EXPLANATORY STATEMENT


Amendment No. 6 to the Commonwealth Grant Scheme Guidelines

Issued by the authority of the Minister for Education, Science and Training

Subject: Higher Education Support Act 2003
Amendment No. 6 to the Commonwealth Grant Scheme Guidelines

Authority
Section 238-10 of the Higher Education Support Act 2003 (the Act) provides that the Minister may make guidelines for the purposes of the Act. In particular, section 238-10 specifies that the Minister may make Commonwealth Grant Scheme Guidelines to give effect to matters set out in Part 2-2 of the Act.

Purpose and Effect
The Commonwealth Grant Scheme Guidelines commenced on 2 June 2004, and were amended on 5 November 2004, 2 December 2004, 13 May 2005, 27 September 2005 and 30 November 2005 and are now being amended for the sixth time. The guidelines serve a number of purposes.

Chapter 7 - Increases in Assistance for Higher Education Providers Meeting Certain Requirements sets out the requirements known as National Governance Protocols that higher education providers eligible for grants under the Commonwealth Grant Scheme need to satisfy under paragraph 33-15(1)(a) of the Act. Chapter 7 also sets out the date by which higher education providers must meet these requirements, and the date by which providers must meet the workplace relations requirements under paragraph 33-15(1)(b) of the Act.

Paragraphs 7.20.2, 7.20.15, and 7.25.5 concern aspects of the Higher Education Workplace Relations Requirements (HEWRRs) for publicly funded institutions and private providers with approved National Priority Places.

The amendment revises paragraphs 7.20.2, 7.20.15, and 7.25.5 of Chapter 7 of the Guidelines. The amendments are of a minor, technical nature and ensure consistency with the amendments made to the Workplace Relations Act 1996 by the Workplace Relations Amendment (Work Choices) Act 2005 (Work Choices). The specific changes are as follows:

Paragraph 7.20.2 - the guidelines need to cater for the pre-Work Choices reform and post-Work Choices reform processes. Subsequently, paragraph 7.20.2 is amended to include parts (a) and (b) reflecting pre- and post-reform processes as defined by Work Choices legislation proclamation date of 27 March 2006.

Paragraph 7.20.15 - replace references to pre-reform “certified and individual agreement(s)” with post-reform “workplace agreement(s)”.
Paragraph 7.25.5 – include text to limit the application of this requirement to pre-reform collective agreements. It is not required in post-reform collective agreements due to the Work Choices legislation prohibiting anti-AWA clauses and providing for AWAs to override collective agreements and awards.

Consultation
The Minister for Education, Science and Training, the Hon Julie Bishop MP, and the Minister for Employment and Workplace Relations, the Hon Kevin Andrews MP, issued a media release on 8 May 2006 announcing the proposed amendments to the Higher Education Workplace Relations Requirements (HEWRRs) to make them consistent with the broader Work Choices reforms. The HEWRRs amendments were also circulated to the higher education sector for comment in May 2006. Thirteen (13) responses were received, all of which were supportive of the minor HEWRRs amendments.

Commencement
The guidelines commence the day after registration on the Federal Register of Legislative Instruments.