Commonwealth of Australia

Higher Education Support Act 2003

FEE-HELP GUIDELINES AMENDMENT NO. 2

Amendments to Guidelines made pursuant to section 238-10 of the Higher Education Support Act 2003

I, Christopher Pyne, Minister for Education and Training, pursuant to section 238-10(1) of the Higher Education Support Act 2003 (the Act) make the attached amendment No. 2 to the FEE-HELP Guidelines which provide for matters under Part 3-3 of the Act.

Dated this 19th day of May 2015.

Signed

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CHRISTOPHER PYNE
Minister for Education and Training
Commonwealth of Australia

Higher Education Support Act 2003

FEE-HELP Guidelines Amendment No. 2

(I) CITATION

This legislative instrument may be cited as the FEE-HELP Guidelines Amendment No. 2.

(II) AUTHORITY

This legislative instrument is made pursuant to Item 4 of the table in subsection 238-10(1) of the Higher Education Support Act 2003 (the Act) to provide for matters set out in Part 3-3 of the Act.

(III) COMMENCEMENT

This legislative instrument commences on the day after registration on the Federal Register of Legislative Instruments.

(IV) PURPOSE

This legislative instrument aims to simplify and streamline requirements relating to the submission and publication of tuition fees, census dates and EFTSL values in order to reduce administrative burden placed on Open Universities Australia and to replicate the existing provisions relating to all higher education providers.

The instrument updates provisions related to FEE-HELP for bridging courses for overseas-trained professionals by removing the table of professional occupations and assessing bodies from FEE-HELP Guidelines, rather referring to the source table contained in a legislative instrument made under the Migration Regulations 1994.
Schedule 1  Amendments

Item 1

Repeal and substitute the title in the Table of Contents for chapter 2 with:

Chapter 2 Bridging Courses for Overseas-Trained Professionals

Item 2

Repeal and substitute paragraph 1.1.5 with:

1.1.5 In the FEE-HELP Guidelines, unless the contrary intention appears:

Administration Guidelines means the Administration Guidelines made under subsection 238-10(1) of the Act.

ANZSCO means the Australian and New Zealand Standard Classification of Occupations, version 1.2 (ABS catalogue number 1220.0 ANZSCO). ANZSCO is the classification system that provides for the standardised collection, analysis and dissemination of occupation data administered by the Australian Bureau of Statistics.

Department means the department that administers FEE-HELP Guidelines.

Higher Education Provider Guidelines means the Higher Education Provider Guidelines made under section 238-10 of the Act.

OUA means Open Universities Australia Pty Ltd (ACN 053 431 888).

The annual financial reporting period for OUA is the period of 12 months to which OUA’s accounts relate.

Published census date(s) has the meaning given in paragraph 3.30.30 of FEE-HELP Guidelines, and may be a specific date, or as referenced by OUA.

Published EFTSL value(s) has the meaning given in paragraph 3.30.30 of FEE-HELP Guidelines. Published tuition fee means a fee included in a schedule of tuition fees published on OUA’s website pursuant to paragraph 3.25.15(b) of FEE-HELP Guidelines.

Skilled Occupation List means the Skilled Occupation List included in a legislative instrument, as in force from time to time, specifying categories of professional occupations and relevant assessing authorities under regulations 1.15I and 2.26B of the Migration Regulations 1994.
Item 3

Repeal and substitute paragraph 2.5 with:

2.5 LISTED PROFESSIONAL OCCUPATIONS AND ASSESSING BODIES

2.5.5 For the purposes of section 104-60 of the Act, listed professional occupations are those occupations listed on the Skilled Occupation List and designated with a prefix numeral of “2” under ‘Group 2 Professionals’ of ANZSCO.

2.5.10 Under section 104-50 of the Act, assessing bodies may issue assessment statements for the purposes of FEE-HELP for their listed professional occupation. Pursuant to subsection 104-55(3) of the Act, assessing bodies may have assessing authority limited to specific States or Territories. Assessing bodies for listed professional occupations are those bodies listed as assessing authorities in the Skilled Occupation List. Where an assessing body is not limited to a particular State or Territory, it may issue assessment statements in all States and Territories.

Item 4

In paragraphs 3.10.1 and 3.10.10, make the following minor typographical edits:

- In paragraph 3.10.1, remove the word ‘though’ and replace with the word ‘through’.
- In paragraph 3.10.10, remove the word ‘affect’ and replace with the word ‘effect’.

Item 5

Repeal and substitute paragraph 3.15.40(a) with:

a) the Australian Privacy Principles set out in Schedule 1 to the Privacy Act 1988; and

Item 6

Repeal and substitute paragraph 3.15.51 with:

3.15.51 Complaints about breaches of privacy should be referred to the Department’s Privacy Contact Officer. Privacy complaints may be emailed to privacy@education.gov.au. Privacy complaints can be made directly to the Australian Privacy Commissioner; however the Australian Privacy Commissioner prefers that the Department first be given an opportunity to deal with the complaint.

Item 7

Repeal and substitute paragraph 3.25.6 with:

3.25.6 For the purposes of paragraph 3.25.10 and 3.25.15 of the FEE-HELP Guidelines, the period commences on the earliest enrolment date for the unit as determined by OUA and ends on the completion date for the unit as determined by OUA. However, if it is the case that the dates defined as the period for the purposes of subsections 19-90(1) and 19-95(1) of the Act by the Higher Education Provider Guidelines differ from the dates stated above, then the dates stipulated by the Higher Education Provider
Guidelines shall be the definition of period for the purposes of paragraphs 3.25.10 and 3.25.15 of the FEE-HELP Guidelines.

Item 8

Repeal and substitute paragraph 3.25.15 with:

3.25.15 For the purposes of paragraph 104-3(2)(e) of the Act:
   a) OUA must ensure the schedule provided under paragraph 3.25.10 provides sufficient information to enable a person to work out his or her tuition fee for each unit of study to which OUA provides access or proposes to provide access; and
   b) the form in which OUA gives the Minister the schedule under paragraph 3.25.10 is by publishing the schedule on OUA’s website; and
   c) the date by which OUA gives the Minister the schedule under paragraph 3.25.10 is on or before the earliest enrolment date for the unit of study as determined by OUA; and
   d) OUA must publish the schedule of tuition fees for a particular period on OUA’s website by the date set out for delivery to the Minister in paragraph 3.25.15(c) above.

However, if it is the case that the Higher Education Provider Guidelines stipulate dates for higher education providers to deliver equivalent schedules, and where the dates stipulated by the Higher Education Provider Guidelines differ from the dates stated in paragraph 3.25.15(c) above, then the dates stipulated by the Higher Education Guidelines shall be the dates by which OUA should deliver schedules for the purposes of paragraph 3.25.15 of the FEE-HELP Guidelines.

Item 9

Repeal and substitute paragraph 3.25.20 with:

3.25.20 a) For the purpose of paragraph 104-4(2A)(a) of the Act, OUA may only vary a published tuition fee if the variation occurs prior to the published census date for the unit of study, and:
   i) the variation does not disadvantage a student enrolled, or a person seeking to enrol; and
   ii) the variation is necessary to correct the published tuition fee due to administrative error or circumstances that did not apply at the time the student contribution amount or tuition fee was determined.
   b) Without limiting the generality of paragraph 3.25.20(a)(i) of FEE-HELP Guidelines, a student will be disadvantaged by a variation that increases the tuition fee.

However, if it is the case that the dates and circumstances stipulated by the Higher Education Provider Guidelines for the variation of tuition fees by higher education providers differ from the dates and circumstances stipulated by (a) and (b) above in any manner, then the dates and circumstances stipulated by the Higher Education Provider Guidelines shall apply for the purposes of paragraph 3.25.20 of the FEE-HELP Guidelines.
Item 10

Repeal and substitute paragraph 3.25.25 with:

3.25.25 If OUA varies a tuition fee in accordance with subsection 104-4(2A) of the Act, OUA must:
   a) withdraw any previous schedule given under paragraph 3.25.10 or this paragraph 3.25.25 of FEE-HELP Guidelines which contains the tuition fee subject to variation; and
   b) inform the Minister of the variation; and
   c) give the Minister a replacement schedule incorporating the variation by publishing the replacement schedule on OUA’s website as soon as practicable after making that decision.

Item 11

Repeal and substitute paragraph 3.30.25 with:

3.30.25 OUA must ensure that a date determined under subsection 104-4(5) of the Act to be the census date for a unit of study must not occur less than 20 per cent of the way through the period between the unit commencement and completion dates.

Item 12

Repeal and substitute paragraph 3.30.26 with:

3.30.26 For the purposes of subsection 104-4(1) of the Act and paragraph 3.30.30 of the FEE-HELP Guidelines, the period commences on the earliest enrolment date for the unit as determined by OUA and ends on the completion date for the unit as determined by OUA.

However if it is the case that the dates defined as periods for the purposes of subsection 169-25(1) of the Act by the Administration Guidelines differ from the dates stated above, then the dates stipulated by the Administration Guidelines shall be the definition of period for the purposes of paragraph 3.30.30 of the FEE-HELP Guidelines.

Item 13

Repeal paragraph 3.30.30 and substitute with:

3.30.30 OUA must publish the census dates published census date(s) and EFTSL values published EFTSL value(s) for each unit of study to which access is provided by OUA during a period by posting it on OUA’s website on or before the earliest enrolment date for the units of study as determined by OUA.

However if it is the case that the dates stipulated by the Administration Guidelines for the publishing of census dates and EFTSL values by higher education providers differ from the dates stated above, then the dates stipulated by the Administration Guidelines shall be the governing dates for paragraph 3.30.30 of the FEE-HELP Guidelines.
Item 14

Repeal paragraph 3.30.35 and substitute with:

3.30.35 Once OUA has published the census date and EFTSL value for a unit of study under paragraph 3.30.30 of FEE-HELP Guidelines, OUA may only vary that census date or EFTSL value if the variation occurs before the day of the published census date; and

a) the variation does not disadvantage a student enrolled, or a person seeking to enrol; and

b) the variation is necessary to correct the published census date or EFTSL value due to administrative error or circumstances that did not apply at the time the census date or EFTSL value was determined.

However, if it is the case that the dates and circumstances stipulated by the Administration Guidelines for the variation of census dates and EFTSL values by higher education providers without written ministerial approval differ from the dates and circumstances stipulated above in any manner, then the dates and circumstances stipulated by the Administration Guidelines shall apply for the purposes of paragraph 3.30.35 of the FEE-HELP Guidelines.

Item 15

After paragraph 3.30.35 insert:

3.30.36 Without limiting the generality of paragraph 3.30.35(a) of FEE-HELP Guidelines, a student or person will be disadvantaged by a variation that:

a) reduces the published EFTSL value for a unit of study; or

b) brings the published census date for a unit of study forward in time.

Item 16

Repeal paragraph 3.30.37 and substitute with:

3.30.37 a) If OUA varies a published census date or published EFTSL value under paragraph 104-4(5A)(a) of the Act, OUA must publish the varied census date or EFTSL value on OUA’s website as soon as practicable after making that decision.

b) If OUA varies a published census date under paragraph 104-4(5A)(b) of the Act, OUA must publish the variation by the date, and in the manner, specified by the Minister in the approval.

However, if it is the case that the date and circumstances stipulated by the Administration Guidelines for the publication of the varied census dates or EFTSL values differ from the date and circumstance stipulated above in any manner, then the conditions and dates stipulated by the Administration Guidelines shall apply for the purposes of paragraph 3.30.37 of the FEE-HELP Guidelines.