

EXPLANATORY STATEMENT

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

Amendment No. 1 to the Higher Education Provider Guidelines 2012

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

Subject

Higher Education Support Act 2003
Higher Education Provider Guidelines 2012

Authority

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Guidelines for the purposes of the Act. Item 6 of the table in section 238-10 specifies that the Minister may make Higher Education Provider Guidelines 2012 to give effect to matters set out in sections Part 2-1 of the Act.

Purpose

This legislative instrument amends the Higher Education Provider Guidelines 2012 (F2012L02136), made on 16 October 2012. The amendment aims to simplify and streamline requirements relating to the publication and submission of student contribution amounts and tuition fees for units of study in order to reduce administrative burden placed on higher education providers.

Consultation

Consultation was undertaken with industry, peak bodies, students and state and territory governments as part of the design of these amendments. Further consultation was undertaken at the 2012 and 2013 Tertiary HELP Provider forums. The amendments are a result of these consultations.

The amendments do not place any further requirements on higher education providers approved under the Act.

Commencement

These Higher Education Provider Guidelines 2012 take effect on the day after registration on the Federal Register of Legislative Instruments.

Detailed explanation of the amendments

Item 1 – Chapter 1 - Interpretation

- A new definition of *Department* is inserted to provide a definition based on function rather than nomenclature. The Department that currently administers these guidelines at the time of the registration of this instrument is the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education.

Item 2 to Item 8 – Chapter 5 – Publication and other requirements for contribution amounts and tuition fees

Chapter 5 specifies the publication and other requirements for student contribution amounts and tuition fees for higher education providers.

Subchapter 5.1 sets out the purpose of the chapter.

Paragraph 5.1.1 details matters that the chapter specifies.

- New subparagraph 5.1.1(i) is inserted to reference the form of schedules of student contribution amounts and tuition fees.

Subchapter 5.5 sets out information regarding the period for publishing schedules for student contribution amounts and tuition fees for higher education providers, and the paragraph is amended to remove reference to two stipulated periods and replace with a period nominated to be on or after the earliest date of enrolment to the completion date for a unit of study.

- Paragraph 5.5.1 is amended to give effect to subchapter 5.10.

Subchapter 5.10 sets out the date by which and manner in which a higher education provider must publish schedules of student contribution amounts and tuition fees.

- Subchapter 5.10 is amended to include reference to the manner in which higher education providers must publish schedules of student contribution amounts and tuition fees.
- Paragraph 5.10.1 is amended to provide for increased flexibility for the date by which and the manner in which a higher education provider must publish a schedule.

Subchapter 5.20 sets out requirements for variations to student contribution amounts or tuition fees.

- Subchapter 5.20 and paragraph 5.20.1 are repealed as amended subchapter 5.25 defines the new requirements regarding varying schedules.

Subchapter 5.25 sets out the requirements for varying student contribution amounts or tuition fees.

- Paragraph 5.25.1, and the subparagraphs contained therein, has been amended to ascertain the circumstances and date before which the higher education provider may vary a published student contribution amount or tuition fee without Ministerial approval.
- Paragraph 5.25.5 has been amended given the changes made to section 5.25.1.
- Paragraph 5.25.10 is inserted to specify the manner in which the higher education provider must administer replacement schedules, and to streamline these requirements with the provision of the previous schedule.

Subchapter 5.40 sets out the form in which a higher education provider must give a schedule of student contribution amounts and tuition fees to the Minister.

- New subchapter 5.40 is inserted to set out the form in which a higher education provider must give a schedule of student contribution amounts and tuition fees to the Minister.
- New paragraph 5.40.1 is inserted to determine in writing the simplified and streamlined form and requirements in which the higher education provider must give the Minister a schedule of student contribution amounts and tuition fees.

Statement of Compatibility with Human Rights

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

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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 purpose of this legislative instrument is to give effect to matters set out in Part 2-1 of the Act.

Part 2-1 of the Act sets out administrative matters relating to higher education providers.

The Higher Education Provider Guidelines 2012 ascertain particular requirements to these matters, specifically relating to tuition assurance, obligations on certain providers, grievance and review procedures, student contribution amounts and tuition fees, fees for overseas students, and fees for goods and services incidental to studies.

This legislative instrument amends the provisions of the Higher Education Provider Guidelines 2012 that set out requirements relating to publishing student contribution amounts and tuition fees for units of study. The amendment aims to simplify and streamline requirements relating to the publication and submission of student contribution amounts and tuition fees for units of study in order to reduce administrative burden placed on higher education providers.

Human rights implications

Right to education

This legislative instrument engages the right to education contained in Article 13 of the *International Covenant on Economic, Social and Cultural Rights*.

In particular, article 13(2)(b) states 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.

This legislative instrument may indirectly promote the accessibility of education by improving the integrity of the higher education sector by ensuring that appropriate administrative procedures are in place.

Conclusion

This legislative instrument is compatible with human rights because it may indirectly promote the right to education.