



Higher Education Support (Indigenous Student Assistance Grants) (Special Grants) Notifiable Instrument 2018

I, Nigel Scullion, Minister for Indigenous Affairs, make the following notifiable instrument.

Dated 14 August 2018

Nigel Scullion
Minister for Indigenous Affairs

Contents

1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
5 Approval of special grants	2
6 Amounts of special grants.....	2
7 Conditions on special grants	3
Schedule 1 – Conditions on special grants	4

1 Name

This instrument is the *Higher Education Support (Indigenous Student Assistance Grants) (Special Grants) Notifiable Instrument 2018*

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under section 38-20, subsection 38-25(2) and subsection 38-30(2) of the Act for the purposes of Part 2-2A of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in Schedule 1 of the Act, including the following:

- (a) course of study;
- (b) EFTSL;
- (c) enabling course;
- (d) enrolled;
- (e) higher education provider;
- (f) quality and accountability requirements;
- (g) student.

These expressions are identified in *italics* in this instrument.

In this instrument:

Act means the *Higher Education Support Act 2003*.

additional allocation has the meaning given by item 5 of Schedule 1 to this instrument.

administering officer means an employee in the Department administered by the Minister administering Part 2-2A of the Act.

eligible Indigenous student means a *student* who satisfies the requirements of item 2 of Schedule 2 to this instrument.

eligible payment means a payment specified in item 3 of Schedule 1 to this instrument.

initial allocation has the meaning given by item 4 of Schedule 1 to this instrument.

grant means:

- (a) the money or any part of it payable by the Commonwealth to a *higher education provider* under section 38-35 of the Act; and
- (b) any interest earned on a grant.

grant year means the calendar year in respect of which a special grant is approved under section 5.

Indigenous Commonwealth Accommodation Scholarship means an Indigenous Commonwealth Accommodation Scholarship provided for under Part 2-2A of the Act.

scholarship means an Indigenous Commonwealth Education Costs Scholarship or an Indigenous Commonwealth Reward Scholarship provided for under Part 2-2A of the Act.

special grant means a grant to a particular *higher education provider* approved under section 5 in respect of a grant year.

total allocation has the meaning given by item 5 of Schedule 2 to this instrument.

5 Approval of special grants

- (1) A grant under Part 2-2A of the Act is approved under section 38-20 of the Act to each *higher education provider* listed in subsection (2) in respect of the year 2018.
- (2) For subsection (1), the *higher education providers* are:
 - (a) Charles Darwin University;
 - (b) Charles Sturt University;
 - (c) Central Queensland University;
 - (d) Federation University Australia;
 - (e) James Cook University;
 - (f) Southern Cross University;
 - (g) University of New England;
 - (h) University of Southern Queensland;
 - (i) University of Tasmania;
 - (j) University of the Sunshine Coast.

6 Amounts of special grants

For subsection 38-30(2) of the Act, the amount specified in column 2 of the table is determined as the amount of the special grant that a *higher education provider* listed in column 1 of the table receives.

Column 1	Column 2
Higher education provider	Amount of special grant for 2018 grant year
1. Charles Darwin University	\$12,890
2. Charles Sturt University	\$77,340
3. Central Queensland University	\$32,225
4. Federation University Australia	\$9,023

Column 1	Column 2
Higher education provider	Amount of special grant for 2018 grant year
5. James Cook University	\$82,496
6. Southern Cross University	\$27,069
7. University of New England	\$12,890
8. University of Southern Queensland	\$30,936
9. University of Tasmania	\$21,913
10. University of the Sunshine Coast	\$18,046

Note: The effect of paragraph 38-30(1)(b) of the Act is that the amount of the special grant is the amount determined by the Minister under subsection 38-30(2) of the Act.

7 Conditions on special grants

For subsection 38-25(2) of the Act, the conditions that apply to each special grant are the conditions determined in Schedule 1 to this instrument.

Note: The effect of paragraph 38-25(1)(b) of the Act is that the conditions on which the special grant is made are:

- (a) the conditions determined by the Minister under subsection 38-25(2) of the Act for the purposes of subparagraph 38-25(1)(b)(i) of the Act; and
- (b) the condition specified at subparagraph 38-25(1)(b)(ii) of the Act that the provider must meet the quality and accountability requirements.

Schedule 1 – Conditions on special grants

1 Use of special grants

- (1) Subject to the requirements of this Schedule, a *higher education provider* that receives a special grant must use the grant in the grant year for one or more of the following purposes:
 - (a) to reimburse an eligible Indigenous student for the amount of an eligible payment made by the student in the grant year;
 - (b) to make an eligible payment on behalf of an eligible Indigenous *student*;
 - (c) to provide academic support to an Indigenous *student* in accordance with item 6 or item 7 of this Schedule;
 - (d) to do any other thing provided for in this Schedule.
- (2) A *higher education provider* must not use a special grant to provide a cash advance to an eligible Indigenous student unless:
 - (a) the cash advance is to enable the student to make an eligible payment; and
 - (b) an administering officer has agreed in writing to the terms of the cash advance.
- (3) Where a student ceases to be an eligible Indigenous student at a *higher education provider*, the provider must not use a special grant to:
 - (a) reimburse the student for an amount of an eligible payment made by the student after the student ceases to be an eligible Indigenous student; or
 - (b) make an eligible payment on behalf of the student.
- (4) A *higher education provider* must hold all unspent special grant money in an account that meets the following criteria:
 - (a) the account is with a deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on business in Australia; and
 - (b) the account is in the name of the provider; and
 - (b) the account is wholly controlled by the provider.
- (5) A *higher education provider* must manage its account and financial records so that all receipts and expenditure of the special grant are clearly identifiable and ascertainable at all times.

2 Eligible Indigenous students

For the purposes of this Schedule, a *student* is an eligible Indigenous student if:

- (a) the *student* is an Indigenous person who:
 - (i) has completed at least one *enabling course* at a *higher education provider* in the preceding calendar year; and
 - (ii) has *enrolled* in a *course of study* at a *higher education provider* in the grant year; and
- (b) the *student* is not in receipt of a scholarship from a *higher education provider*, unless the scholarship is an Indigenous Commonwealth Accommodation Scholarship.

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- Note: A *student* will become ineligible where the student, in the grant year:
- (a) fails to enrol in a *course of study* for the first semester or term;
 - (b) defers or withdraws from a *course of study*;
 - (c) accepts a scholarship from a *higher education provider* in respect of the grant year, unless the scholarship is an Indigenous Commonwealth Accommodation Scholarship.

3 Eligible payments

For the purposes of this Schedule, each of the following payments is an eligible payment:

- (a) payment of the cost of educational resources for an eligible Indigenous student, including:
 - (i) computing equipment; and
 - (ii) subscriptions to web services relevant to the student's *course of study*.
- (b) payment of the cost of additional tutoring for an eligible Indigenous student, including online tutoring accounts;
- (c) payment of the cost of childcare services for a child of an eligible Indigenous student while the student is undertaking a *course of study*;
- (d) payment of the cost of public transport for an eligible Indigenous student to travel to and from the *higher education provider*;
- (e) payment of the cost for an eligible Indigenous student to participate in educational related fora (for example, conferences or field trips related to the student's *course of study*);
- (f) payment of an amount incurred by an eligible Indigenous student as a debt to the Commonwealth in relation to the student's higher education, including a student start-up loan for the purposes of the *Social Security Act 1991*.

Note: Student start-up loans are provided for in Chapter 2AA of the *Social Security Act 1991*.

4 Allocation of grant amount

- (1) A *higher education provider* that receives a special grant must allocate an amount of the grant to each eligible Indigenous student in accordance with the following method:
 - (a) divide the grant amount by the number of eligible Indigenous students to determine the **EFTSL amount**; and
 - (b) for an eligible Indigenous student undertaking one EFTSL in the grant year – allocate the student an amount equal to the EFTSL amount; and
 - (c) for an eligible Indigenous student undertaking a fraction of one EFTSL (**EFTSL fraction**) in the grant year – allocate the student an amount that is determined by multiplying the EFTSL amount by the EFTSL fraction for the student.
- (2) An amount allocated to a student in accordance with this item is to be known as an **initial allocation**.

5 Reallocation of grant amount

- (1) This item applies where:
 - (a) a *higher education provider* has allocated an amount of a special grant to a student; and
 - (b) at any time before the last day of teaching at the provider, the student ceases to be an eligible Indigenous student.
- (2) As soon as practicable after the *higher education provider* becomes aware that the student is not an eligible Indigenous student, the provider must allocate an amount of the unspent amount of the student's total allocation to each remaining eligible Indigenous student in accordance with the method in item 4 of this Schedule.
- (3) An amount allocated to a student under this item is to be known as an ***additional allocation***.
- (4) The sum of the initial allocation for a student and any additional allocation for the student is the ***total allocation*** for the student.

6 Limitation on maximum total allocation

- (1) The maximum total allocation for an eligible Indigenous student must not exceed an amount of \$2,600 in the grant year.
- (2) Where the total allocation for an eligible Indigenous student would result in an amount in excess of \$2,600 being made available to the student in the grant year, the provider must:
 - (a) allocate a total amount of \$2,600 to the student for the grant year; and
 - (b) use any amount in excess of \$2,600 for the grant year to provide academic support to one or more Indigenous students.

Note: The total allocation that a student receives from a higher education provider after the provider allocates the amount of a special grant in accordance with items 4 and 5 of this Schedule may be less than the maximum total allocation of \$2,600.

7 Unspent amounts

- (1) This item applies if a *higher education provider* has not spent an amount of a special grant by the last day of teaching at the provider in the grant year.
- (2) Where, in a grant year:
 - (a) the provider has allocated the unspent amount to a student; and
 - (b) the unspent amount is to the value of \$50 or more; and
 - (c) the student owes a debt to the Commonwealth in relation to the student's higher education.

the provider must use the unspent amount to pay down the debt.

- (3) In all other circumstances, the provider must use the unspent amount to provide academic support, including supplementary tuition, to an Indigenous student.

8 Notice to students

- (1) A *higher education provider* that allocates an amount to an eligible Indigenous student under item 5 or item 6 of this Schedule must notify the student of the allocation.
- (2) For the purposes of sub-item (1), the notice to an eligible Indigenous student must include the following information:
 - (a) the amount of the allocation; and
 - (b) a list of eligible payments.
- (3) If requested by an eligible Indigenous student, a *higher education provider* must provide information to the student about the unspent amount of the total allocation for the student.

9 Record keeping

- (1) A *higher education provider* that receives a special grant must create and retain records for an eligible Indigenous student that includes the following information:
 - (a) the total allocation for the student, including a breakdown of the total allocation that shows the initial allocation and any additional allocation; and
 - (b) the unspent amount of the total allocation for the student; and
 - (c) any expenditure of an amount allocated to the student, including:
 - (i) a brief description of the expenditure; and
 - (ii) the amount of the expenditure; and
 - (iii) the date of the expenditure.
- (2) An administering officer may, in writing, request access to records of a *higher education provider* retained under sub-item (1).
- (3) A *higher education provider* that receives a request under sub-item (2) must:
 - (a) remove the names of eligible Indigenous students from the records; and
 - (b) provide the administering officer with access to the records within 30 days of the request.

10 Reporting

- (1) A *higher education provider* that receives a special grant must, on or before 1 May of the calendar year following the grant year, give a report to an administering officer that includes the following information:
 - (a) the number of eligible Indigenous students to whom the provider made an initial allocation; and
 - (b) the amount of the grant used by the provider for a purpose specified under paragraphs 1(1)(a) and (b); and
 - (c) the amount of the grant used by the provider for the purpose specified under paragraph 1(1)(c); and

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- (d) the amount of the grant used by the provider for the purpose specified under paragraph 1(1)(d).
- (2) The report provided by the *higher education provider* under sub-item (1) must:
- (a) be signed by the senior officer responsible for financial management at the provider; and
 - (b) declare that the special grant has been used in accordance with the conditions determined in this instrument.
- (3) Where:
- (a) an administering officer reasonably considers that there has been a potentially fraudulent use of a special grant; and
 - (b) the administering officer, in writing, requests information from a *higher education provider* about the use of the grant;

the provider must give the requested information to the administering officer within 30 days of the request.