

Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012

Introduced into the House of Representatives on 19 September 2012

Portfolio: Industry, Innovation, Science, Research and Tertiary Education

Committee view

1.2 The committee seeks further information from the Minister for Industry, Innovation, Science, Research and Tertiary Education before forming a view on whether the bill is compatible with human rights.

Purpose of the bill

1.3 This bill is intended to strengthen the integrity and quality framework underpinning the Higher Education Loan Program (HELP) schemes, improve information sharing and transparency with the national education regulators, improve arrangements for the early identification of low quality providers, and enable the government to better manage risk to students and public monies. The amendments give effect to the government's commitments under the 2012 COAG National Partnership Agreement on Skills Reform.

1.4 Schedule 2 of the bill provides that a notice revoking a higher education or vocational education training (VET) provider takes effect on the day the notice is registered on the Federal Register of Legislative Instruments. The statement of compatibility explains that the purpose of the amendments is:

to ensure that notices of revocation take effect in a more timely and effective manner to prevent an organisation whose approval has been revoked, from continuing to offer FEE-HELP or VET FEE-HELP to students during the period between the Minister's decision to revoke a provider's approval and the time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. This will minimise risks to students.'

Compatibility with human rights

Right to education

1.5 The statement of compatibility states that the bill engages and promotes the right to education in article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) because it will lead to increased numbers of students being able to access FEE-HELP loans to participate in tertiary education.

1.6 The statement acknowledges that the bill strengthens the Minister's ability to revoke or suspend a provider's FEE-HELP approval but it is suggested this 'does not infringe on the right to education as organisations will still be able to offer education and training without FEE-HELP assistance'.

1.7 The statement does not explain what, if any, impact these measures may have on students on FEE-HELP or VET FEE-HELP assistance, in circumstances where the organisation providing their education or training has its approval revoked with immediate effect.

Right to privacy

1.8 The bill will also allow the Minister to seek information from education regulators when making a decision to approve, revoke or suspend a provider's approval under HELP schemes.

1.9 The right to privacy is protected in article 17 of the International Covenant on Civil and Political Rights (ICCPR), which provides that no one shall be subjected to arbitrary or unlawful interference with their privacy. Collecting, using, storing, disclosing or publishing personal information amounts to an interference with privacy. In order for the interference not to be 'arbitrary', the interference must be for a legitimate objective and be reasonable, necessary and proportionate to that objective.

1.10 The statement states that the information-sharing provisions in the bill engage and promote the right to privacy in article 17 of ICCPR because 'any personal information which is collected is protected in a way that is consistent with the *Privacy Act 1988*'.

1.11 The committee notes that without further information, the assertion that the provisions are consistent with the *Privacy Act 1988* is not sufficient to demonstrate that the measures are fully consistent with the right to privacy in article 17 of ICCPR.

1.12 The committee proposes to seek further clarification from the Minister Industry, Innovation, Science, Research and Tertiary Education on the following matters before forming a view on whether the bill is compatible with human rights:

- **The impact, if any, these measures may have on students on FEE-HELP or VET FEE-HELP assistance, in circumstances where the organisation providing their education or training has its approval revoked with immediate effect.**
- **Information on the relevant safeguards for the storage, handling and disposal of any personal information that may be collected through the information-sharing provisions in the bill. The committee also queries the claim in the statement of compatibility that the bill promotes the right to privacy, when the measures in question would appear to limit the right instead.**