**EXPLANATORY STATEMENT**

*Determination made under section 41-45 of the Higher Education Support Act 2003*

Issued by the authority of the Minister for Education

Subject:- *Higher Education Support Act 2003*

Higher Education (Maximum Amounts for Other Grants) Determination 2013

**Authority**

Subsection 41-45(1A) of the *Higher Education Support Act 2003* (the Act)provides that, the Minister may, by legislative instrument, determine the total payments made under Part 2-3 of the Act in respect of a year starting on or after 1 January 2013 but before 1 January 2017.

Subsection 41-45(1B) provides that the Minister must determine, by legislative instrument, the total payments made under that Part in respect of a year starting on or after 1 January 2017 before the start of that year.

Subsection 41-45(1C) provides that a determination under subsection (1B) for a year must be made before the start of that year.

**Purpose**

The determination sets out:

* the maximum amounts of all grants for Other Grants for the 2013 to 2017 calendar years.

**Consultation**

Consultation was not undertaken as amounts for other grants have been determined according to measures included in the Budget.

**Commencement**

The determination is a Legislative Instrument under the LIA. 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*

**Higher Education (Maximum Amounts for Other Grants) Determination 2013**

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**

Sections 41-45(1A), (1B) and (1C) of the *Higher Education Support Act 2003* (the Act)provide that, the Minister may, by legislative instrument, determine the total amounts made under Part 2-3 in respect of a year starting on or after 1 January 2013 but before 1 January 2017 and the Minister must determine, by legislative instrument, the total amounts made under that Part in respect of a year starting on or after 1 January 2017 before the start of the year.

The determination sets out the maximum amounts for all Other Grants for the 2013 to 2017 calendar years.

**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 is required to determine the maximum amounts payable by calendar year for Other Grants. 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.

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 because it advances the protection of human rights.

**The Hon Christopher Pyne MP, Minister for Education**