

EXPLANATORY STATEMENT

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

Commonwealth Grant Scheme Guidelines 2012

Issued by the authority of the Minister for Tertiary Education, Skills, Science and Research

Subject

Higher Education Support Act 2003 (the Act)
Commonwealth Grant Scheme Guidelines 2012

Authority

Section 238-10 of the Act provides that the Minister may make guidelines for the purposes of the Act. In particular, item 2 of the table at section 238-10 specifies that the Minister may make the Commonwealth Grant Scheme Guidelines in order to carry out or give effect to the matters set out in Part 2-2 and section 93-10 of the Act.

Purpose and operation

The purpose of this instrument is to revoke the Commonwealth Grant Scheme Guidelines made on 8 December 2006 and registered on 12 December 2006 (the Former Guidelines) and all subsequent amendments and make the Commonwealth Grant Scheme Guidelines 2012 (the Guidelines).

The changes made in revoking and remaking the Guidelines are largely technical in nature and do not significantly alter the relationship that exists between providers and the Act. Three providers' names have been updated and the formula for calculating enabling loading has been amended to reflect changes to the per place funding amount as agreed in the 2012-13 Budget. A number of other technical changes have been made to remove provisions that are no longer relevant and add greater clarity to provisions where necessary.

Consultation

As the changes made in revoking and remaking the Guidelines are largely technical in nature, consultation has not been required.

Commencement

These Guidelines take effect on 1 January 2013.

Overview of the Commonwealth Grant Scheme Guidelines

Chapter 1

1.1 Provides that the terms in the Guidelines have the same meaning as in the Act unless a contrary intention appears.

- 1.5 Sets out defined terms used within the Guidelines and directs interpretation of the Guidelines.

Chapter 2

- 2.1 Sets out the purpose of the chapter which is to specify providers, other than Table A providers that can be paid grants.
- 2.5 Lists the higher education providers that can be paid grants under Part 2-2 of the Act.

Chapter 3

- 3.1 Sets out the purpose of the chapter which is to specify outcomes in the provision of higher education as national priorities.
- 3.5 Lists the outcomes that are considered to be national priorities under section 30-20 of the Act.

Chapter 4

- 4.1 Provides that the purpose of the chapter is to specify how regional loading payable to a provider will be calculated from 2012.
- 4.5 Provides that regional loading is paid to help providers offset the disparity of costs and revenue of regional campuses in comparison with major city campuses.
- 4.10 Provides that regional loading payments are made in respect of a calendar year and also sets out the total amount of regional loading available in 2012 and the indexation arrangements for later years.
- 4.15 Sets out the eligibility requirements for regional loading and the method of calculation of the average student load.
- 4.20 Provides that the regional loading distributed to a multi-campus provider is calculated per campus and depends upon the remoteness classification of the provider's campuses. This section also sets out the regional loading remoteness categories.
- 4.25 Sets out the new regional loading distribution formula for 2012 and later years as well as a detailed explanation of the formula.
- 4.30 Sets out the transitional support arrangements for 2012 and 2013 for providers affected by the new regional loading formula. A transitional support payment is payable to a provider who experiences a significant reduction in regional loading under the new distribution formula.
- 4.35 Sets out how regional loading will be distributed to recently established campuses. This will allow the distribution of regional loading to campuses that have not operated for a period of three years.

Chapter 5

- 5.1 Provides that the purpose of the chapter is to specify how the amount of medical student loading is to be worked out.
- 5.5 States that medical student loading provides funding for teaching hospital costs for Commonwealth supported places in courses of study in medicine.
- 5.10 Sets out the amount of medical student loading per Commonwealth supported student EFTSL in 2007 and the indexation arrangements for later years. This section also outlines how student load is determined for the purpose of calculating medical student loading.

Chapter 6

- 6.1 Provides that the purpose of the chapter is to specify how enabling loading payable to a provider is calculated.
- 6.5 Sets out how the amount of enabling loading payable to a provider for a year is calculated.

Chapter 7

- 7.1 Provides that the purpose of the chapter is to specify how providers should determine the funding clusters in which units of study are included.
- 7.5 Sets out the funding clusters, the unit descriptions and field of education codes that relate to each cluster.

Chapter 8

- 8.1 Provides that the purpose of the chapter is to specify how advances are to be determined and repayment made.
- 8.5 Sets out the purposes for which the Minister may approve advances of an eligible provider's grant.
- 8.10 Provides that the maximum amount that the Minister may advance in a calendar is specified by legislative instrument.
- 8.15 States that the conditions the Minister may determine on which an advance to a provider will be paid include, but are not limited to, the provision of information regarding the purposes and use to which the advance has been applied.
- 8.20 Provides that reductions in the amount of the grant payable to a provider for each of the years (up to a maximum of three years) following the year in which the advance is made will be decided by the Minister. It also provides a formula for calculating indexation on the reduction amount in each year.

Chapter 9

- 9.1 Provides that the purpose of the chapter is to specify how the facilitation funding component of performance funding will be calculated.
- 9.5 Sets out the eligibility requirements for facilitation funding.
- 9.10 Sets out how a provider's facilitation funding will be calculated in a given year.

Statement of Compatibility with Human Rights

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

COMMONWEALTH GRANT SCHEME GUIDELINES 2012

This Legislative 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

The Commonwealth Grant Scheme Guidelines set out which non-Table A higher education providers can be paid grants under Part 2-3 of the Act, when an advance for certain purposes may be made and how the funding clusters are determined. The Guidelines also set out the national priorities under section 30-20 of the Act and how the regional, enabling, transitional and medical loadings and facilitation funding are calculated.

The Legislative Instrument removes the transitional loading program as it ceases on 30 December 2012, changes the way in which enabling loading is calculated and makes other small technical changes.

Human rights implications

The Instrument engages the following human rights:

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 aim of the Guidelines is to improve the quality of higher education. For example, the Guidelines set out how the loadings, that are paid to providers to assist them to meet the costs associated with regional campuses, medicine courses and enabling courses, are calculated. The Guidelines also allow the Minister to advance a higher education provider their grant in particular circumstances such as to assist a provider with the cash-flow implications of restructuring.

The amendments contained in this instrument do not negatively impact on the provision of education. Providers will now receive a set amount per enabling place where previously the amount per place was adjusted based on the number of places offered by providers. To the extent that the right to education is engaged, it is promoted as it improves the quality of education.

Conclusion

This Instrument is compatible with human rights because it advances the protection of human rights.

Senator Chris Evans, Minister for Tertiary Education, Skills, Science and Research