

EXPLANATORY STATEMENT

Guidelines issued under section 238-10 of the Higher Education Support Act 2003

Amendment No 2 to the *Other Grants Guidelines (Education) 2012*

Issued by the authority of the Minister for Higher Education

Subject: *Higher Education Support Act 2003*
Amendment No. 2 to the *Other Grants Guidelines (Education)*
2012

Authority

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make guidelines providing for matters required or permitted by the Act necessary or convenient to be provided in order to carry out or give effect to the Act. In particular item 8 of section 238-10 specifies the Minister may make *Other Grants Guidelines* to give effect to matters under Part 2-3 of the Act.

Section 41-15 of the Act provides that the *Other Grants Guidelines* may specify one or more programs under which grants for particular purposes specified in the table in subsection 41-10(1) are to be paid.

Purpose and operation

This legislative instrument amends the *Other Grants Guidelines (Education) 2012* which was registered on the Federal Register of Legislative Instruments on 13 February 2012 and commenced on 14 February 2012 (see F2012L00281).

Commencement

This legislative instrument shall come into effect on the day it is registered on the Federal Register of Legislative Instruments.

Consultation

Consultation on the amendments was held with universities at an Equity in Higher Education Policy Forum held in April 2013. The proposed amendments received strong support from universities because it reduces their administrative burden, provides a more equitable means of allocating funding and enables research into best practice higher education equity practices.

Detail of provisions

This amendment inserts new subsections: 1.75.1, 1.75.5 and 1.75.6 to provide:

- a National Priorities Pool that provides funding for universities to undertake research, pilot projects and other activities to define and support best practice equity policies and programs in higher education; and
- that HEPPP Partnership funding will be allocated in accordance with the HEPPP Participation formula based on the number of domestic undergraduate students from low socio-economic status backgrounds at each university, or another means determined by the Minister. This new arrangement will enable more efficient and equitable distribution of HEPPP Partnership funds and provide the Minister with flexibility to further streamline means of allocation if necessary.

Statement of Compatibility with Human Rights

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

Amendment No 2 to the Other Grants Guidelines (Education) 2012

This Legislative 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

This legislative instrument amends the *Other Grants Guidelines (Education) 2012* to provide:

- a National Priorities Pool that provides funding for universities to undertake research, pilot projects and other related activities; and
- that HEPPP Partnership funding will be allocated in accordance with the HEPPP Participation formula based on the number of domestic undergraduate students from low socio-economic status backgrounds at each university, or by another means determined by the Minister.

Human rights implications

The Legislative Instrument engages the following human rights:

Right to education

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

The UN Committee on Economic Social and Cultural Rights has stated that the right to education requires that functioning educational institutions and programs have to be available in sufficient quantity within a country.

This amendment will contribute to this requirement and help advance the right to education by:

- supporting best practice equity policies and programs in higher education to assist people from disadvantaged backgrounds participate in higher education;
- increasing the number of students from low socio-economic status backgrounds accessing higher education.

Right to self-determination

The right to self-determination is contained in Article 1 of the International Covenant on Civil and Political Rights and Article 1 of the International Covenant on Economic, Social and Cultural Rights. This right is also contained in Article 3 of the Declaration on the Rights of Indigenous Peoples which informs the way governments engage with and protect the rights of Indigenous people.

Under these Articles the right to self-determination promotes the rights of all peoples to freely pursue their economic, social and cultural development without outside interference. Self-determination is a right that pertains to groups of people, not individuals. In Australia, it is particularly relevant to Aboriginal and Torres Strait Islander Peoples.

The legislative instrument engages the right to self-determination as it improves the ability of Indigenous People from low socio-economic backgrounds to access and participate in higher education and obtain the resulting economic and social benefits.

Conclusion

This Legislative Instrument is compatible with human rights because it advances the right to education and the right to self-determination.