

## EXPLANATORY STATEMENT

### Amendment No. 1 to the Student Services, Amenities, Representation and Advocacy Guidelines 2013

#### Summary

Amendment No. 1 to the Student Services, Amenities, Representation and Advocacy Guidelines 2013 (the Amendment) is made under section 238-10 of the *Higher Education Support Act 2003*. The purpose of the Amendment is to make the following technical amendments to the *Services, Amenities, Representation and Advocacy Guidelines* (Representation Guidelines) in accordance with the Representation Guidelines Review Panel's recommendations that these technical amendments correct inconsistencies identified following the implementation of the Representation Guidelines.

The Amendment is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

#### Consultation

In 2013, the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education engaged an expert panel to undertake a review of the *Student Services, Amenities, Representation and Advocacy Guidelines* (the Representation Guidelines) to ensure that they were operating as intended. The Review Panel consulted widely with key stakeholders from the higher education sector, including with independent student organisations and peak student representative bodies. The Panel invited written submissions and conducted in-depth interviews. The Review Panel's findings and recommendations form the basis of this Amendment.

#### Regulation Impact Statement

There was no requirement to prepare a Regulation Impact Statement in regard to the Amendment, as this measure is not likely to have a direct, or a substantial indirect, effect on business and is not likely to restrict competition.

**Section 1** sets out the name of the Amendment.

**Section 2** sets out the authority for the Amendment.

**Section 3** provides that the Amendment commences on 30 June 2013.

Please note that subsection 19-67(1) of the *Higher Education Support Act 2003* provides that a Higher Education Provider (HEP) that receives a grant under the Commonwealth Grant Scheme in a particular year must comply with the requirements of the Representation Guidelines as those guidelines were in force on the 30 June just before the year. This will mean while the Amendment commences on 30 June 2013, a HEP will only have to comply with the amended Representation Guidelines with respect to a grant in respect of the year 2014.

To avoid doubt, any HEP that has received a grant in respect of the year 2013 will be required to comply with the Representation Guidelines as they were in force immediately before the commencement of the Amendment (in other words the Representation Guidelines as they were in force on 30 June 2012).

**Section 4** specifies the legislative instrument to which the Amendment applies.

Before inserting Item 1 of the Amendment, a purposive provision is inserted, outlining the intention behind amending the Representation Guidelines.

**Item 1** clarifies the intent of the Representation Guidelines.

**Item 2** further clarifies aspects of the orientation program that higher education providers are required to provide to students. It specifies that students should be provided with information about the Student Services and Amenities Fee (SSAF).

**Item 3** clarifies access to service requirements and specifies the additional requirements to provide access to advocacy and career services. It also clarifies requirements in respect of the dissemination of information to students.

**Item 4** clarifies that where services are provided to students by a third party engaged by a HEP, the HEP must ensure that the third party engages trained and qualified staff to meet the needs of the enrolled students.

**Item 5** clarifies the requirement for advocacy officers to be independent and provides that advocacy officers must avoid potential or actual conflicts of interest in carrying out their duties.

**Item 6** clarifies the varying and differing circumstances of students that higher education providers must consider in determining what would be a reasonable and appropriate level of support at a particular campus.

**Item 7** clarifies the importance of student representation to achieving quality teaching and learning outcomes and provides that the Representation Guidelines (as amended by the Amendment) does not preclude student representatives at a HEP from forming a representative organization.

**Item 8** clarifies requirements in respect of student consultation with students at higher education providers.

**Item 9** clarifies the requirements for consultation with students and elected student representatives in respect of decision making processes at higher education providers generally, and in respect of the SSAF specifically.

**Item 10** clarifies requirements in respect of student representation at higher education providers, including the election of student representatives for this purpose, where appropriate.

**Item 11** clarifies requirements in respect of higher education providers' provision of support for student representation.

**Item 12** clarifies requirements for higher education providers to consult with students in respect of the expenditure of SSAF revenue.

## **Statement of Compatibility with Human Rights**

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

### **Amendment No. 1 to the Student Services, Amenities, Representation and Advocacy Guidelines 2013**

The Amendment 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 Amendment**

The Amendment is made under section 238-10 of the *Higher Education Support Act 2003*.

The purpose of the Amendment is to make the technical amendments to the *Services, Amenities, Representation and Advocacy Guidelines* (Representation Guidelines) in accordance with the Representation Guidelines Review Panel's recommendations that these technical amendments correct inconsistencies identified following the implementation of the Representation Guidelines.

#### **Human rights implications**

The Determination engages the following human right:

##### *Right to Education*

Article 13 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to education. The Covenant recognises 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, by clarifying and adding to the provisions in the principle instrument, indirectly promotes this right by prescribing standards that must be met by Australian higher education institutions. These standards improve students' accessibility to higher education by:

- ensuring students' access to support services (such as health, welfare advocacy and career services) that assist them in undertaking higher education studies;
- enabling students to be represented in decision making processes at their higher education institution; and
- prescribing processes for consultation with students regarding the specific uses of the proceeds from any compulsory Student Services and Amenities Fee (SSAF) charged by the higher education provider.

The Amendment will therefore be consistent with the right to education.

To avoid doubt, although the Amendment prescribes standards relating to the SSAF, no additional fees are imposed upon higher education students through either this Amendment or the principle instrument. Therefore the Amendment does not increase the cost of accessing education and therefore will not limit the right to education.

### **Conclusion**

This Determination is compatible with human rights as it promotes the right to education.