EXPLANATORY STATEMENT

List of grants under Division 41 for 2015 in relation to the Indigenous Support Programme

Issued by the authority of the Minister for Indigenous Affairs

Subject: Higher Education Support Act 2003
List of maximum grant amount for grants to be made under Division 41 in 2015

Authority
Subsection 41-50(1) of the Higher Education Support Act 2003 (the Act) provides that before the start of a year, the Minister responsible must, by legislative instrument, cause a list to be prepared setting out the maximum amount of all grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10 of the Act.

Purpose
The list sets out:

- the purpose of grant specified in Item 1 of the table in section 41-10 of the Act; and
- the maximum amount of all grants for the purpose of grant for the 2015 calendar year in relation to the Indigenous Support Programme.

Amounts Listed
- The Indigenous Support Programme maximum amount was previously included in Item 1 - Promote Equality of Opportunity in Higher Education in the list issued by the Minister for Education.
- As a result of changed administrative arrangements for the Act, the Minister for Indigenous Affairs must now cause a list to be prepared for Item 1 in relation to the Indigenous Support Programme.
- A separate instrument issued by the Minister for Education lists maximum amounts for Item 1 (in relation to programmes other than the Indigenous Support Programme), and Items 2-12.

Consultation
Consultation was undertaken with the Department of Education.

Commencement
The list is a Legislative Instrument under the Legislative Instruments Act 2003. The list takes effect the day after it is registered on the Federal Register of Legislative Instruments.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

List of Grants under Division 41

This Legislative Instrument is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

Subsection 41-50(1) of the Higher Education Support Act 2003 (the Act) provides that before the start of a year, the Minister must, by legislative instrument, cause a list to be prepared setting out the maximum amounts of all Other Grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10 of the Act.

The list sets out the purpose of grant specified in Item 1 of the table in section 41-10 of the Act as well as the maximum amount of all grants in relation to the Indigenous Support Programme for the purpose of grant for the 2015 calendar year.

Human Rights implications

Right to Education

The Instrument engages the right to education contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights.

The Minister must cause a list to be prepared to set out the maximum amounts of all Other Grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10. By doing so, the Legislative Instrument will support the payments of the Other Grants for the purposes specified in the table in section 41-10 of the Act. As the purposes of the Other Grants include the promotion of equality of opportunity in higher education, the support of diversity and structural reform and the support of the training of research students (amongst other purposes) the Legislative Instrument enables access to education and therefore will be compatible with human rights. The maximum payment amounts are capped having regard to reasonable, necessary and proportionate constraints on spending.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument aims to improve the integrity of the higher education sector.

Conclusion

This Legislative Instrument is compatible with human rights.

Senator the Hon Nigel Scullion, Minister for Indigenous Affairs