

**Secretary's guidelines for special circumstances for remission of HEC/PELS/BOTP
semester debts/OL study period debt for units of study commenced
on or after 1 January 1998**

1 Purpose

These Guidelines are designed to assist the Secretary of the Department of Education, Science and Training, or his or her delegate, in assessing applications for remission of debts incurred under the Higher Education Contribution Scheme (HECS) (HEC semester debt), Postgraduate Education Loan Scheme (PELS) (PELS semester debt), Bridging for Overseas Trained Professionals Loan Scheme (BOTPLS) (BOTP study period debt) and Open Learning Deferred Payment Scheme (OLDPS) (OL study period debt) for people who are unable to complete the requirements of their course due to special circumstances. These guidelines apply to students who commenced a course of study on or after 1 January 1998 and who incurred a HEC or PELS semester debt or BOTP or OL study period debt for that study.

2 Legislative basis

Section 106L of the *Higher Education Funding Act 1988* (the Act) gives the Secretary of the Department the power to remit the whole or part of a person's HEC or PELS semester debt or BOTP or OL study period debt in special circumstances.

Subsection 106L(3) of the Act outlines the circumstances which are to be considered special circumstances. These include circumstances that the Secretary is satisfied:

- a. are beyond the person's control; and
- b. do not make their full impact on the person until on or after the census date for the course of study for the semester or the study period (as the case requires); and
- c. make it impracticable for the person to complete the course requirements for the course of study for the semester during the semester or during the year in which the semester occurs or the units of study for which he or she was enrolled for the study period (as the case requires).

Under subsection 106L(3A) of the Act the Secretary may issue Guidelines outlining in what circumstances the Secretary will be satisfied that the matters in (a), (b) or (c) above are met. These Guidelines are set out below.

3 Guidelines

Each application will be examined and determined on its merits. The Secretary will consider the person's claims, together with independent documentary evidence which substantiates these claims. The Secretary will be satisfied that a person's circumstances:

- a. are beyond a person's control if:
 - a situation occurs which a reasonable person would consider is not due to the person's action or inaction, either direct or indirect, and for which the person is not responsible. This situation must be unusual, uncommon or abnormal. A lack of knowledge or understanding of HECS, PELS, BOTPLS or OLDPS is not considered to be beyond a person's control.

- b. do not make their full impact on the person until on or after the census date for the course of study for the semester or the study period (as the case requires) if the person's circumstances occur:
 - i. before the census date, but worsen after that day, or
 - ii. before the census date, but the full effect or magnitude does not become apparent until on or after that day, or
 - iii. on or after the census date.
- c. make it impracticable for the person to complete the course requirements for the course of study for the semester during the semester or during the year in which the semester occurs or the units of study for which he or she was enrolled for the study period (as the case requires) if the person is unable to:
 - i. undertake the necessary private study required, or attend sufficient lectures or tutorials or meet other compulsory attendance requirements in order to meet their compulsory course requirements, or
 - ii. complete the required assessable work, or
 - iii. sit the required examinations, or
 - iv. complete any other course requirements because of their inability to meet (i), (ii) or (iii).

Special circumstances might arise from medical, family, personal, employment or course related reasons.