

RULES

OF THE TAFE DIRECTORS AUSTRALIA

VET TUITION ASSURANCE SCHEME

(As approved by the TDA Board on 26 May 2011 pursuant to

Section 11 of the Rules of the Association)



OVERVIEW

The purpose of these Rules is to establish a TAFE Directors Australia VET Tuition Assurance Scheme (TDA VET TAS) to provide course assurance and tuition fee repayment assurance.

TDA will:

- (a) establish and operate a TDA VET TAS for the benefit of all TDA VET TAS 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 the VET Provider Guidelines as amended from time to time; and
- (b) establish and support the TDA VET TAS Sub-Committee and the VET Replacement/Refund Sub-Committee to perform the activities of those committees as specified in these Rules; and
- (c) at all times meet the corporate separation requirements for a VET tuition assurance administrator as specified in the VET Provider Guidelines as amended from time to time.

TDA VET TAS Members will support the operation of the VET 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 VET Provider Guidelines as amended from time to time; and
- (c) these Rules

.In the event of any inconsistency between these Rules and any provision in the VET Provider Guidelines or in the *Higher Education Support Act 2003*, the terms of the VET Provider Guidelines 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 VET TAS Members are required to become familiar with the requirements and operation of the tuition assurance requirements as set out in chapter 3 of the VET Provider Guidelines (and as amended from time to time) which are available at www.comlaw.gov.au

TDA VET TAS Members should particularly familiarise themselves with their obligations as First Providers and Second Providers under chapter 3 of the Guidelines, bearing in mind that each TDA VET TAS 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 – (VET FEE-HELP Assistance Scheme) 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 Operator, a VET Repayment TAS Operator and a VET Tuition Assurance Administrator under the tuition assurance requirements as set out in chapter 3 of the Guidelines and as amended from time to time, and undertakes to TDA VET TAS 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 chapter 3 of the Guidelines and as amended from time to time.

2 MEMBERSHIP FEES

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

3 PROVIDING INFORMATION

On joining the TDA VET TAS and when reviewing membership each year, every TDA VET TAS 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 VET TAS for the current academic 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 VET TAS is restricted to TDA members and such other VET providers approved by TDA for membership of the TDA VET TAS. TDA VET TAS Members may only be expelled or suspended from the TDA VET TAS in accordance with the provisions of the TDA Rules of the Association.

5 EFFECT OF EXPULSION OR SUSPENSION

A TDA VET TAS Member which is expelled or suspended from TDA is not entitled to a refund of its TDA VET TAS 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 VET TAS Members include their failure to comply with clause 25 of Schedule 1A of the Act. TDA will inform DEEWR of any expulsion or suspension of a TDA VET TAS 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 VET TAS Member which ceases to provide a VET course of study must immediately notify DEEWR and TDA at the time it does so, and TDA will then convene the TDA VET TAS Placement Committee. DEEWR should be notified by contacting the Group Manager responsible for the administration of VET FEE-HELP, by phone and /or email.

7 TDA VET TAS SUB-COMMITTEE

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

8 IMPLEMENTATION BY TDA VET TAS SUB-COMMITTEE

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

9 VET PLACEMENT / REFUND SUB-COMMITTEE

If a TDA VET TAS Member ceases to provide a VET course of study, the TDA VET TAS Sub-Committee will appoint a VET Placement/Refund Sub-Committee, comprising local TDA VET TAS Members chaired by the Administrator or a Director of the Board, to ensure compliance with the provisions of the Guidelines. The TDA VET TAS 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 VET TAS Sub-Committee and manage those conflicts of interest as directed by the TDA VET TAS Sub-Committee

10 ROLE OF ADMINISTRATOR

The Administrator will liaise, on behalf of the TDA VET TAS Sub-Committee, with relevant government agencies (including DEEWR and the Australian Taxation Office), and any external controller of a TDA VET TAS 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 chapter 3 of the Guidelines, 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 VET TAS 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 VET TAS Member or other VET provider approved by the TDA VET TAS 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 3.1.35 of the Guidelines, if a TDA VET TAS Member is subject to any of the defined circumstances of "ceases to provide a VET course of study", the TDA VET TAS 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 VET TAS Member, then:

1. the TDA VET TAS Member must within a reasonable period specified by DEEWR, provide the Secretary with such information that may reasonably be requested
2. the Secretary may, after considering any information provided by the TDA VET TAS Member under the preceding paragraph (11.7.1), declare in writing that, for the purposes of the Guidelines, the TDA VET TAS Member has ceased to provide one or more VET courses of study specified in the declaration; and
3. the Secretary must give a copy of the declaration to the TDA VET TAS 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 VET 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 VET tuition fees held on behalf of the student.

13 FAILURE TO ACCEPT AN OFFER

If a displaced student refuses to accept a VET Tuition Assurance Offer within a reasonable time (but not more than 30 days) the VET Placement/Refund Committee will not make another Written VET Tuition Assurance Offer to that student unless special circumstances justify it doing so.

14 COPIES OF OFFERS

A copy of each accepted VET Tuition Assurance Offer will be given to DEEWR, the student (where necessary) and the TDA VET TAS 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 VET TAS 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 VET TAS Member shall be made available to the student at the time such Tuition Assurance Offer of course placement is made.

16 ACCEPTANCE OF DISPLACED STUDENT

That a TDA VET TAS Member is notified that a VET Tuition Assurance Offer of course placement has been made and accepted for a place at that member's institution, the member 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 VET TAS member).

17 COSTS CONSEQUENCES

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

18 FEE-HELP DEBTS

If a student has a FEE-HELP debt to the Commonwealth Government in respect of a unit or units of study which a TDA VET TAS Member ceases to provide (the 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 VET TAS any amount required to discharge the student's liability for the part of the 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 chapter 3 of the Guidelines, VET Course Assurance Guarantor (as defined in chapter 3 of the Guidelines), VET Repayment TAS Operator or Repayment Guarantor.

"TDA VET TAS" means the TAFE Directors Australia VET Tuition Assurance Scheme;

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

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

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

"ceases to provide a VET course of study" means, in relation to a TDA VET TAS 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 VET TAS Member and the student(s) enrolled in the course; or
- (b) the TDA VET TAS 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 VET TAS 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 VET TAS Member or proceedings are taken to cancel the TDA VET TAS Member's incorporation or registration or to dissolve the TDA VET TAS Member as a legal entity; or
- (e) the TDA VET TAS 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 VET TAS Member under an external administration; or
- (f) the TDA VET TAS 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 (NTIS) 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 DEEWR under either subparagraph 3.1.25 or subparagraph 3.1.35b) of the Guidelines that the TDA VET TAS Member has ceased to provide one or more VET courses of Study for one or more reasons as specified in paragraphs 3.1.25 and 3.1.30 of the Guidelines.

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

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

"DEEWR" means Commonwealth Department of Education, Employment and Workplace Relations and its Successors;

"Displaced Student" means a student of a TDA VET TAS 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 Guidelines;

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

"Guidelines" means the VET Provider Guidelines made under the Act;

"Placement Offer" means a written offer to be made to a student who chooses the course assurance option;

"VET Placement/Refund Committee" means the committee established by Rule 8;"Replaced unit" and "Replacement unit" have the same meanings as they do in the Guidelines;"Secretary" is the official DEEWR position referred to in the Guidelines;

"Second Provider" has the same meaning as it does in the Guidelines;

"Statement of Tuition Assurance" has the same meaning as it does in the Guidelines;

"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 VET TAS 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 chapter 3 of the Guidelines;

“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 VET TAS 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 Guidelines, unless the context requires otherwise.

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