

# Student Review of HELP Balances

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## Definitions

- / **HESA** refers to the Higher Education Support Act 2003
- / **The Act** refers to the VET Student Loans Act 2016
- / **Student:** Refers to students, who are Australian citizens or permanent humanitarian visa holders who will be residents in Australia for the duration of their VET units of study, and who access VET Student Loans for payment of their tuition fees in respect of the VET unit of study in which they are enrolled
- / **Census Date:** A published date, set by the provider, no earlier than 20% of the way through a VET unit of study
- / **Tuition Fees:** Fees paid for a VET unit of study that is approved for VET Student Loans and applies to students who are, or would be entitled to VET Student Loan assistance under clause 43 of Schedule 1A of the Higher Education Support Act 2003
- / **Unit or VET unit of study:** A VET unit of study approved for VET Student Loans that a student may undertake with Design Schools Australia Pty Ltd trading as Sydney Design School, for which the student may access VET Student Loan assistance to pay for all or part of their tuition fees
- / **The Department:** Department of Employment and Workplace Relations (DEWR)

## Incurring a HELP debt including VET Student Loans

A student who is, or would be, eligible for VET Student Loans and has requested FEE-HELP assistance, who withdraws from a unit on or before the census date will not incur a HELP debt for the tuition fees for that unit.

Students who have requested VET Student Loan assistance who remain enrolled after the published census date will incur a HELP debt. A student who withdraws from a unit after the published census date for that unit will incur a HELP debt for that unit.

If you withdraw after the census date because you changed your mind, you are legally obliged to repay your HELP debt and will not be able to apply to have your HELP debt cancelled.

If you fail a unit or withdraw from the unit after the census date you are still liable to pay the tuition fees of that unit, regardless of whether you attended any classes or handed in any assessment items.

## Re-crediting HELP balances

If you did not successfully complete the requirements of a unit, or you withdrew from a unit after the census date because you became seriously ill or because of other "special circumstances", you can apply to have your HELP debt cancelled (and your FEE HELP balance re-credited if applicable) under Division 2 or 3 of Part 6 of the Act. If you meet the special circumstances clause under section 68 of the Act, you may apply in accordance with the following procedures.

There are no provisions under the Higher Education Support Act 2003 (HESA) or the VET Student Loans Act 2016 to have your HELP debt cancelled under special circumstances if you have

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successfully completed your unit of study.

A student may also apply to the Secretary of the Department to have their HELP balance re-credited under section 71 of the Act because:

- / The provider, or a person acting on the provider's behalf, engaged in unacceptable conduct in relation to the student's application for the VET Student Loan; or
- / The provider has failed to comply with the Act or an instrument under the Act and the failure has adversely affected the student

### Special circumstances

If a student withdraws from a unit after the published census date for that unit, or has been unable to successfully complete a unit and believes this was due to special circumstances, the student may apply to have their FEE-HELP balance re-credited for the affected unit/s.

Design Schools Australia Pty Ltd trading as Sydney Design School will re-credit the student's FEE-HELP balance if it is satisfied that special circumstances apply where:

- / These circumstances are beyond their control, and
- / These circumstances did not make their full impact on the student until on, or after the census date; and
- / These circumstances were such that it was impracticable for the student to complete the requirements for the unit

For circumstances to be beyond a student's control, the situation should be that which a reasonable person would consider is not due to the student's action or inaction, either direct or indirect, and for which the student is not responsible. The situation must be unusual, uncommon, or abnormal to be considered special circumstances.

Special circumstances do not include:

- / Lack of knowledge or understanding of requirements for VET Student Loan assistance.
- or
- / A student's incapacity to repay a HELP debt (repayments are income contingent and the student can apply to the Australian Taxation Office for a deferral of a compulsory repayment in certain circumstances)

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## Re-credit of a Student's HELP balance - The process

Each application for re-credit of a student's HELP balance will be considered on its merits together with all supporting documentation substantiating the special circumstances claim.

The General Manager is the designated HELP officer of Design Schools Australia Pty Ltd trading as Sydney Design School. The above officer is responsible for the assessment of a student's request for a re-credit of their HELP balance due to special circumstances and for the initial decision regarding the request.

1. Under section 68 of the Act, students must apply in writing to the General Manager within 12 months of the withdrawal date, or if the student has not withdrawn, within 12 months of the specified completion date of the unit. Design Schools Australia Pty Ltd trading as Sydney Design School has the discretion to waive this requirement if it is satisfied that it was not possible for the application to be made within the 12-month period. Relevant supporting documentation will be required to substantiate the claim.
2. The application for re-crediting a HELP balance must include details of the:
  - / Unit(s) for which a student is seeking to have a HELP balance re-credited and
  - / Special circumstances as referred to above, including supporting documentation
3. Design Schools Australia Pty Ltd trading as Sydney Design School will consider each application within five (5) working days of receipt of the application. It will consider each request to re-credit a HELP balance in accordance with the requirements of Schedule 1A of HESA. Applicants will be notified in writing of the decision within five (5) working days.

Applications for re-crediting must be made under section 71 of the Act which states a student can apply within five (5) years after the census day for the course, or the part of the course, concerned, or within that period as extended by the Secretary of The Department.

## Review of decision

Where Design Schools Australia Pty Ltd trading as Sydney Design School makes a decision NOT to re-credit a student's HELP balance, then that decision may be subject to review.

If a student is not satisfied with the decision made by Design Schools Australia Pty Ltd trading as Sydney Design School, the student may apply, within twenty-eight (28) days of the receipt of the original decision, for a review of the decision. The application must contain the following:

- / Date of the original decision
- / State fully the reasons for applying for the review
- / Include any additional relevant evidence

Applications should be made in writing to the Director, as the designated review officer of any decisions relating to a request for re-crediting of a HELP balance. Note: The review

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officer is senior to the designated HELP officer responsible for the original decision and was not involved in making the original decision to be reviewed.

The review officer will:

- / Acknowledge receipt of the application for review of a decision in writing within ten (10) working days; and
- / Inform the student that if the review officer has not advised them of a decision within forty-five (45) days of receipt of the application for review, it is taken that the review officer has confirmed the original decision.

The review officer will then:

- / Review the information from the original decision and then assess any new evidence provided by the student
- / Provide written notice to the student of the decision, setting out the reasons for the decision
- / Inform the student of their right to apply to the Administrative Appeals Tribunal if they disagree with the review decision, and timelines involved (see below)

### Reconsideration by the Administration Appeals Tribunal

**At the time of the original decision**, and **at the time of the subsequent review decision**, the student will be notified of their review rights and responsibilities. The relevant officer will inform a student in writing of their right to appeal to the Administrative Appeals Tribunal (AAT) if they are not satisfied with the outcome and the contact details of the closest AAT office and the approximate costs of lodging an appeal. The Application must be lodged at the AAT within twenty-eight (28) days of receiving written notice of the review decision. This time limitation can be extended in limited circumstances by order of the AAT.

### AAT Contact Details

Administrative Appeals Tribunal NSW

GPO Box 9955, Sydney NSW 2001

Phone: 1800 228 333 or (02) 9276 5101

Email: [enquiries@aat.gov.au](mailto:enquiries@aat.gov.au)

Note: Full details of the application process and fees payable are available on the AAT website: [www.aat.gov.au](http://www.aat.gov.au). An application fee may apply.

The Department of Employment and Workplace Relations (DEWR), or their delegate, will be the respondent for cases that are brought before the AAT. Upon receipt of a notification from the AAT, The Department of Education and Training will notify Design Schools Australia Pty Ltd trading as Sydney Design School that an appeal has been lodged. Upon receipt of this notification the review officer will provide "The Department" with copies of all the documents that are relevant to the appeal within ten (10) business days.

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### **If my application is successful, how long will it be before my debt is cancelled?**

The cancellation process can be lengthy due to the number of administrative steps occurring behind the scenes. We will submit a revisions file to The Department to trigger the cancellation of your debt. The Department then reports the cancellation to the ATO, and your tax record is updated to reflect the cancelled debt. Depending on the date of the cancellation and the reporting schedule, it may take up to six (6) months for the cancellation to transmit to your tax information with the ATO.

There will be no charge for reconsideration or review of HELP re-crediting decisions other than by the Administrative Appeals Tribunal.

The Secretary of The Department, may re-credit a student's HELP balance in relation to special circumstances if a course provider:

- / Is unable to act or is being wound up or has been dissolved; or
- / Has failed to act and the Secretary is satisfied that the failure is unreasonable

### **Publication**

This policy and the procedure is published on the Design Schools Australia Pty Ltd trading as Sydney Design School's website to ensure Students have up to date and accurate information publicly available to them.

Version 3: 26 May 2016

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