

## **EXPLANATORY STATEMENT**

Issued by the authority of the Higher Education Tuition Protection Director

### ***Higher Education Support (HELP Tuition Protection Levy) Act 2020***

### ***Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2022***

#### **PURPOSE AND OPERATION**

The purpose of the *Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2022* (the Instrument) is to determine various matters relevant to the calculation of the risk rated premium component and special tuition protection component of the HELP tuition protection levy (the Levy) for the 2022 calendar year.

The Levy is imposed under section 6 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020* (the Act) on all leviable providers (as defined in section 5 of the Act) and provides an industry contribution towards the costs of tuition protection for students accessing HECS-HELP or FEE-HELP assistance at private higher education providers. The amount of the Levy for a year for a leviable provider is the sum of the provider's administrative fee component, risk rated premium component and special tuition protection component. The Levy is payable into the Higher Education Tuition Protection Fund (the Fund), which is established under section 167-1 of the *Higher Education Support Act 2003* (HESA) and managed by the Higher Education Tuition Protection Director (the Director).

The Director is accountable for the appropriate and sustainable management of the Fund. This Instrument assists the Director in exercising their functions under the HESA by maintaining a high level of student protection and ensuring sufficient funds are held in the Fund to place students in a suitable replacement course or re-credit their HELP balance in the event of provider defaults.

#### **AUTHORITY**

This Instrument is made by the Director under section 13 of the Act.

Subsection 13(1) of the Act provides that, before 1 August 2020 and each later year, the Director must, by legislative instrument, determine the matters set out in section 13 of the Act for the purposes of sections 11 and 12 of the Act. Such matters relate to the calculation of the risk rated premium component and special tuition protection component of the Levy for the year.

In making an instrument under section 13, the Director must have regard to any advice of the Higher Education Tuition Protection Fund Advisory Board (the Advisory Board) and the sustainability of the Fund (subsection 13(4) of the Act). The Director may also have regard to any other matter that the Director considers appropriate (subsection 13(5) of the Act).

The Treasurer must approve the instrument in writing before it is made by the Director (subsection 13(6) of the Act).

## BACKGROUND

The Act commenced on 1 January 2020 and imposes the Levy on leviable providers (as defined in section 5 of the Act). The Act was part of a package of legislation to implement a new tuition protection model for students participating in the VET Student Loans program and for higher education students accessing HECS-HELP or FEE-HELP assistance at private higher education providers.

The Levy comprises three components:

- the administrative fee component;
- the risk rated premium component; and
- the special tuition protection component.

The Act specifies the amounts, or methods for calculating the amounts, for each component of the Levy. It also specifies the manner in which, and by whom, various matters relevant to each component of the Levy must be determined each year.

The Director is responsible for determining, through a legislative instrument each year, various matters relevant to the calculation of the risk rated premium component and special tuition protection component.

The Minister is responsible for determining, also through a legislative instrument, amounts relevant to the calculation of the administrative fee component.

In accordance with paragraph 19-66A(3)(f) of the *Higher Education Support Act 2003*, in 2020 and 2021 the *Higher Education Provider Guidelines 2012* were amended to waive the requirement on higher education providers to pay the Levy for those year. The decision to waive the requirement followed the making of a determination under section 13 of the Act in 2020 and no determination was made in 2021.

If a leviable provider is a new provider for a year, the new provider only pays part of the administrative fee component in their first year (noting the amount of both the new provider's risk rated premium component and special tuition protection component is zero – subsections 11(1) and 12(1) of the Act).

The risk rated premium component is intended to cover the risk of each provider defaulting (including where the provider fails to start to provide, or ceases to provide, a unit of study for a student). It is calculated according to a detailed methodology provided for in subsection 11(2) of the Act and as represented by the formula below.

### ***Risk rated premium component***

$$= \left\{ \left( \begin{array}{c} \text{total HELP students} \\ \text{for the year} \\ \times \\ \text{amount determined} \\ \text{by the Director} \end{array} \right) + \left( \begin{array}{c} \text{HECS-HELP \& FEE-HELP} \\ \text{loan amounts paid for} \\ \text{previous year} \\ \times \\ \text{percentage determined} \\ \text{by the Director} \end{array} \right) \right\} \times \{(risk\ factor\ values) + 1\}$$

‘Total HELP students’, for a leviable provider for a year, means the total number of students who were enrolled during the previous year (2021) in a least one unit of study that forms part of a course of study that has its census date in the previous year (2021) and were entitled to HECS-HELP or FEE-HELP assistance for that unit (see definition of ‘total HELP students’ in section 5 of the Act).

The special tuition protection component of the Levy is intended to enable the Fund to grow and to ensure against future systemic shocks. Subsection 12(2) of the Act sets out how the special tuition protection component is to be calculated, as represented by the formula below.

***Special tuition protection component***

$$= \left( \frac{\text{HECS-HELP \& FEE-HELP loan amounts paid for previous year}}{\text{HECS-HELP \& FEE-HELP loan amounts paid for previous year}} \right) \times \left( \begin{array}{l} \text{percentage determined} \\ \text{by the Director} \end{array} \right)$$

**CHANGES MADE BY THE INSTRUMENT TO THE CALCULATION OF THE LEVY**

As identified above, the *Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2020* (2020 Instrument) was made by the Director in 2020, but liability to pay the Levy was subsequently waived by the Minister to support higher education providers at a time when they were dealing with the financial impacts of the COVID-19 pandemic. Liability to pay the Levy was also waived in 2021 and, as a result, it was not necessary for the Director to make a determination in 2021.

The Instrument is largely consistent with the 2020 Instrument, such that the calculation of the risk rated premium component and special tuition protection component of the Levy for the 2022 calendar year largely reflects the intended calculation of those components of the Levy for the 2020 calendar year.

The Instrument makes several changes to the way the risk rated premium component and special tuition protection component of the Levy will be calculated for the 2022 calendar year compared to how these components were calculated under the 2020 Instrument. These changes include those planned for 2021 by the previous TPS Director and 2022 changes approved by the current TPS Director, having regard to advice from the Advisory Board and the Australian Government Actuary.

**2021**

- As a temporary COVID-19 pandemic relief measure, reducing the risk factor values for providers with completion rates of less than 60 per cent.
- A change to improve the completion rate risk factor – replacing the existing single risk factor value for providers with completion rates of 60 per cent or more, with the introduction of two risk factor values for providers with completion rates of 60 per cent or more but less than 85 per cent, and for providers with completion rates of 85 per cent or more. This change provides additional granularity to the completion rate risk factor commensurate with the risk of a provider default.
- A change to improve the performance of the financial strength risk factor component – the thresholds used to determine a score for a provider’s net profit ratio, which is one of the factors which contributes to its financial strength score, will be amended. A provider previously needed a net profit ratio greater than 0.7 to receive a net profit ratio score of 3, but will now only need a net profit ratio greater than 0.2 to receive the same score. Changes have also been made to the net profit ratio required to receive a net profit ratio score of 1 or 2. This change improves the financial strength risk factor by more evenly distributing providers across the net profit ratio scores reflective of the risk of default.
- A change to expand the non-compliance history risk factor to include a component related to the renewal of a provider’s registration as a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) for less than the maximum period of seven years specified in the TEQSA Act.

- In recognition of the impact of the COVID-19 pandemic and the absence of any claims on the Fund, a reduction in the percentage specified for the calculation of the special tuition protection component of the Levy.

## **2022**

- A change to introduce a financial strength risk factor value of 0.0 for providers that were not required to submit a financial statement.

## **CONSULTATION**

The TPS Director has consulted and considered the Advisory Board's advice in making this Instrument. The Advisory Board released its draft advice in relation to the proposed settings for the risk rated premium and special tuition protection components of the Levy in May 2022. Providers and industry peak bodies were invited to provide feedback during this public consultation, which was considered by the Director and the Board. In June 2022, the Advisory Board provided its final advice to the TPS Director. A copy of the final advice is available on the Australian Government Tuition Protection Service website:

<https://www.dese.gov.au/resources/tps>. The Director consulted closely with the Board in developing the Instrument, and the Instrument as formulated reflects the Board's advice and guidance.

Members of the Advisory Board are members of the TPS Advisory Board (section 167-30 of HESA), who are appointed by the Minister under section 55D of the *Education Services for Overseas Students Act 2000* (taking into account the membership specifications set out in section 55C of that Act). The Advisory Board currently comprises seven non-government sector representatives, selected on the basis of their qualifications and experience in the sector, and six government representatives.

The Director has also worked extensively with the Australian Government Actuary (AGA) in determining the risk factors and methods for working out the risk factor values.

The Director and the Advisory Board also consulted with higher education providers and their representatives on the Levy framework, and the risk rated premium and special tuition protection components of the Levy.

The Director also consulted the Department of Education regarding the Advisory Board's draft advice. No concerns were raised.

## **REGULATORY IMPACT**

The Office of Best Practice Regulation (OBPR) has advised that the instrument is unlikely to have more than a minor regulatory impact and therefore a regulation impact statement is not required for this Instrument (OPBR reference 23325).

## **FINANCIAL IMPACT STATEMENT**

This Instrument will result in a projected revenue of approximately \$2.25 million in 2022.

Given the funds are credited to a special account, and are derived from industry contributions, the funds can only be appropriated for the purposes of the special account.

In determining the matters relevant to the calculation of the risk rated premium component and special tuition protection component of the Levy, the Director considered not only the sustainability of the Fund, but also the reality of the economy-wide ramifications and impact of the COVID-19 pandemic on businesses and education in Australia. The Director's focus and intention in determining those matters was on supporting Australian businesses and student welfare.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2022

The *Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2022* (the Instrument) is compatible with the 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**

The purpose of the Instrument is to determine various matters relevant to the calculation of the risk rated premium component and special tuition protection component of the HELP tuition protection levy (the Levy) for the 2022 calendar year.

The Levy is imposed under section 6 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020* (the Act) on all leviable providers (as defined in section 5 of the Act) and provides an industry contribution towards the costs of tuition protection for students accessing HECS-HELP and FEE-HELP assistance at private higher education providers. The amount of the Levy for a year for a leviable provider is the sum of the provider's administrative fee component, risk rated premium component and special tuition protection component. The Levy is payable into the Higher Education Tuition Protection Fund (the Fund), which is established under section 167-1 of the *Higher Education Support Act 2003* (HESA) and managed by the Higher Education Tuition Protection Director (the Director).

The Director is accountable for the appropriate and sustainable management of the Fund. This Instrument assists the Director in exercising their functions under the HESA by maintaining a high level of student protection and ensuring sufficient funds are held in the Fund to place students in a suitable replacement course or re-credit their HELP loan balance in the event of provider defaults.

#### **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*. In particular, Article 13 provides that '[h]igher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means...'

The Instrument is part of the broader HELP tuition protection scheme (the Scheme) set out in the HESA. The Scheme's aim is to ensure students accessing HECS-HELP and FEE-HELP assistance are protected and supported in the event that their approved course provider defaults (meaning the provider fails to start to provide, or ceases to provide, a unit of study for a student) by either providing a suitable replacement course or re-credit to their HELP balance.

The Instrument determines various matters relevant to the calculation of the risk rated premium component and special tuition protection component of the Levy for the 2022 calendar year.

The risk rated premium component ensures that a leviable provider's risk of default is reflected in the amount of Levy payable by that provider and ensures providers are financially incentivised to reduce their risk of defaulting.

The special tuition protection component of the Levy ensures that the Fund builds to a sufficient balance.

The Instrument will ensure that sufficient funds are held in the Fund to cover the ongoing costs of providing tuition protection to students accessing HECS-HELP and FEE-HELP assistance, thereby maintaining a high level of student protection in the event a course provider is no longer able to deliver a unit of study. The Instrument is compatible with, and will enhance, the right to education by ensuring that there are appropriately funded tuition protection arrangements in place for higher education students.

The Instrument is compatible with, and promotes, the right to education.

### **Conclusion**

This Instrument is compatible with human rights because it advances the protection of human rights.

## **Higher Education Tuition Protection Director**

# HIGHER EDUCATION SUPPORT (HELP TUITION PROTECTION LEVY) (RISK RATED PREMIUM AND SPECIAL TUITION PROTECTION COMPONENTS) DETERMINATION 2022

## EXPLANATION OF PROVISIONS

### **Part 1 – Introduction**

#### **Section 1: Name**

Section 1 of the *Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2022* (the Instrument) is a formal provision setting out the name of the Instrument.

#### **Section 2: Commencement**

Section 2 is also a formal provision. It sets out the date of commencement of the Instrument and provides that the Instrument will commence on the day after it is registered.

#### **Section 3: Authority**

Section 3 sets out the Higher Education Tuition Protection Director's (the Director) authority to make the Instrument.

The Instrument is made under section 13 of the *Higher Education Support (HELP Tuition Protection Levy) Act 2020* (the Act), for the purposes of sections 11 and 12 of the Act, which relate to the calculation of the risk rated premium component and special tuition protection component of the HELP tuition protection levy (the Levy) for the year.

In accordance with subsection 13(4) of the Act, in making this Instrument, the Director had regard to the advice of the Higher Education Tuition Protection Fund Advisory Board (the Advisory Board) and the sustainability of the Higher Education Tuition Protection Fund (the Fund). The Director also had regard to other matters that the Director considers appropriate (subsection 13(5) of the Act).

In accordance with subsection 13(6) of the Act, the Treasurer has approved the Instrument.

#### **Section 4: Definitions**

Section 4 includes definitions for the purposes of the Instrument.

In particular, 'financial statement' means the statement given by a leviable provider to the Minister for the purposes of section 19-10 of the *Higher Education Support Act 2003* (HESA) for the annual financial report ending in 2021. This term is used in section 6 of the Instrument and is relevant to the determination of the risk factor value for the financial strength risk factor for a leviable provider.

'Statement of general information' means the information provided by a leviable provider to the Minister in accordance with a notice under section 19-70 of HESA. This term is used in section 7 of the Instrument and is relevant to the determination of the risk factor value for the completion rate risk factor for a leviable provider.

Section 4 also includes a note the purpose of which is to confirm that certain expressions used in the instrument are defined in section 5 of the Act.



## **Part 2 – Risk rated premium component**

Section 11 of the Act deals with the risk rated premium component of the Levy:

- subsection 11(1) of the Act provides that if a leviable provider is a new provider for a year, the amount of the provider's risk rated premium component for the year is zero;
- subsection 11(2) of the Act sets out a six-step method statement for calculating a leviable provider's risk rated premium component. The Director is responsible for determining various matters for the purposes of different steps in the method statement in subsection 11(2).

Sections 5 to 8 of the Instrument set out the matters determined by the Director for the purposes of subsection 11(2) of the Act, allowing the risk rated premium component of the Levy for the 2022 calendar year to be calculated.

### **Section 5: Risk rated premium component**

Subsection 5(1) provides that the amount for the purposes of step 1 of the method statement in subsection 11(2) of the Act is \$6.00.

Subsection 5(2) provides that the percentage for the purposes of step 2 of the method statement in subsection 11(2) of the Act is 0.06 per cent.

For the purposes of step 4 of the method statement in subsection 11(2) of the Act, subsection 5(3) of the Instrument specifies three risk factors that reflect the risk of payments being made out of the Fund in respect of leviable providers as a result of each of those factors. They are:

- (a) the financial strength risk factor;
- (b) the completion rate risk factor;
- (c) the non-compliance history and registration renewal risk factor.

Subsection 13(3) of the Act provides that a risk factor value for a risk factor must be a number between zero and 10 (inclusive). As set out below, the possible risk factor values for all the specified risk factors fall within this range.

### **Section 6: Risk factor – financial strength**

Subsection 6(1) of the Instrument specifies the risk factor value for the financial strength risk factor for a leviable provider, for the purposes of step 4 of the method statement in subsection 11(2) of the Act.

The risk factor value is:

- (a) 2.5, if the provider did not submit its financial statement (except in the circumstances outlined in paragraph (b));
- (b) 0.0, if the provider was not required to submit a financial statement;
- (c) as set out in the table in paragraph 6(1)(c), if the provider submitted its financial statement. Under the table, the risk factor value will depend on the financial strength score of the provider.

Paragraph 6(1)(b) is intended to capture providers that are approved under HESA in 2021

but, given the timing of the approval, were not required to submit a financial statement for the annual financial reporting period ending in 2021. A risk factor of 0.0 is appropriate for such a provider because in the absence of paragraph (b):

- a provider may attract a risk factor value of 2.5, which could be considered to be undue given the provider was not required to submit financial statements; and
- if a calculation, as set out in 6(1)(c) could be undertaken in respect of the provider, given the provider's recent approval, the calculation would likely result in a risk factor rating of 0.0.

Subsections 6(2) and (3) of the Instrument explain how a provider's financial strength score is to be determined. A provider's financial strength score is the sum of the scores for the net profit ratio, the return on assets and the debt to equity. The table in subsections 6(3) sets out formulas for calculating the score for each ratio, with the relevant information for those formula being taken or derived from the provider's financial statements.

In order to determine the score for the 'net profit ratio':

Based on the leviable provider's financial statement, the provider's 'net profit before tax' (NPBT) is divided by the provider's 'total revenue'. If the result is less than or equal to 0.1, then the provider's score is one. If the result is greater than 0.1 but less than or equal to 0.2, then the provider's score is two. If the result is greater than 0.2, then the provider's score is three.

In order to determine the score for the 'return on assets' ratio:

Based on the leviable provider's financial statement, the provider's NPBT is divided by the provider's 'total assets'. If the result is less than or equal to zero, then the provider's score is one. If the result is greater than zero but less than or equal to 0.1, then the provider's score is two. If the result is greater than 0.1, then the provider's score is three.

In order to determine the score for the 'debt to equity' ratio:

Based on the leviable provider's financial statement, the provider's 'total liabilities' is divided by the provider's 'total equity'. If the result is greater than or equal to 2.5, then the provider's score is one. Alternatively, if the provider's total equity is less than or equal to zero (that is, the provider has a negative value of equity or zero equity), then the provider's score is also one. If the result is less than 2.5 but greater than or equal to 1.5, then the provider's score is two. If the result is less than 1.5 but greater than or equal to zero, then the provider's score is three.

### **Section 7: Risk factor – completion rate**

Subsection 7(1) of the Instrument specifies the risk factor value for the completion rate risk factor for a leviable provider, for the purposes of step 4 of the method statement in subsection 11(2) of the Act.

The risk factor value is determined by reference to information reported by leviable providers in their statement of general information and is:

- (a) zero, if the provider did not report any units of study for the calendar year beginning

on 1 January 2021 (previous calendar year) in its statement of general information. For example, the provider did not deliver any units in 2021 and therefore there were no units to report;

- (b) as set out in the table in paragraph 7(1)(b), otherwise. Under the table, the risk factor value will depend on the provider's completion rate percentage.

The table introduces separate risk factor values for: (i) leviable providers with a completion rate percentage of 85 per cent or more; and (ii) leviable provider with a completion rate percentage of 60 per cent or more but less than 85 per cent. For 2022, the risk factor value for both categories of leviable providers is 0.0. This replaces the single risk factor value of 0.0 specified in the *Higher Education Support (HELP Tuition Protection Levy) (Risk Rated Premium and Special Tuition Protection Components) Determination 2020* (2020 Instrument) for leviable providers with completion rate percentages of 60 per cent or more.

In addition, the risk factor values specified in the table have been halved for leviable providers with completion rate percentages of less than 60 per cent. This is intended to be a temporary reduction in recognition of the effects of the COVID-19 pandemic. Specifically, the reduction recognises the impact on completion rates for certain courses due to social distancing and other pandemic-related restrictions.

In accordance with the definition of 'statement of general information' in section 4 of the Instrument, a leviable provider's completion rate risk factor value will be calculated by reference to data reported by the provider.

Subsection 7(2) of the Instrument sets out the formula for determining a provider's completion rate percentage, with the relevant information for that formula also being taken from the provider's statement of general information. This includes:

- the total EFTSL value for units with a census day in the previous calendar year for which no unit of study completion status has been reported (Data missing EFTSL);
- the total EFTSL value for units of study with a census day in the previous calendar year reported by the provider as having a unit of study completion status of 'failed' (Failed EFTSL);
- the total EFTSL value for units of study with a census day in the previous calendar year reported by the provider as having a unit of study completion status of 'unit of study to be commenced later in the year or still in process of completing or completion status not yet determined' (Ongoing EFTSL);
- the total EFTSL value for units of study with a census day in the previous calendar year reported by the provider as having a unit of study completion status of 'successfully completed all the requirements' (Passed EFTSL);
- the total EFTSL value for units of study with a census day in the previous calendar year reported by the provider as having a unit of study completion status of 'withdrew without academic penalty' (Withdrawn EFTSL).

'EFTSL' and 'EFTSL value' have the same meaning as in HESA.

### **Section 8: Risk factor – non-compliance history and registration renewal**

Section 8 of the Instrument specifies the risk factor value for the non-compliance history and registration renewal risk factor for a leviable provider, for the purposes of step 4 of the method statement in subsection 11(2) of the Act. The purpose of the non-compliance history and registration renewal risk factor is to assess the risk of a provider based on: their history of

non-compliance related to the late payment of other charges and payments; and the renewal of their registration as a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

As set out in the table in subsection 8(1) of the Instrument, the risk factor value will depend on the leviable provider's 'weighted late payment measure' as determined under subsection 8(3). Specifically, a leviable provider's weighted late payment measure is worked out by reference to the number of days after the due date on which the higher education provider charge and HELP tuition protection levy for each specified year, was received. Subsection 8(3) of the Instrument specifies a formula for calculating a leviable provider's weighted late payment measure for 2020 and 2021, because both the higher education provider charge and the HELP tuition protection levy came into effect and first applied in 2020. However, leviable providers were not liable to pay the higher education provider charge and HELP tuition protection levy in 2020 or 2021. Therefore, for 2020 and 2021 all leviable providers will have a weighted late payment measure of zero days and a corresponding risk factor value of zero.

The risk factor value will also depend on whether the leviable provider applied under section 35 of the TEQSA Act to renew its registration as a registered higher education provider. If the provider applied for renewal of its registration, the determination of the risk factor value will depend upon whether the period for which the registration was renewed (as set out in a notice given in 2021 under section 37 of that Act) was less than the maximum period of seven years allowed in accordance with subsection 36(4) of that Act. Only registered higher education providers under the TEQSA Act can be approved as higher education providers under HESA.

Subsection 8(2) of the Instrument provides that, where more than one item in the table at subsection 8(1) applies, the risk factor value for the non-compliance history and registration renewal risk factor for a leviable provider is the sum of the applicable risk factor values in column 3 of the table in subsection 8(1). For example, if a leviable provider has a weighted late payment measure of 30 days or more and its registration under the TEQSA Act was renewed for a period of 5 years, the provider's risk factor value would be 3.0.

The 2020 Instrument included a non-compliance history risk factor with a risk factor value of zero. This was because no other charges or levies were imposed on leviable providers in 2019, so there could not be a weighted late payment measure for that year. However, the accompanying explanatory statement explained how the risk factor value for the non-compliance history risk factor was intended to operate if the weighted late payment measure had been available.

Section 8 of the Instrument reflects the application of the higher education provider charge and HELP tuition protection levy to providers from 2020 and the expansion of this risk factor to also include a component related to the renewal of a leviable provider's registration as a registered higher education provider under the TEQSA Act.

### **Part 3 – Special tuition protection component**

#### **Section 9: Special tuition protection component**

Section 12 of the Act deals with the special tuition protection component of the Levy:

- subsection 12(1) provides that if a leviable provider is a new provider for a year, the

- amount of the provider's special tuition protection component for the year is zero;
- otherwise, a leviable provider's special tuition protection component for a year is the amount equal to the total amount of assistance paid to the provider under sections 96-1 and 110-1 of HESA in the previous year, multiplied by the percentage determined in an instrument made under section 13 for the purposes of subsection 12(2) for the year.

Section 9 of the Instrument provides that the percentage for the purposes of subsection 12(2) of the Act is 0.10 per cent.