

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment, Workforce, Skills,
Small and Family Business

Higher Education Support Act 2003

Commonwealth Scholarships Guidelines Amendment (Research) 2021

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. In particular, item 3 of the table in subsection 238-10(1) specifies the Minister may make Commonwealth Scholarship Guidelines to give effect to matters under Part 2-4 of the Act.

Paragraph 46-20(2)(f) of Part 2-4 of the Act provides that the Commonwealth Scholarship Guidelines may provide for how the amounts of grants to an eligible scholarship provider are to be determined in relation to indirectly-paid postgraduate research Commonwealth scholarships.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendments to the *Commonwealth Scholarships Guidelines (Research) 2017* (the Principal Instrument) made by the *Commonwealth Scholarships Guidelines Amendment (Research) 2021* (the Amendment Instrument) rely on this provision.

PURPOSE AND OPERATION

The purpose of the Amendment Instrument is to give effect to a decision of the Australian Government aimed at incentivising early engagement between industry, higher education providers (providers) and research doctorate students. This will strengthen links between the latest research and industry innovation, and open a pipeline of highly skilled research doctorate students for employment in industry based, non-academic roles.

The Amendment Instrument amends the Principal Instrument to include a new weighting in the formula which provides for how the amounts of grants to eligible providers are to be determined in relation to Research Training Program (RTP) funding. Eligible providers are Table A and B providers listed in sections 16-15 and 16-20 of the Act, respectively.

The RTP provides block grants on a calendar year basis to providers to fund scholarships for individual students undertaking Research Masters or Research Doctorate degrees.

Australia's Higher Degree by Research (HDR) system is vital to Australia's economy and RTP funding support ensures an ongoing high quality research workforce.

The objectives of the RTP are to:

1. provide flexible funding arrangements to support the training of domestic students and overseas students undertaking HDRs at Australian providers;
2. deliver graduates with the skills required to build careers in academia and other sectors of the labour market;
3. support collaboration between providers and industry and other research end-users; and
4. support overseas students undertaking HDRs at Australian providers.

The new RTP weighting of 2.0 will apply to each research doctorate student who undertakes an eligible research internship and who completes their course of study on or after 1 January 2022. The weighting will apply to grants made for the 2024 grant year and future grant years, based on data collected from 2022 onwards.

An eligible research internship must:

- a) be undertaken by a Research Doctorate student;
- b) be a minimum of three calendar months in duration; and
- c) include 60 full-time equivalent days of engagement in research and development (R&D) activities undertaken by the student.

The R&D activities to be undertaken by the student must be related to the student's area of research and be agreed in written form between the provider, student, and research end-user within 18 months or 36 months of the commencement of a full-time or part-time student's Research Doctorate, respectively.

REGULATORY IMPACT

The Office of Best Practice Regulation (OBPR) assessed that a Regulation Impact Statement is not required for the Amendment Instrument as the amendment is considered to be implementing a previous decision of Government which has already been assessed (OBPR reference 23328).

COMMENCEMENT

The Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

CONSULTATION

Consultation with the higher education sector was undertaken through the release of the *Growing industry internships for research PhD students through the Research Training Program* implementation paper, which is currently available on the department's website at

<https://www.dese.gov.au/research-block-grants/resources/growing-industry-internships-research-phd-students-through-research-training-program-implementation>. The paper was released for sector feedback on 20 July 2021 and submissions closed on 6 August 2021.

The Department received feedback from 54 respondents from across the sector which has informed final implementation arrangements.

The sector advocated for flexibility in the commencement of eligible internships, opposing an initial proposition for this to be within 18 months of a research doctorate student beginning their course. Most alternative models suggested settling internship arrangements within 18 months of course commencement, with flexibility for the internship to commence and be completed later in a student's course.

To address sector feedback, an 'eligible industry internship' will be defined as one that is agreed in written form with a research end-user within 18 months of a full-time research doctorate student's course commencement, or within 36 months of a part-time student's commencement. The student can then undertake the internship at any point throughout their course, provided they satisfy the internship requirements before they complete their course. The internship must be related to a research doctorate student's area of research, be at least three months long and consist of 60 full time equivalent days of engagement with a research end-user.

Providers with existing industry internship programs for research doctorate students may be positioned to respond more quickly to eligibility criteria and receive a relatively higher proportion of the available RTP funding pool. However, other providers may take time to adjust. To support implementation strategies, guidance materials, including comprehensive frequently asked questions, have been developed.

Providers expressed concern that they may not be able to implement necessary system changes to enable the reporting of required internship data through TCSI from 2022. However, HDR student completions data is not required to be finally submitted in TSCI until early January 2023, giving lead time for providers to amend systems as required.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Commonwealth Scholarships Guidelines Amendment (Research) 2021

The *Commonwealth Scholarships Guidelines Amendment (Research) 2021* (the Amendment 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

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Human rights implications

The Amendment Instrument engages the following human rights:

- the right to education contained in Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); and
- the right to work contained in Article 6 of the ICESCR.

Right to education

The Amendment Instrument promotes the right to education contained in Article 13 of the ICESCR. Article 13(2)(c) of the ICESCR provides that '*higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education*'.

The Amendment Instrument promotes the right to education by supporting higher education students to pursue, develop and transmit knowledge and ideas through research, teaching and discussion. The Amendment Instrument will ensure that the Guidelines continue to support and extend high-quality research training programs for research doctorate students by promoting meaningful engagement between academia and industry.

The Amendment Instrument promotes the right to education.

Right to work

The Amendment Instrument promotes the right to work contained in Article 6(1) of the ICESCR, which recognises the '*the right of everyone to the opportunity to gain [their] living by work*' and that States Parties will '*take appropriate steps to safeguard this right*'. Article 6(2) cites '*technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual*' as steps to be taken by a State Party to achieve the full realisation of the right contained in Article 6(1).

The Amendment Instrument will enable providers to support research doctorate students engage with industry and build new employment pathways beyond academic roles. This will be achieved through the provision of an additional RTP weighting for research doctorate students who complete their course of study having undertaken an eligible research internship.

The Amendment Instrument promotes the right to work.

Conclusion

The Amendment Instrument is compatible with human rights because it promotes the right to education and the right to work.

Minister for Employment, Workforce, Skills, Small and Family Business

COMMONWEALTH SCHOLARSHIPS GUIDELINES AMENDMENT (RESEARCH) 2021

EXPLANATION OF PROVISIONS

Section 1: Name

1. This section specifies the name of the instrument as the *Commonwealth Scholarships Guidelines Amendment (Research) 2021*.

Section 2: Commencement

2. This section specifies that the Amendment Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3: Authority

3. The Amendment Instrument is made by the Minister under section 238-10 of the Act.

Section 4: Schedules

4. This section simply clarifies that Schedule 1 is effective on its terms (that is, to amend the Principal Instrument).

Section 5: Application

5. This section specifies that the provisions inserted into the Principal Instrument by the Amendment Instrument only apply from the commencement of the Amendment Instrument.
6. The purpose of this section is to clarify that the new provisions which apply to ‘*Grant Years* prior to the 2024 *Grant Year*’ do not have a retrospective effect.

SCHEDULE 1—AMENDMENTS

Item 1: Paragraph i.v.ii

7. This item provides for the definition of two terms: ‘eligible research internship’ and ‘research internship’.
8. It also provides for those terms to be inserted into the Principal Instrument by the Amendment Instrument.
9. The definition of *eligible research internship* contains two parts: an *eligible research internship* must fulfil the definition of a *research internship* and also fulfil the requirements set out at new paragraph 1.4.13.

10. A *research internship* is defined broadly to encompass a broad range of practical engagement with industry by students and providers.
11. The definition of *research internship* also contains the defined terms of *research* and *R&D*. The Principal Instrument provides that *research* and *R&D* have the same meaning as 'Research and Experimental Development', as defined in the *Frascati Manual 2015*.
12. *The Frascati Manual* is published by the Organisation for Economic Cooperation and Development (OECD) and used by national statistical agencies to collect research and development data. The 2015 manual is the seventh edition since 1963, with the previous version issued in 2002.
13. The 2015 edition of the manual can be obtained from the OECD website at <https://www.oecd.org/publications/frascati-manual-2015-9789264239012-en.htm>.

Item 2: Paragraph 1.4.5 (definition of WSC)

14. WSC means weighted HDR student completions.
15. Paragraph 1.4.5 of the Principal Instrument sets out the formula for determining the RTP Basic Grant Amount (BGA) for a provider.
16. The formula allocates funding according to a provider's relative research performance, which is measured by its success in gaining Category 1, Category 2, Category 3 and Category 4 research income and HDR student completions as compared to other providers. The formula ensures that the providers receiving the greatest share of research income and HDR student completions receive the greatest share of the RTP funding pool. The nature of income constituting each income category is specified in Chapter i of the Principal Instrument.
17. The weightings applied to HDR student completions are specified in amended paragraph 1.4.10 and new paragraph 1.4.12. The definition of *WSC* has been repealed and replaced to account for the updates to weighted HDR student completions in amended paragraph 1.4.10 and new paragraph 1.4.12.
18. The new definition will ensure that the correct weighted HDR student completions are used in determining the BGA for providers for each grant year. For grant years prior to the 2024 grant year, weighted HDR student completions specified in amended paragraph 1.4.10 should be used. For the 2024 grant year and future grant years, weighted HDR student completions specified in paragraph new 1.4.12 should be used.
19. The shares of income and weighted HDR student completions are used to allocate the RTP funding pool.

Item 3: Paragraph 1.4.10

20. This item repeals and replaces paragraph 1.4.10, which sets out the weightings applied to HDR student completions for grant years prior to the 2024 grant year.
21. New paragraph 1.4.10 also sets out the method for calculating the WSC for a provider and all eligible providers for those years. Definitions for Research Doctorate, Research Masters, Indigenous student, and non-Indigenous student are included in Chapter i of the Principal Instrument.
22. The high-cost and low-cost fields of education are specified in Part 1.7 in the Principal Instrument.
23. Weightings are applied in relation to the level of a degree, the cost of a degree and the nature of the student undertaking the degree. These weightings impact the value of a completion and its funding consequences for a provider in the RTP allocation formula.
24. The weightings for the level and cost of a degree, or the nature of the student undertaking the degree, have not been changed by the Amendment Instrument.
25. Research Doctorate completions are weighted at twice the value of Research Masters completions in recognition of the cost of supporting a student for a longer period.
26. High-cost course completions are weighted at 2.35 times the value of low-cost course completions in recognition of the higher costs incurred in supporting students in those courses.
27. Completions by Indigenous students are weighted at twice the value of non-Indigenous student completions to provide a financial incentive to boost the number of Indigenous students completing HDRs.
28. The eight combinations of HDR student completions and their weightings are:
 - Non-Indigenous high-cost Research Doctorate completions are weighted at 4.7
 - Non-Indigenous high-cost Research Masters completions are weighted at 2.35
 - Non-Indigenous low-cost Research Doctorate completions are weighted at 2.0
 - Non-Indigenous low-cost Research Masters completions are weighted at 1.0
 - Indigenous high-cost Research Doctorate completions are weighted at 9.4
 - Indigenous high-cost Research Masters completions are weighted at 4.7
 - Indigenous low-cost Research Doctorate completions are weighted at 4.0
 - Indigenous low-cost Research Masters completions are weighted at 2.0.
29. The total WSC for a provider and for all eligible providers is calculated by multiplying the number of completions for each type by the relevant weighting, and summing these values.

Worked example for WSC

The table below provides an example of how a provider's WSC is calculated across student completions. The first row calculates the WSC for 200 non-Indigenous students who completed a high-cost Research Doctorate. The WSC is calculated by multiplying the relevant weighting of 4.70 from the table at subparagraph 1.4.10(3) with the number of student completions (200).

The second row then calculates the WSC for 50 non-Indigenous students who completed a high-cost Research Masters. This process is completed for each combination of student completions. The WSC for the provider is calculated by adding together the WSC for each combination of student completions:

Classification	Type of student completion	Completions	Weighting	WSC
Non-Indigenous	High-cost Research Doctorate	200	4.70	940.00
Non-Indigenous	High-cost Research Masters	50	2.35	117.50
Non-Indigenous	Low-cost Research Doctorate	500	2.00	1,000.00
Non-Indigenous	Low-cost Research Masters	100	1.00	100.00
Indigenous	High-cost Research Doctorate	2	9.40	18.80
Indigenous	High-cost Research Masters	1	4.70	4.70
Indigenous	Low-cost Research Doctorate	4	4.00	16.00
Indigenous	Low-cost Research Masters	2	2.00	4.00
Total				2,201.00

The below table sets out another example which uses the same method as explained above:

Classification	Type of student completion	Completions	Weighting	WSC
Non-Indigenous	High-cost Research Doctorate	4,000	4.70	18,800.00
Non-Indigenous	High-cost Research Masters	1,000	2.35	2,350.00
Non-Indigenous	Low-cost Research Doctorate	10,000	2.00	20,000.00
Non-Indigenous	Low-cost Research Masters	2,000	1.00	2,000.00
Indigenous	High-cost Research Doctorate	40	9.40	376.00
Indigenous	High-cost Research Masters	20	4.70	94.00
Indigenous	Low-cost Research Doctorate	80	4.00	320.00
Indigenous	Low-cost Research Masters	40	2.00	80.00
Total				44,020.00

Item 4: After Paragraph 1.4.10

30. This item inserts new paragraphs 1.4.12 and 1.4.13.

Paragraph 1.4.12

31. Paragraph 1.4.12 sets out the weightings applied to HDR student completions for the 2024 grant year and future grant years.
32. New paragraph 1.4.12 also sets out the method for calculating the WSC for a provider and all eligible providers for those years. The only difference between earlier grant years and the 2024 grant year onwards is the inclusion of a weighting for eligible research internships.
33. A definition for *eligible research internships* was inserted into Chapter i by the Amendment Instrument.
34. New paragraph 1.4.12 adds a new weighting for Research Doctorate completions where a student has also completed an *eligible research internship*. Completion of an eligible research internship increases the RTP weighting by 2.0 for each research doctorate student who undertook an *eligible research internship* and who completes their course of study on or after 1 January 2022.

35. Subparagraph 1.4.12(3) provides that a student may be characterised as having completed an *eligible research internship* even where they continue to engage in that internship after they have fulfilled the requirements of such internships, as specified at paragraph 1.4.13. This includes continuing the internship after completion of their course of study.
36. The twelve combinations of HDR student completions and their weightings are:
- Non-Indigenous high-cost Research Doctorate completions without an eligible research internship are weighted at 4.70
 - Non-Indigenous high-cost Research Doctorate completions with an eligible research internship are weighted at 6.70
 - Non-Indigenous low-cost Research Doctorate completions without an eligible research internship are weighted at 2.00
 - Non-Indigenous low-cost Research Doctorate completions with an eligible research internship are weighted at 4.00
 - Indigenous high-cost Research Doctorate completions without an eligible research internship are weighted at 9.40
 - Indigenous high-cost Research Doctorate completions with an eligible research internship are weighted at 11.40
 - Indigenous low-cost Research Doctorate completions without an eligible research internship are weighted at 4.00
 - Indigenous low-cost Research Doctorate completions without an eligible research internship are weighted at 6.00
 - Non-Indigenous high-cost Research Masters completions are weighted at 2.35
 - Non-Indigenous low-cost Research Masters completions are weighted at 1.00
 - Indigenous high-cost Research Masters completions are weighted at 4.70
 - Indigenous low-cost Research Masters completions are weighted at 2.00.
37. The total WSC for a provider and for all eligible providers is calculated by multiplying the number of completions for each type by the relevant weighting, and summing these values.

Paragraph 1.4.13

38. New paragraph 1.4.13 sets out the requirements that a research internship must meet to fall within the definition of an *eligible research internship*.
39. Subparagraph 1.4.13(1) specifies the requirements of an *eligible research internship*.
40. Subparagraph 1.4.13(2) requires the provider, student and research end-user to have agreed, in written form, the R&D activities that will be undertaken by the student during the internship and the duration of the internship.

41. Subparagraph 1.4.13(3) specifies that, for a full-time student, this agreement must be made within 18 months of the commencement date of the student's Research Doctorate. For a part-time student, this agreement must be made within 36 months of the commencement date of the student's Research Doctorate.
42. Subparagraph 1.4.13(4) provides for how a full-time equivalent day is calculated. A full-time equivalent day can be calculated using standard working day for the industry in relation to which the student is engaged in the internship. In the absence of an industry standard, a full-time equivalent day is to be based on the current maximum full-time week in the National Employment Standards (NES). The maximum full-time week in the NES is 38 hours, which works out to be 7.6 hours a day.
43. A worked example is set out below:

A student, Julia, is attending an internship at the Australian Public Service. Using the Australian Public Service's 37.5-hour work week, one full-time equivalent day is equal to 7.5 hours.

Julia's engagement in research internship activities in one week is as follows:

Monday: 2 hours;
Tuesday: 2 hours;
Wednesday: 2 hours; and
Thursday: 1.5 hours.
Total hours: 7.5

Therefore, the total number of FTE days of engagement Julia has completed that week is 1.

44. Subparagraph 1.4.13(5) specifies when an internship is taken to commence and conclude. The purpose of this subparagraph is to ensure that an eligible research internship meets the minimum duration requirements set out at subparagraph (1) b) of this paragraph. As per subparagraph 1.4.12(5), a student is not required to have completed the internship to be eligible for the weighting, but must have been undertaking the internship for at least 3 months.
45. Subparagraph 1.4.13(6) clarifies that an eligible research internship may be undertaken on-site with a research end-user, on campus and online, and may also be undertaken part-time or full-time.

Item 4: Subparagraph 1.6.45(11)

46. This item updates the formatting of *research internships* to reflect that the term is now defined in the Principal Instrument.