

## EXPLANATORY STATEMENT

*A Determination made under subsection 5D(1) of the Student Assistance Act 1973*

### **Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)**

#### **Summary**

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)* (the Amendment Determination) is made under subsection 5D (1) of the *Student Assistance Act 1973* (the Act). Subsection 5D (3) of the Act provides that a determination under subsection 5D (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

The Amendment Determination amends the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* (Principal Determination). The Amendment Determination makes changes to the list of Masters courses in Schedule 3 to the Principal Determination by repealing that schedule and substituting it for a new Schedule 3.

The Masters courses listed in Schedule 3 are the Masters courses provided by higher education providers that are “tertiary courses” for the purposes of the Act. In turn, the determination of these courses as tertiary courses for the purposes of the Act allows people studying those courses to qualify for certain income support payments under social security law, such as Austudy payment and Youth Allowance (provided they meet the other qualification criteria for those payments).

#### **Notes on Clauses**

#### **Section 1**

Section 1 of the Amendment Determination provides that the name of the instrument is the *Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)*.

#### **Section 2**

Section 2 of the Amendment Determination provides that the instrument will commence on the day after it is registered on the Federal Register of Legislative Instruments.

#### **Section 3**

This clause provides that Schedule 1 of the Amendment Determination amends the Principal Determination.

#### **Item 1 of Schedule 1**

This item repeals Schedule 3 of the Principle Determination and substitutes it with Schedule 3 contained in the [Amendment Determination](#). The Masters courses listed in the new Schedule 3 include the 35 Masters courses listed in the following table that were not listed in Schedule 3 of the Principal Determination.

Education Institution	Course
Australian Catholic University	Master of Teaching (Early Years)
Bond University	Master of Architecture
Bond University	Master of Environmental Management (Sustainable Development)
Bond University	Master of Information Technology (Industry)
Charles Darwin University	Master of Psychology (Clinical)
Curtin University of Technology	Master of Health Information Management

Edith Cowan University	Master of Midwifery Practice
Edith Cowan University	Master of Paramedical Science
Flinders University of South Australia	Doctor of Medicine
Flinders University of South Australia	Master of Optometry
Griffith University	Master of Architecture
Griffith University	Master of Autism Studies
La Trobe University	Master of Counselling
La Trobe University	Master of Dietetic Practice
La Trobe University	Master of Orthoptics (Hons)
La Trobe University	Bachelor of Health Sciences and Master Orthoptics (Hons)
Monash University	Master of Teaching (Primary)
Murdoch University	Master of International Affairs
Tabor Adelaide	Master of Divinity
Top Education Institute Group Pty Ltd	Master of Professional Accounting
University of Canberra	Master Teaching
University of New South Wales	Master of Commerce (Finance)
University of New South Wales	Master of Planning
University of Queensland	Master of Occupational Health and Safety Science
University of Queensland	Master of Urban and Regional Planning
University of South Australia	Master of Teaching (Primary)
University of South Australia	Master of Teaching (Secondary)
University of Sydney	Master of Veterinary Studies
University of Western Australia	Juris Doctor
University of Western Australia	Doctor of Podiatric Medicine
University of Western Australia	Doctor of Dental Medicine
University of Western Australia	Master of Professional Engineering
University of Western Australia	Master of Teaching
University of Western Sydney	Master of Mental Health Nursing (Nurse Practitioner)
University of Western Sydney	Master of Urban Management and Planning

The three courses listed in the following table were in the list in Schedule 3 of the Principal Determination but have been removed from the list in Schedule 3 of the Amendment Determination at the request of the education provider as the provider considers those courses are no longer eligible for approval.

Education Institution	Course
Griffith University	Master of Nursing (Nurse Practitioner)
Griffith University	Master of Teaching Professional Practice) – Secondary
Griffith University	Master Teaching (Professional Practice) – Primary

Four of the currently approved courses have had their names changed as described in the table below:

Education Institution	New Course Name under new Schedule 3	Old Course Name under the Principal Determination
Cairnmillar Institute School of Counselling and Psychotherapy	Master of Psychology (Clinical Psychology)	Master of Psychology
RMIT University	Master of Applied Science (Statistics and Operations Research)	Master of Statistics and Operations Research
RMIT University	Master of Analytics	Master of Statistics (Business)
University of Adelaide	Master of Professional Accounting	Master of Commerce (Accounting)

### Consultation

The Department of Industry, Innovation, Science, Research and Tertiary Education (the Department) invited higher education providers to apply for the inclusion of their Masters courses in the list of Masters courses that are “tertiary courses” for the purposes of the Act. T

The [Guidelines for the approval of Masters courses](#) for inclusion in the Principal Determination are available on the Department's web site.

The Department undertook consultations with the higher education providers that sought inclusion of their Masters courses in the Amendment Determination.

The Amendment Determination has been developed in consultation with the Department of Education, Employment and Workplace Relations, and the Department of Families, Housing, Community Services and Indigenous Affairs.

#### **Regulatory Impact Analysis**

The Amendment Determination does not require a Regulatory Impact Statement or a Business Cost Calculator Figure. The Amendment Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

No special statutory conditions needed to be fulfilled prior to the making of the Amendment Determination.

## Statement of Compatibility with Human Rights

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

### ***Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)***

This Determination 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 Determination**

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)* (the Amendment Determination) is made under subsection 5D (1) of the *Student Assistance Act 1973* (the Act). Subsection 5D (3) of the Act provides that a determination under subsection 5D (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

The Amendment Determination amends the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* (Principal Determination). The Amendment Determination amends the list of Masters courses in Schedule 3 to the Principal Determination by adding new courses, replacing the names of existing courses and removing existing courses.

The Masters courses listed in Schedule 3 are the Masters courses provided by higher education providers that are “tertiary courses” for the purposes of the Act. In turn, the determination of these courses as tertiary courses for the purposes of the Act allows people studying those courses to qualify for certain income support payments under social security law, such as Austudy and Youth Allowance (provided they meet the other eligibility criteria for those payments).

#### **Human rights implications**

The Instrument engages the following human rights:

##### *Right to education*

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

By determining that certain Masters courses are “tertiary courses”, which in turn assists people studying those courses to qualify for certain income support payments under social security law, the Amendment Determination may enable students to access education and therefore will be compatible with human rights.

#### **Conclusion**

This instrument is compatible with human rights as it may enable students to access education.