

RULES

OF THE TAFE DIRECTORS AUSTRALIA
TUITION ASSURANCE SCHEME
(Vocational Education and Training)

OVERVIEW

TAFE Directors Australia Tuition Assurance Scheme offers course assurance and tuition fee repayment assurance for Vocational Education and Training (TDA TAS - VET) and Higher Education (TDA TAS – HE). These rules apply to TDA TAS - VET. Separate rules are available for TDA TAS – HE. TDA TAS - VET applies to courses which are eligible for VET FEE-HELP offered by approved VET FEE-HELP providers. Under the Scheme -

TDA:

- (a) operates TDA TAS - VET for the benefit of all TDA TAS - VET Members and their eligible students to ensure that eligible students can access the VET course assurance option or the VET tuition fee repayment option set out in Part 3 of the Higher Education Support (VET) Guideline 2015 (the Guideline), which can be found at <https://www.legislation.gov.au/Details/F2015L02124>, as amended from time to time; and
- (b) supports the TDA TAS - VET Sub-Committee and the TAS Replacement/Refund Sub-Committee to perform the activities of those committees as specified in these Rules; and
- (c) at all times meets the corporate separation requirements for a VET tuition assurance administrator as specified in the Guideline as amended from time to time.

TDA TAS - VET Members:

will support the operation of the Tuition Assurance Scheme by fulfilling their VET tuition assurance requirements as described in:

- (a) the *Higher Education Support Act 2003* as amended from time to time; and
- (b) the Guideline as amended from time to time; and
- (c) these Rules.

These Rules provide the operating framework and requirements which TDA TAS - VET members must adhere to to retain membership.

In the event of any inconsistency between these Rules and any provision in the Guideline or in the *Higher Education Support Act 2003*, the terms of the Guideline and the *Higher Education Support Act 2003* will prevail to the extent of that inconsistency.

1 APPLICATION of RULES

These Rules apply to any VET provider other than an Exempt Provider that is a TDA TAS Member in respect of eligible students as defined in clause 43 of sub-division 7–A of Schedule 1A of the ACT to whom the TDA TAS Member is providing a VET course of study, which the TDA TAS Member then ceases to provide.

TDA TAS - VET Members are required to become familiar with the requirements and operation of tuition assurance as set out in Part 3 of the Guideline (and as amended from time to time).

TDA TAS - VET Members should particularly familiarise themselves with their obligations as First Providers and Second Providers under Part 3 of the Guideline, bearing in mind that each TDA TAS - VET Member's approval as a VET provider under the Act is, in part, contingent upon maintaining compliance with the VET quality and accountability requirements, as defined in Division 4 of Schedule 1A of the Act, of which the tuition assurance requirements are part (clause 20 of the Schedule refers).

Under the TDA VET TAS, TDA is liable to meet all the obligations of a VET Course Assurance Guarantor, a VET Repayment Guarantor and a VET Tuition Assurance Administrator under the tuition assurance requirements as set out in Part 3 of the Guideline and as amended from time to time, and undertakes to TDA TAS - VET Members that it will do so.

Under the TDA VET TAS, TAS membership means that members undertake to TDA that they will meet all of their obligations as First Providers and Second Providers under the tuition assurance requirements as set out in Part 3 of the Guideline and as amended from time to time.

2 MEMBERSHIP FEES

Each TDA TAS - VET Member shall pay such membership fees as are prescribed by the TDA Board from time to time and provide such information as the Board may require to assess an application for TDA TAS - VET membership or continuation of that membership.

3 PROVIDING INFORMATION

On joining the TDA TAS - VET and when reviewing membership each year, every TDA TAS - VET Member is required to provide to the Administrator details regarding the number of full-time and part-time students enrolled in each VET course or unit covered under the TDA TAS - VET for the current calendar year, in such a form as the TDA Chief Executive Officer, contactable at PO Box 707 Broadway NSW 2007, may request.

4 MEMBERSHIP OF TDA VET TAS

Membership of the TDA TAS - VET is restricted to TDA members and other VET providers approved by TDA for membership of the TDA VET TAS. TDA TAS - VET Members may only be expelled or suspended from the TDA TAS - VET in accordance with the provisions of the TDA Rules of the Association (Constitution).

5 EFFECT OF EXPULSION OR SUSPENSION

A TDA TAS - VET Member which is expelled or suspended from TDA is not entitled to a refund of its TDA TAS - VET Membership fees. In addition to the provisions for expulsion and suspension provided for in the TDA Rules of the Association, grounds for expulsion or suspension of TDA TAS - VET Members include their failure to comply with clause 25 of Schedule 1A of the Act. TDA will inform DET of any expulsion or suspension of a TDA TAS - VET Member and will continue to provide appropriate protection for all students enrolled with the expelled or suspended member as at the date of such expulsion or suspension.

6 NOTIFICATION TO TDA

A TDA TAS - VET Member which ceases to provide a VET course of study must immediately notify DET and TDA at the time it does so, and TDA will then convene the TDA TAS - VET Placement Committee. DET should be notified by contacting the Group Manager responsible for the administration of VET FEE-HELP, by phone and /or email.

7 TDA TAS - VET SUB-COMMITTEE

- (a) The Board will appoint a TDA TAS - VET Sub-Committee to implement and oversee the operation of the TDA TAS - VET. The TDA TAS - VET Sub-Committee will appoint a person as the Administrator.
- (b) The TDA TAS - VET Sub-Committee will be comprised of a majority of people who do not represent TDA TAS - VET Members.
- (c) The TDA TAS - VET Sub-Committee will review all activities of the VET Placement/ Refund Sub-Committee to manage any conflicts of interests for VET Placement/ Refund Sub-Committee members. The TDA TAS - VET Sub-Committee will also review its own activities to manage any conflicts of interests for TDA TAS - VET Sub-Committee members.

8 IMPLEMENTATION BY TDA TAS - VET SUB-COMMITTEE

The TDA TAS - VET Sub-Committee will at all times implement these rules in accordance with the provisions of Part 3 of the Guideline.

9 VET PLACEMENT / REFUND SUB-COMMITTEE

If a TDA TAS - VET Member ceases to provide a VET course of study, the TDA TAS - VET Sub-Committee will appoint a VET Placement/Refund Sub-Committee, comprising local TDA TAS - VET Members chaired by the Administrator or a Director of the Board, to ensure compliance with the provisions of the Guideline. The TDA TAS - VET may also appoint such further sub-committees as it determines are necessary to implement and operate the TDA VET TAS.

Any member of the VET Placement/Refund Sub-Committee must declare all actual or perceived conflicts of interest (in relation to their role as member of the Placement/ Refund Sub-Committee) to the TDA TAS - VET Sub-Committee and manage those conflicts of interest as directed by the TDA TAS - VET Sub-Committee

10 ROLE OF ADMINISTRATOR

The Administrator will liaise, on behalf of the TDA TAS - VET Sub-Committee, with relevant government agencies (including DET and the Australian Taxation Office), and any external controller of a TDA TAS - VET Member and any other relevant persons.

11 ROLE OF THE VET PLACEMENT/REFUND COMMITTEE

The VET Placement/Refund Sub-Committee will:-

- 11.1 Arrange a meeting of displaced students to advise them of:-
 - (a) their rights to choose between the VET course assurance option or the VET tuition fee repayment option; and
 - (b) the process whereby the option chosen by the student under paragraph (a) will be implemented;
- 11.2 Issue a written VET tuition assurance offer to students in accordance with the requirements of Part 3 of the Guideline, subject that any such offer shall be indicative only with the final decision by a student not being required until the student is advised of the details of the proposed course.
- 11.3 arrange interviews with individual students
- 11.4 administer a student questionnaire to ascertain:-
 - (a) the name of the student's VET course of study;
 - (b) the remaining length of that course; and
 - (c) which option under rule 12.1 the student has chosen;
- 11.5 if the student has indicated an interest in the course assurance option:-
 - (a) match that student with an appropriate VET course of study with TDA TAS - VET Member(s) at an appropriate location(s); or
 - (b) offer that student placement in an appropriately purchased suitable alternative VET course of study to be delivered for this purpose through a TDA TAS - VET Member or other VET provider approved by the TDA TAS - VET Placement Committee for that purpose; and
 - (c) give to that student a VET Tuition Assurance Offer of course placement;
- 11.6 If the student has chosen the VET tuition fee repayment option:-
 - (a) determine the eligibility of that student for that option;
 - (b) pay the student the total of any up-front payments paid for that VET unit of study by the student (or on behalf of the student by any party other than the Commonwealth); and
 - (c) pay the Commonwealth any amounts paid for that VET unit of study by the Commonwealth to the TDA TAS Member which ceased providing the VET course of study in discharge of the student's liability to pay his or her student contribution amount for VET tuition fees for the unit; and
 - (d) provide each student with a Written VET Tuition Assurance Offer at or before the meeting referred to in rule 11.1.

- (e) ensure that, on request of a student, a copy of the student's academic record is provided
- 11.7 Under paragraph 13 of the Guideline, if a TDA TAS - VET Member is subject to any of the defined circumstances of "ceases to provide a VET course of study", the TDA TAS - VET Member must immediately notify TDA and the Group Manager to that effect. If the Group Manager becomes aware by any means that any of those circumstances apply, or may apply, to a TDA TAS - VET Member, then:
- (a) the TDA TAS - VET Member must within a reasonable period specified by DET, provide the Secretary with such information that may reasonably be requested;
 - (b) the Secretary may, after considering any information provided by the TDA TAS - VET Member under the preceding paragraph (11.7.1), declare in writing that, for the purposes of the Guideline, the TDA TAS - VET Member has ceased to provide one or more VET courses of study specified in the declaration; and
 - (c) the Secretary must give a copy of the declaration to the TDA TAS - VET Member and TDA.

12 ACCEPTANCE OF A TUITION ASSURANCE OFFER

When a student accepts a VET Tuition Assurance offer the student must provide the TDA TAS - VET Member offering placement with an irrevocable direction to the liquidator, administrator, receiver or external controller of the previous provider, or other holder of the student's prepaid fees, requiring that person to account to the member providing placement for any VET tuition fees held on behalf of the student.

13 FAILURE TO ACCEPT AN OFFER

- 13.1 When an eligible student accepts a Tuition Assurance Offer the student must provide the TDA TAS Member offering placement with an irrevocable direction to the liquidator, administrator, receiver or external controller of the previous provider, or other holder of the student's prepaid fees, requiring that person to account to the member providing placement for any tuition fees held on behalf of the student.
- 13.2 The TDA TAS Member offering placement is not entitled to charge TDA (or the eligible student) for any costs associated with meeting their role as the Second Provider. The only costs payable by TDA under these Rules are to refund student contribution/tuition fees to an eligible student who has chosen the repayment offer in accordance with rule 12.6 or to purchase a course placement with another VET provider which is not a TDA TAS Member in accordance with rule 11.5(b).

14 COPIES OF OFFERS

A copy of each accepted VET Tuition Assurance Offer will be given to DET, the student (where necessary) and the TDA TAS - VET Member accepting that student and a copy will be retained by the TDA VET TAS.

15 COMPLIANCE WITH RULES

A displaced student must abide by the rules of the TDA TAS - VET Member in respect of which he/she has accepted a Tuition Assurance Offer of course placement, other than a rule relating to payment of a tuition fee for any replacement unit. A copy of the rules of the TDA TAS - VET Member shall be made available to the student at the time such Tuition Assurance Offer of course placement is made.

16 ACCEPTANCE OF DISPLACED STUDENTS

A TDA TAS - VET Member notified that a VET Tuition Assurance Offer of course placement has been made and accepted for a place at that member's institution, must accept the displaced student unless the displaced student has failed to agree or to agree to abide by the member's rules (with which they have been provided), or the member can provide evidence of special circumstances that indicate the placement with the member would not be in the best interests of the displaced students (in which case a VET Tuition Assurance Offer of course placement will be made with another TDA TAS - VET member).

TDA TAS – VET members are obliged to accept displaced students from another TDA TAS member that has ceased to provide a course of study and is no longer trading. Neither the TAS nor the student will be charged for incomplete units of study for which the student has paid.

17 COSTS CONSEQUENCES

TDA may require a TDA TAS - VET Member to contribute towards the costs of any student relocations which may become necessary as a consequence of that TDA TAS - VET Member ceasing to provide a VET course of study.

18 VET FEE-HELP DEBTS

If a student has a VET FEE-HELP debt to the Commonwealth Government in respect of a unit or units of study which a TDA TAS - VET Member ceases to provide (the VET FEE-HELP debt) and that student chooses the VET tuition fee repayment option, TDA will pay to the Commonwealth Government from the funds held in the TDA TAS - VET any amount required to discharge the student's liability for the part of the VET FEE-HELP debt incurred in respect of that unit or units and the balance to the student or whoever has paid the fees on behalf of the student.

DEFINITIONS

In these Rules, unless the contrary intention appears:

'Act' means the *Higher Education Support Act 2003*;

"Administrator" means TDA fulfilling all the requirements of a VET Course Assurance TAS Operator, Second Provider as referred to in Part 3 of the Guideline, VET Course Assurance Guarantor (as defined in Part 3 of the Guideline), VET Repayment TAS Operator or Repayment Guarantor.

"ceases to provide a VET course of study" means, in relation to a TDA TAS - VET Member:-

- (a) if a course does not start on:
 - (i) the date the course was scheduled to start;
 - (ii) a later date that has been agreed between the TDA TAS - VET Member and the student(s) enrolled in the course; or
- (b) the TDA TAS - VET Member commences providing the course to a person and then, before the person has completed the course, ceases to provide that course (for any reason); or
- (c) the Minister has suspended or revoked approval of the TDA TAS - VET Member as a VET provider under the Act and has not made a determination pursuant to clause 35–37 of Schedule 1A of the Act in respect to that course; or
- (d) notice is served on the TDA TAS - VET Member or proceedings are taken to cancel the TDA TAS - VET Member's incorporation or registration or to dissolve the TDA TAS - VET Member as a legal entity; or
- (e) the TDA TAS - VET Member comes under one of the forms of external administration referred to in Chapter 5 of the Corporations Act 2001 or equivalent provisions in other legislation, or an order has been made to place the TDA TAS - VET Member under an external administration; or
- (f) the TDA TAS - VET Member ceases to have its name included, or to own or control a business name that is included on the official national register of information on courses, qualifications, Training Packages, competency standards and training organisations (training.gov.au) or ceases to be a registered training organisation by decision of a relevant state or territory registering body; or
- (g) a declaration is made by the Secretary of DET under paragraph 13 of the Guideline that the TDA TAS - VET Member has ceased to provide one or more VET courses of

Study for one or more reasons as specified in paragraph 13 of the Guideline.

“DET” means Commonwealth Department of Education and Training and its Successors;

“Displaced Student” means a student of a TDA TAS - VET Member which ceases to provide a VET course of study in which the student is enrolled; “Exempt Provider” has the same meaning as it does in the Guideline;

“First Provider” has the same meaning as it does in the Guideline; “Group Manager” has the same meaning as it does in the Guideline. The Group Manager is a person from time to time responsible for the administration of VET FEE-HELP in DET;

“Guideline” means the VET Provider Guideline made under the Act;

“Replaced unit” and “Replacement unit” have the same meanings as they do in the Guideline;

“Secretary” is the official DET position referred to in the Guideline;

“Second Provider” has the same meaning as it does in the Guideline;

“Statement of Tuition Assurance” has the same meaning as it does in the Guideline;

“TDA TAS - VET” means the TAFE Directors Australia Tuition Assurance Scheme for VET providers;

“TDA TAS - VET Administrator” means a person appointed by the TDA TAS - VET sub-committee to assist it in the management and operation of the TDA TAS - VET;

“TDA TAS - VET Member” means a member of TDA who is not an Exempt Provider and who is accepted by TDA as a member of the TDA TAS - VET;

“TDA TAS - VET Sub-Committee” means the sub-committee (comprising TDA appointees) established by Rule 8;

“VET Course assurance option” means an offer of a place in a similar VET course of study with another TDA TAS - VET Member without any requirement to pay the other TDA TAS - VET Member any VET tuition fee for any replacement units;

“VET course of study” has the same meaning as it does in the Act;

“VET Placement/Refund Committee” means the committee established by Rule 8;

“VET tuition fee repayment option” means a refund to students of their up-front payments for any VET unit of study that the student commences but does not complete because a TDA TAS - VET Member ceases to provide the VET course of study of which the units forms part, and a corresponding re-crediting of any or VET FEE-HELP balance relating to that unit;

“VET tuition assurance requirements” means the tuition assurance requirements set out in Part 3 of the Guideline;

“Written VET Tuition Assurance Offer” means the written advice that must be provided to students enrolled in a VET course of study which a TDA TAS - VET Member has ceased to provide that he/she may choose either the course assurance option or the student contribution/tuition fee repayment option. Words or phrases used in this Rule have the meaning given to them in the Act and/or Guideline, unless the context requires otherwise.

APPLICATION OF RULES TO STUDENTS

To the extent necessary, these rules apply to and bind students of TDA TAS - VET Members, subject to all times to the rights given to students by the Act, the Guideline, other relevant legislation and the common law.