary to give effect to the 2012 Council of Australian Governments (COAG) *National Partnership Agreement on Skills Reform* and to allow for a managed trial of certificate IV qualifications under VET FEE-HELP. Item 29 is notable in that it removes a prohibition on the Minister making a determination about a course being eligible for VET FEE-HELP within 6 months of a course starting. The E.M claims this is necessary to provide flexibility and responsiveness to student and industry needs.

Schedule 2

1.10 Items 1 to 18 would allow a decision to revoke the approval of a higher education or VET provider to take effect on the day following the last day on which a notice of motion to disallow the instrument can be moved in either House of Parliament. This would provide for more timely and effective revocation to prevent an organisation from continuing to offer FEE-HELP or VET FEE-HELP to students

3 See, for example, Items 23 and 24.

during the period between the Minister's decision to revoke a provider's approval and the time when the notice of revocation of approval takes effect.

1.11 Items 19 to 25 provide that the Minister may seek information from the Tertiary Education Quality and Standards Agency (TEQSA) or a relevant VET regulator in taking a decision to approve, revoke or suspend a higher education or VET provider's eligibility for the purposes of VET FEE-HELP and FEE-HELP. Before they can be approved, providers are required to comply with any requirements set out in the Guidelines. Items 26 to 29 provide that these information-seeking powers would apply to applications for approval made before, on or after the commencement of the powers.

Schedule 3

1.12 The Schedule would allow for the consolidation of four existing sets of guidelines (the VET Provider Guidelines, VET FEE-HELP Guidelines, VET Tuition Fee Guidelines, and VET Administration Guidelines) into one set of VET Guidelines.

Schedule 4

1.13 Items 1 and 4 would remove the current requirement that the number of enrolments in a course should be determined on a date (the census date) at least 20 per cent of the way through a course. The amendment would see the date set through the Administration Guidelines (for FEE-HELP) or the VET Guidelines (for VET FEE-HELP).

1.14 Items 2, 3 and 5 would provide for the Minister and Departmental Secretary to make delegations to persons who are not Australian Public Service employees. The E.M. provides that the amendments do not:

> …in any way alter existing arrangements in relation to Ministerial and Secretarial delegations, but provides that, during unforeseen situations like machinery of government changes and changes to Administrative Arrangement Orders, the business of all departments that administer funding or programs under the Act can continue. The existing arrangements in relation to the level of delegation will remain at high level managerial staff of the APS.[4]

4 Explanatory Memorandum, p. 48.