

## **EXPLANATORY STATEMENT**

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

Administration Guidelines 2012

Issued by the authority of the Minister for Tertiary Education, Skills, Jobs and Workplace Relations

**Subject:** *Higher Education Support Act 2003*  
Administration Guidelines 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 1 of section 238-10 specifies the Minister may make Administration Guidelines to give effect to matters set out in Section 36-21 and Chapter 5 of the Act.

### **Purpose and operation**

This legislative instrument revokes the *Administration Guidelines* dated 5 September 2005 (the Former Guidelines) and all subsequent amendments and makes the *Administration Guidelines 2012* (the Guidelines).

The Guidelines provide for:

- Determining and publishing student services and amenities fees;
- Special circumstances;
- Notices to students;
- Work experience in industry;
- Publication requirements for census dates and EFTSL values;
- Determining the EFTSL value of a unit of study; and
- Electronic communication.

Three new chapters have been added to the Guidelines which were not previously included in the Former Guidelines. New Chapter 2 – Determining and publishing student services and amenities fee, is being included to provide the administrative requirements for the student services and amenities fee.

From 1 January 2012 higher education providers can charge a fee for student services and amenities of a non-academic nature of up to \$263 per student for 2012. This figure is indexed annually.

New Chapters 3 and 7 are being included in the Guidelines to reflect the recent amendments to the Act by the *Higher Education Support Amendment (Demand Driven*

*Funding System and Other Measures) Act 2011*, which implements a demand driven system for funding undergraduate places at public universities from 2012.

Universities will now be able to determine the number of students that they choose to enrol in undergraduate bachelor courses, with the exception of courses in medicine. Postgraduate courses of study will continue to be allocated by the Government.

The student learning entitlement (SLE) which currently limits a student to the equivalent of approximately seven years full-time study as a Commonwealth supported student will be abolished. New Chapters 3 and 7 have been moved from the SLE Guidelines as the SLE Guidelines will be repealed. The content has not been revised other than to reflect updated legislative references and to set out the circumstances when a higher education provider will be satisfied that a person's circumstances make it impracticable for them to complete the requirements for a unit of study.

## **Overview of the Administration Guidelines**

### **Chapter 1**

Paragraph 1.1 provides an overview of the content of the Administration Guidelines and sets out definitions for terms used in the Guidelines.

### **Chapter 2**

Paragraph 2.1 - sets out the purpose of the chapter. The chapter outlines the requirements for providers to determine a student services and amenities fee, and the day on which the fee is payable. It also specifies the publishing requirements for providers in relation to the fee.

Paragraph 2.5 - provides that a provider may determine that a student services and amenities fee is payable. If a provider determines a fee it must specify the period to which the fee relates. A provider may determine different amounts that apply to particular categories of students. Categories may be determined on any reasonable and relevant basis. The fee must be GST inclusive, to the extent that any GST is payable by the person required to pay the fee.

Paragraph 2.10 - provides that a student services and amenities fee determined for a student enrolled on a part-time basis cannot be more than 75 per cent of the maximum fee determined for a student enrolled on a full-time basis at the same provider. Part-time basis means a study load of less than 75 per cent of the normal full-time load.

Paragraph 2.15 - provides that a higher education provider must determine a day on which the student services and amenities fee is payable. The day must not be earlier than the last day on which a student, who is required to pay the fee, is able to enrol with the provider in the period to which the fee relates. The last day on which a student is able to enrol with the provider means the enrolment closing date as specified by the provider.

Paragraph 2.20 - provides that a provider may vary the student services and amenities fee and/or the day on which the fee is payable but only if the variation is necessary. A variation will be considered necessary if it is to correct an administrative error or

because new circumstances have arisen that did not apply when the fee and/or the day the fee was payable, was determined. A provider must advise the Department of Education, Employment and Workplace Relations in writing of its intention to vary the fee and/or the day the fee is payable at least 5 working days before making the variation.

Paragraph 2.25 - provides that, other than in the case of the initial first half year, a provider must publish fee information by 1 October for a student services and amenities fee that is payable in the first half of the year, and 1 April for a fee that is payable in the second half of the year. The provider must publish fee information by 1 January 2012 for the initial first half year.

If a higher education provider only makes the information available through an electronic format, the provider must ensure students can access the information.

Paragraph 2.30 – a provider that varies a published student services and amenities fee, or the day on which it is payable, must publish the varied fee or day payable no later than two weeks after making the variation.

If a higher education provider only makes the information available through an electronic format, the provider must ensure students can access the information.

## **Chapter 3**

Chapter 3 sets out when a higher education provider will be satisfied that special circumstances apply to a person.

Paragraph 3.5 provides that the higher education provider will be satisfied that a person's circumstances are beyond their control if an unusual situation arises that is not due to the person's action or inaction, and the person is not to blame for its occurrence.

Paragraph 3.10 provides that the higher education provider will be satisfied that a person's circumstances did not make their full impact until on or after the census date if something occurs before the census date but worsens after the census date or if the full effect does not become apparent until after the census date

Paragraph 3.15 sets out the circumstances when a higher education provider will be satisfied that a person's circumstances make it impracticable for them to complete the requirements for a unit.

Paragraph 3.20 provides that a higher education provider must publish a timeframe for consideration of decisions and notification of outcomes. A provider must advise the applicant that they may apply for a review if they are dissatisfied with the decision. An application must be made in writing and within 28 days after the day on which the person first received written notice of the decision.

## **Chapter 4**

Paragraph 4.1 sets out the purpose of the chapter. The chapter outlines who must be provided with a Commonwealth Assistance Notice, the requirements for providing a notice and the information that must be included in the notice.

Paragraph 4.3 provides that a higher education provider must give a Commonwealth Assistance Notice to any person who meets the requirements under paragraph 4.1.1.

Paragraph 4.5 sets out the information that must be included in a Commonwealth Assistance Notice (CAN) for the units of study in which a student is enrolled as a Commonwealth supported student on the census date. It also sets out the information that must be included in a CAN for each unit of study a person is enrolled in on the census date.

Paragraph 4.10 sets out the period in which a notice must be given in regard to units of study that are Commonwealth supported, or for which the person has sought FEE-HELP assistance. The notice should be given within 28 days of the earliest census date indicated in the notice.

For SA-HELP, the notice should be given by the later of 28 days after the SA-HELP debt was incurred and the day on which the provider must give a notice under paragraph 4.5.10.

## **Chapter 5**

Chapter 5 sets out the requirements that must be met for work to be work experience in industry and the circumstances where a student is exempt for units of study that consist wholly of work experience in industry.

Paragraph 5.5 provides that work is not work experience in industry if staff at the higher education provider are performing the duties listed in the paragraph, such as providing ongoing and regular input and contact with the student.

Paragraph 5.10 provides that students who are undertaking units of study wholly consisting of work experience in industry are exempt unless staff at the higher education provider are performing the duties listed in the paragraph such as organisation of the student's placement.

## **Chapter 6**

Chapter 6 sets out the publication requirements for census dates and EFTSL.

Paragraph 6.5 provides that the first period of the year runs from 1 January until 30 June, the second period of the year runs from 1 July until 31 December.

Paragraph 6.10 census dates and EFTSL values must be published by 1 April for units of study with census dates in the second period of the same year and 1 October for units of study with census dates in the first period of the following year.

Paragraph 6.15 provides that a higher education provider can only vary a census date or an EFTSL value for a unit of study up to two months before the earlier of the

commencement date for the unit or the last date that a student can enrol in the unit without incurring a late fee.

Paragraph 6.20 sets out the circumstances in which a published census date or EFTSL value may be varied. A provider must notify the Department of Education, Employment and Workplace Relations at least 5 working days prior to making the variation.

Paragraph 6.25 provides that a provider must publish a varied census date or EFTSL value no later than two weeks after making the variation.

## **Chapter 7**

Chapter 7 sets out the requirements that must be adhered to by a higher education provider when determining the EFTSL value for a unit of study.

Paragraph 7.5 explains the EFTSL value for a unit of study. Each unit of study has an EFTSL value which is the study load for that unit. The study load for a unit is a proportion of the standard study load for one full year of the course of study of which the unit forms a part. The standard study load for one year of a course would usually add up to 1.0.

Paragraph 7.10 explains the method of calculation for EFTSL values. The EFTSL value for a unit is determined by calculating the proportion of the total standard study load specified for one year of full-time study for the relevant course that the unit represents.

Paragraph 7.15 sets out the method of calculation of EFTSL values where a student is undertaking a unit of study with an overseas higher education institution that will count towards a course of study in which the student is enrolled at an Australian higher education provider. In this circumstance the EFTSL value for the unit of study will be the same EFTSL value that would have been assigned to the unit of study if it were undertaken at the Australian higher education provider.

## **Chapter 8**

Chapter 8 sets out the requirements for electronic communication between higher education providers and students.

Paragraph 8.5 specifies the requirements relating to information systems used by students to give documents to their higher education provider and for systems used by higher education providers to give notices to students.

Paragraph 8.10 specifies the methods that may be used by students to identify themselves to their higher education provider and indicate their approval of electronic documents.

## **Commencement**

This legislative instrument will come into effect on 1 January 2012

## **Consultation**

### ***Student Services and Amenities***

Extensive consultation was undertaken with universities, students, small business, sports and community groups and state and territory governments regarding the impact of voluntary student unionism (VSU) on student services and amenities and representation. The then Minister for Youth, the Hon Kate Ellis MP, met with more than one hundred representatives from higher education stakeholder groups as well as seeking written submissions in response to a discussion paper.

The draft Administrative content was sent to higher education providers and published on the Department's website on 21 October 2011. The Department also consulted with stakeholders at key forums such as the National Fees Forum. A minor change has been made to paragraph 2.10 as a result of that consultation. The change ensures students studying on a part-time basis cannot be charged more than 75 per cent of the maximum fee that students studying on a full-time basis at the same provider are charged.

### ***Demand driven funding system***

The amendments to the Act made by the Higher Education Support Amendment (Demand Driven Funding System and Other Measures) Act 2011 gave effect to 2009-10 Budget measures and reflect the Government's response to the Review of Australian Higher Education. As part of the Review, extensive consultation was undertaken with the higher education sector, including higher education providers, peak bodies, state and territory governments and other key stakeholders.

The provisions of the legislative instrument are intended to ensure the Administration Guidelines reflect the legislative changes to the Act. On this basis consultation was not considered necessary and was not undertaken.

### ***Other Amendments***

A few other minor amendments have been made, these are technical in nature and do not substantially alter existing arrangements for the higher education sector. Therefore no other parts of the guidelines were distributed for consultation.