

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Education**

***Higher Education Support Act 2003***

***Higher Education Provider Amendment (Application Fee) Guidelines 2025***

### **AUTHORITY**

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Higher Education Provider Guidelines to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out, or give effect to, certain provisions in the Act.

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 amendment to the *Higher Education Provider Guidelines 2023* (the Principal Instrument) made by the *Higher Education Provider Amendment (Application Fee) Guidelines 2025* (the Amendment Instrument) rely on this provision.

### **PURPOSE AND OPERATION**

Paragraph 16-40(2)(c) of the Act provides that any body corporate that applies in writing to the Minister for approval as a higher education provider, must pay a fee (if any) prescribed by, or worked out in accordance with the method prescribed by, the Principal Instrument.

The Amendment Instrument amends the Principal Instrument to list the application fees for 2025, 2026 and 2027. The amendment prescribes an application fee for 2025, 2026 and 2027. The application fees for these years are set at a level that recovers the costs of administering and assessing applications from prospective higher education providers.

### **IMPACT ANALYSIS**

The Office of Impact Analysis has been consulted and advised that an Impact Analysis is not required for the Amendment Instrument (ID: OIA24-08702).

### **COMMENCEMENT**

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

## CONSULTATION

The imposition of a higher education application fee was introduced in the *Higher Education Support Amendment (Cost Recovery) Act 2019*, which introduced cost recovery measures for the Higher Education Loan Program (HELP) in the higher education sector. Higher education stakeholders were consulted on the higher education cost recovery charging arrangements introduced by that Act.

As consultation has already taken place on the imposition of a higher education application fee, and the Amendment Instrument simply sets out the amount of that fee for 2025, 2026 and 2027 (which is set at a level that recovers the costs of administering and assessing applications from prospective higher education providers), it was considered unnecessary to undertake any further additional consultation in relation to the Amendment Instrument.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### Higher Education Provider Amendment (Application Fee) Guidelines 2025

The *Higher Education Provider Amendment (Application Fee) Guidelines 2025* (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**

Paragraph 16-40(2)(c) of the *Higher Education Support Act 2003* (the Act) provides that any body corporate that applies in writing to the Minister for approval as a higher education provider, must pay a fee (if any) prescribed by, or worked out in accordance with the method prescribed by, the *Higher Education Provider Guidelines 2023* (the Principal Instrument).

The Amendment Instrument amends the Principal Instrument to list the application fees for 2025, 2026 and 2027. The amendment prescribes an application fee for 2025, 2026 and 2027. The application fees for these years are set at a level that recovers the costs of administering and assessing applications from prospective higher education providers.

#### **Human rights implications**

The purpose of the Amendment Instrument is to prescribe higher education provider application fees for 2025, 2026 and 2027. These amendments to prescribe application fees for higher education providers do not engage any human rights and freedoms.

#### **Conclusion**

The Amendment Instrument is compatible with human rights because it does not raise any human rights issues.

**Minister for Education, the Hon Jason Clare MP**

## HIGHER EDUCATION PROVIDER AMENDMENT (APPLICATION FEE) GUIDELINES 2025

### EXPLANATION OF PROVISIONS

#### **Section 1: Name**

1. This is a formal provision specifying the name of the *Higher Education Provider Amendment (Application Fee) Guidelines 2025* (the Amendment Instrument).

#### **Section 2: Commencement**

2. This provision provides that the Amendment Instrument commences on the day after the Amendment Instrument is registered on the Federal Register of Legislation.

#### **Section 3: Authority**

3. This provision provides that the Amendment Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

#### **Section 4: Schedules**

4. This is a technical provision that explains that the instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

#### **Schedule 1 – Amendments**

##### *Higher Education Provider Guidelines 2023*

#### **Item 1: Section 19**

5. Section 19 of the *Higher Education Provider Guidelines 2023* (the Principal Instrument) prescribes, for the purposes of paragraph 16-40(2)(c) of the Act, the application fee for a year that must accompany a body corporate's application for approval as a higher education provider.
6. Item 1 repeals the table in section 19, and substitutes it with an updated table listing the application fees for 2025, 2026 and 2027. The updated table prescribes an application fee for 2025, 2026 and 2027.