

The Senate

Economics
Legislation Committee

Trade Support Loans Bill 2014 [Provisions]

Trade Support Loans (Consequential
Amendments) Bill 2014 [Provisions]

June 2014

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Abbreviations

ACTU	Australian Council of Trade Unions
ATO	Australian Taxation Office
the bills	Trade Support Loans Bill 2014 and Trade Support Loans (Consequential Amendments) Bill 2014
CPI	Consumer price index (for the purposes of the bills the all groups consumer price index number, being the weighted average of the eight capital cities, is used)
HELP	Higher Education Loan Program
Higher Education Support Act	<i>Higher Education Support Act 2003</i> (Cth)
MPMCA	Master Plumbers & Mechanical Contractors Association of New South Wales
TFN	Tax file number
TSL Bill	Trade Support Loans Bill 2014
TSL programme	Trade Support Loans Programme

Inquiry into the provisions of the Trade Support Loans Bill 2014 and a related bill

1.1 The Trade Support Loans Bill 2014 and the Trade Support Loans (Consequential Amendments) Bill 2014 (the bills) propose to establish the Trade Support Loans Programme (TSL programme). The TSL programme would make loans available to apprentices who are undertaking a qualifying apprenticeship in an occupation where there is a national skills shortage. The loans would be concessional, income-contingent and subject to a lifetime limit of \$20,000 (indexed from 2017). The TSL programme is intended to replace the Tools For Your Trade programme, which currently provides financial assistance to help apprentices.¹

Referral and conduct of the inquiry

1.2 On 15 May 2014, the Senate agreed to a resolution that would refer the provisions of any time critical bills introduced in the House of Representatives during the Budget estimates hearings to the relevant legislative and general purpose standing committee. According to the resolution, time critical bills are bills introduced between 15 May 2014 and 5 June 2014 that contain substantive provisions proposed to commence on or before 1 July 2014. Committees that conducted an inquiry into a time critical bill were required to report by 16 June 2014.²

1.3 On 4 June 2014, the bills were introduced by the government into the House of Representatives. After the committee met and considered the referral on 5 June 2014, the committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties inviting submissions by 12 June 2014.

1.4 The committee received eight submissions, which are listed in the Appendix. The committee thanks all of the individuals and organisations that contributed to this inquiry, particularly given the short period of time available to prepare and lodge submissions.

Overview of the bills

1.5 The TSL programme would be introduced by the passage of the Trade Support Loans Bill 2014 (TSL Bill). The arrangements for the TSL programme would be provided by:

- the TSL Bill;

1 See Australian Government, *Budget 2014–15: Budget Paper No. 2*, May 2014, p. 162.

2 *Journals of the Senate*, 2013–14, no. 29 (15 May 2014), p. 821. The resolution did not apply to appropriation bills or bills with commencement clauses providing only for the legislation to commence on Royal Assent.

- the TSL Priority List—clause 105 of the TSL Bill requires the Minister to establish and maintain a list that specifies occupations and qualifications leading to occupations for which the Minister considers skilled persons are a priority (the explanatory memorandum noted that the TSL Priority List would 'substantially incorporate' the already existing National Skills Needs List);³ and
- the rules—the TSL Bill leaves certain matters to be prescribed by rules which the Minister may, by legislative instrument, make in accordance with clause 106.

1.6 The Trade Support Loans (Consequential Amendments) Bill 2014 contains proposed amendments to the *Bankruptcy Act 1966* and various taxation Acts⁴ to deal with consequential and transitional matters related to the introduction of the TSL Programme.

Eligibility criteria

1.7 A person who makes an application for a trade support loan would qualify if he or she:

- is an Australian resident;
- is undertaking an apprenticeship at a level prescribed by the rules leading to an occupation or a qualification specified on the TSL Priority List, and which meets any other requirements prescribed by the rules;⁵
- has provided their tax file number (TFN); and
- meets any other conditions prescribed by the rules.⁶

1.8 Once eligible, the person would receive a trade support loan based on the yearly rates outlined in Table 1.1, although the payment would be made in instalments.⁷

3 Explanatory Memorandum, p. 34.

4 Namely, the *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Taxation Administration Act 1953* and *Taxation (Interest on Overpayments and Early Payments) Act 1983*.

5 In the 2014–15 Budget it was indicated that the loans would be available to apprentices undertaking 'a Certificate III or IV qualification that leads to an occupation on the National Skills Needs List'. See Australian Government, *Budget 2014–15: Budget Paper No. 2*, May 2014, p. 172.

6 TSL Bill, subclauses 8(1) and 8(2).

7 The TSL Bill would allow the rules to determine the instalment period that would apply to a person. The TSL Bill provides six possible instalment periods that the rules must choose from: a week, a fortnight, a month, three months, six months or a year. TSL Bill, subclauses 10(2) and (3). In his second reading speech, the Minister indicated that the payments would be monthly in arrears. The Hon Ian Macfarlane MP, *Proof House of Representatives Hansard*, 4 June 2014, p. 2.

Table 1.1: Yearly rate of trade support loan

<i>If the person is, on the final day of an instalment period, undertaking:</i>	<i>Yearly rate</i>
the first year of an apprenticeship	\$8,000
the second year of an apprenticeship	\$6,000
the third year of an apprenticeship	\$4,000
the fourth year of an apprenticeship	\$2,000

Source: TSL Bill, subclause 24(1).

1.9 The rates are intended to provide the greatest support during the first two years of an apprenticeship.⁸ The yearly rates would be indexed on 1 July 2017 and each subsequent 1 July in line with increases in the consumer price index (CPI).⁹ A lifetime limit of \$20,000 would apply to trade support loan recipients, with an apprentice immediately ceasing to be eligible once the limit is reached. Like the yearly rates, the \$20,000 limit would be indexed in line with the CPI on 1 July 2017 and each subsequent 1 July. However, once an apprentice has reached the lifetime limit, they cannot again qualify for further instalments even if the lifetime limit is increased in the future.¹⁰

1.10 In his second reading speech, the Minister for Industry noted that apprentices would need to opt into the loans every six months. This is a deliberate feature designed to ensure apprentices:

are fully aware of what they are taking on. By doing this, the intention is to give them the opportunity to reassess their personal circumstances and make an informed decision about continuing to receive loans. This will reduce the risk of apprentices unintentionally accumulating large debts.¹¹

Calculation of debt and repayments

1.11 The loans under the TSL programme are intended to be income-contingent and repayable through the tax system once the recipient's income reaches a specified repayment threshold. The arrangements for repaying loans under the TSL programme generally share features of, or are expressly linked to, the arrangements for the higher education loan program (HELP) available to university students. One key difference is the 20 per cent discount that would be applied to the trade support loan when the recipient has successfully completed their apprenticeship. In his second reading speech, the Minister for Industry described the 20 per cent discount as 'an incredibly important part of this initiative', noting that the goal of the TSL programme is

8 The Hon Ian Macfarlane MP, *Proof House of Representatives Hansard*, 4 June 2014, p. 2.

9 TSL Bill, clause 99.

10 TSL Bill, clauses 9 and 99.

11 The Hon Ian Macfarlane MP, *Proof House of Representatives Hansard*, 4 June 2014, p. 2.

'as much to get the apprentice to finish their trade training as it is to support them during that training'.¹² Otherwise:

- the methodology for working out an accumulated TSL debt¹³ is similar to the process for calculating an accumulated HELP debt;¹⁴
- the repayment thresholds for the TSL programme are the same as those for the HELP scheme; that is, the TSL Bill links the repayment thresholds to those outlined in the *Higher Education Support Act 2003* for repayment of HELP debt (from 2014–15, the HELP repayment income threshold is \$53,345); and
- as is the case with HELP debt, an accumulated TSL debt would be discharged by death.¹⁵

Indexation

1.12 The bill provides that accumulated TSL debt would be indexed on 1 June each year with reference to the CPI for the year ended 31 March.¹⁶ This is what currently occurs for HELP debt; however, as part of the 2014–15 Budget the government announced that it would change the annual indexation applied to HELP debts. According to the announcement, the government intends that from 1 June 2016 HELP debts will be indexed at a rate equivalent to the yields on ten year bonds issued by the Australian government, up to 6.0 per cent per annum, instead of the CPI.¹⁷

Administration of the TSL programme and privacy protections

1.13 In the 2014–15 Budget, the government announced that loan payments made under the TSL program during 2014–15 would be administered by Australian Apprenticeship Centres.¹⁸ The Budget papers added that the government will consider whether the financial services sector could administer the payments from 2015–16

12 The Minister noted that 20 per cent of trade apprentices drop out by the end of their first year and 30 per cent by the end of the second year. The overall apprenticeship completion rate is currently around 50 per cent. The Hon Ian Macfarlane MP, *Proof House of Representatives Hansard*, 4 June 2014, p. 2.

13 See TSL Bill, clause 31.

14 See *Higher Education Support Act 2003*, s. 140-5.

15 TSL Bill, clause 28.

16 TSL Bill, clauses 31 and 33 (for HELP, see *Higher Education Support Act 2003*, ss. 140-10 and 140-15).

17 Australian Government, *Budget 2014–15: Budget Paper No. 2*, May 2014, p. 78.

18 Australian Apprenticeships Centres are bodies 'contracted by the Australian Government to provide one-stop shops for those seeking to hire Australian Apprentices [also known as apprenticeships and traineeships] or to take up an Australian Apprenticeship as a career path'. Department of Industry, 'Australian Apprenticeships Centres', www.australianapprenticeships.gov.au/australian-apprenticeships-centres (accessed 6 June 2014).

onwards. Loan repayments would be administered by the Australian Taxation Office (ATO).¹⁹

1.14 To be eligible for a loan, applicants need to provide their TFN. Their TFN will be verified with the ATO 'for the purposes of assessing applications and ongoing administration of trade support loans'.²⁰ The Australian Apprenticeships Centres would collect an applicant's TFN.²¹

1.15 The explanatory memorandum acknowledges that a 'large amount of personal information will likely be acquired' through the operation of the TSL programme.²² The arrangements for protecting this information are clearly important. Part 4.1 of the TSL Bill relates to information management, and Division 5 of that part addresses the use of personal information. Clause 74 would provide how personal information may be obtained and the permissible uses for this information. Personal information may be used for: the purposes required by the TSL Bill; research or statistical analysis of matters of relevance to the Department; and policy development. Clause 75 provides that an officer must, if and when required by the Secretary of the Department or the Commissioner of Taxation, make an oath or affirmation to protect the personal information. An 'officer' is defined as a person engaged by a government department, executive agency or statutory agency; another Commonwealth authority; or a person or organisation that performs services for the Commonwealth.

1.16 There are existing general offences relating to the unauthorised disclosure of Commonwealth information that are relevant to the bills. TFNs are protected by the *Taxation Administration Act 1953*.²³ Further, section 70 of the *Crimes Act 1914* makes it an offence for a Commonwealth officer to disclose, without authorisation, information that they are required not to disclose. For the purposes of the offence, the definition of a Commonwealth officer is widened to include persons that, although not holding office under, or employed by, the Commonwealth, a Territory or a public authority under the Commonwealth, perform services for or on behalf of the Commonwealth.²⁴

1.17 However, the provisions in the Higher Education Support Act for protecting information differ to those proposed in the TSL Bill. Although the Higher Education Support Act similarly includes a requirement for an officer to make an oath or affirmation to protect information,²⁵ that Act also expressly provides that it is an

19 Australian Government, *Budget 2014–15: Budget Paper No. 2*, May 2014, p. 173.

20 Explanatory Memorandum, p. 6.

21 Department of Industry, 'Trade Support Loans', www.australianapprenticeships.gov.au/trade-support-loans (accessed 6 June 2014).

22 Explanatory Memorandum, p. 25.

23 *Taxation Administration Act 1953*, subdivision BA.

24 *Crimes Act 1914*, s. 3.

25 *Higher Education Support Act 2003*, s. 179-30.

offence for an 'officer'²⁶ to disclose, copy or record personal information otherwise than in the course of official employment, or cause unauthorised access to or modification of personal information. The penalty is two years' imprisonment.²⁷

Application to people under 18 years of age

1.18 Clause 100 would provide that the TSL Bill and a provision of a taxation law, to the extent that it relates to the TSL Bill, applies to a person under the age of 18 in the same way that it applies to a person over the age of 18. The government's Australian Apprenticeship website notes that additional information will be provided to eligible Australian Apprentices who are under the age of 18 'to ensure they understand the implications and their obligations'.²⁸

Views on the bills

1.19 The Master Plumbers & Mechanical Contractors Association of New South Wales (MPMCA) 'strongly support' the proposed TSL programme 'as an alternative to tax free cash payments that are not producing the outcomes necessary to create a strong and viable building and construction industry into the future'.²⁹ To support its argument, the MPMCA reported that over the past 12 months only 53 per cent of apprentices in the construction industry in New South Wales who were expected to complete their apprenticeship actually did so. The MPMCA concluded that this represents 'an unsustainable cost to industry, employers and taxpayers who have borne the cost of incentives that produce a very poor success rate'.³⁰

1.20 The MPMCA also argued that the design of the TSL programme would support apprentices by covering a wide range of costs³¹ while also encouraging apprentices to better manage their finances:

26 In the Higher Education Support Act, an 'officer' is defined to include Commonwealth officers and officers of higher education providers, Open Universities Australia and Tertiary Admission Centres.

27 *Higher Education Support Act 2003*, s. 179-10.

28 Department of Industry, 'Trade Support Loans', www.australianapprenticeships.gov.au/trade-support-loans (accessed 6 June 2014).

29 Master Plumbers & Mechanical Contractors Association of New South Wales, *Submission 1*, p. 5.

30 MPMCA, *Submission 1*, p. 3.

31 The MPMCA noted that the loans under the TSL programme could allow apprentices that have to travel long distances to buy a newer or safer car, or could provide assistance with living costs and costs associated with relocating in order to undertake an apprenticeship. *Submission 1*, p. 5.

The fact that the loan consists of structural payments over the four (4) year term of the apprenticeship will ensure that the apprentice will have to make sound value judgements on the drawing down of loan amounts which will be balanced by the increase in their wages as they progress through the apprenticeship.³²

1.21 The MPMCA concluded:

Successful tradespeople do very well in society, but that success is only achieved by motivation, hard work and an understanding that much more is achieved by something that is earned, rather than something that is just given to someone.

The HECS system has existed for many years for university students and whilst there is a debt to be repaid at the end of the education/training, the benefits of the higher incomes that will be earned by successful apprentices far outweigh the financial cost of non-completion of a trade and the respective lack of ability to earn a higher income resulting from that failure.³³

1.22 Restaurant & Catering Australia submitted that the TSL programme would provide 'an equitable basis on which apprentices can prepare themselves for the vocation in which they will train and work'. It provided the following outline of how the programme would support apprentice cooks:

In the restaurant and catering sector of industry the apprentices in question are cooks. To commence this vocation there are items of equipment, mostly knives and other cooking utensils, that are required as part of the apprentices 'kit'. In addition, many of the apprentices need a vehicle to get to and from their place of work. This is because of the unusual hours that are worked by all staff in the industry and the consequent lack of public transport options at starting and finishing times.³⁴

1.23 In its submission, Sarina Russo Apprenticeships expressed support for the proposed TSL programme, which it described as 'a great solution to challenges, particularly financial, faced by apprentices'.³⁵ The Master Plumbers and Gasfitters Association of Western Australia submitted that the TSL programme 'will work to protect the future of apprenticeship training and the standard of training provided to plumbing and gasfitting apprentices across Australia'.³⁶ The Real Estate Institute of Australia advised that it 'supports the objective' of the proposed TSL programme, although it would like the Minister to include on the TSL Priority List trainee

32 MPMCA, *Submission 1*, p. 5.

33 MPMCA, *Submission 1*, p. 5.

34 Restaurant & Catering Australia, *Submission 7*, p. 2.

35 Sarina Russo Apprenticeships, *Submission 2*, p. 2.

36 Master Plumbers and Gasfitters Association of Western Australia, *Submission 5*, p. 1.

positions in the real estate profession.³⁷ The National Electrical and Communications Association concluded that the bills are 'well intended', although it added that incentives designed to encourage employers to hire and train more apprentices should be considered.³⁸

1.24 The Australian Council of Trade Unions (ACTU) 'strongly agree that there is a problem that needs to be addressed in terms of poor apprenticeship completion rates and the costs associated with doing an apprenticeship'.³⁹ However, the ACTU argued that an apprentice loan scheme:

shifts the cost of the apprenticeship system further onto apprentices themselves and burdens them with a considerable personal debt of up to \$20 000 or more with which to start the rest of their working life after they finish their apprenticeship (similarly, the debt is left hanging over them if they do not complete the apprenticeship).⁴⁰

1.25 Although the ACTU acknowledged that the TSL programme was an election commitment, in its submission it outlined other policies that, in its view, the government should consider instead.⁴¹

1.26 The ACTU also provided comments on specific clauses of the TSL Bill. It argued that the TSL Priority List established by the Minister should be the same as the current National Skills Needs List so that all individuals previously eligible for a Tools For Your Trade payment are also eligible for the TSL programme.⁴² The ACTU also called for clear explanatory material to be provided to applicants (which it considers should include examples of the monetary amounts involved and what the apprentice will be liable to repay)⁴³ and queried whether applicants would be able to apply for amounts less than the applicable yearly rate:

Clause 16 of the Bill sets out the role of the Secretary in making the determination granting an application for a trade support loan, including determining the applicant's yearly rate of trade support loan for each relevant instalment period. However, it is not clear from the Bill what role the apprentice has in this application process and in determining the size and structure of the loan that best suits them...it would be expected that the apprentice, as the applicant, would be able to specify the amount (up to the specified maximum for that year of the apprenticeship) and the relevant

37 The Institute argued that auctioneers, property managers, real estate agent and real estate sales persons have been classified as being 'skills in demand' by the Construction and Property Services Skills Council. See Real Estate Institute of Australia, *Submission 3*, pp. 2–4.

38 National Electrical and Communications Association, *Submission 6*, p. 1.

39 Australian Council of Trade Unions, *Submission 4*, p. 2.

40 Australian Council of Trade Unions, *Submission 4*, p. 4.

41 See Australian Council of Trade Unions, *Submission 4*, pp 6–8.

42 Australian Council of Trade Unions, *Submission 4*, p. 9.

43 Australian Council of Trade Unions, *Submission 4*, pp 9–10.

instalment period they would prefer to have. The Secretary would then make a determination against the request in that application.⁴⁴

1.27 Further, the ACTU also noted the apparent differences in the arrangements for protecting personal information contained in the TSL Bill compared to the Higher Education Support Act (these were outlined above: see paragraphs 1.15 to 1.17).

Committee view

1.28 Australia needs more highly-skilled tradespeople. The bills seek to implement the government's election commitment to establish a scheme that encourages more young people to complete their apprenticeship. The TSL programme would provide better support to apprentices by covering a range of personal costs associated with undertaking an apprenticeship when they most need support. The requirement that apprentices will need to sign up to the loans every six months will also encourage individuals to assess their personal circumstances at regular intervals.

1.29 The programme utilises key design features of the loans available to university students through the long-established HELP arrangements, including that the loans are only repayable when the individual's income has reached a certain threshold. However, the 20 per cent discount available when the apprenticeship is complete is a unique feature of the TSL programme that will provide young apprentices with an added incentive to complete their training. This is an outcome that benefits the individual and reduces the lost economic opportunities associated with uncompleted apprenticeships.

1.30 The bills should be passed. However, the committee notes that unlike a similar provision in the Higher Education Support Act, the clauses in the TSL Bill that relate to the use of personal information do not include an offence for the unauthorised disclosure or modification of such information. Existing catch all provisions for the protection of information such as those in the Crimes Act may be sufficient for this purpose, however, to ensure that this is the case, the government should re-examine Division 5 of Part 4.1 of the TSL Bill. If the government considers that the relevant proposed arrangements in the TSL Bill are adequate, a revised explanatory memorandum should be issued that provides additional information about how personal information will be protected.

Recommendation 1

1.31 The committee recommends that the government review Division 5 of Part 4.1 of the Trade Support Loans Bill 2014 to ensure that personal information obtained as a result of the Trade Support Loans Programme is adequately protected from unauthorised disclosure and modification.

44 Australian Council of Trade Unions, *Submission 4*, p. 10.

Recommendation 2

1.32 Having regard to Recommendation 1, the committee recommends that the bills be passed.

Senator David Bushby
Chair

APPENDIX

Submissions received

Submission Number	Submitter
1	The Master Plumbers and Mechanical Contractors Association of NSW
2	Sarina Russo Apprenticeships
3	Real Estate Institute of Australia
4	Australian Council of Trade Unions
5	Master Plumbers and Gasfitters Association of WA
6	National Electrical and Communications Association
7	Restaurant and Catering Industry Association
8	Australian Council for Private Education and Training