

## **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 Education**

Subject: *Higher Education Support Act 2003*  
Commonwealth Grant Scheme 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. 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.

Section 33(3) of the *Acts Interpretation Act 1901* also provides that 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.

#### **Purpose and operation**

The purpose of this instrument is to amend the Commonwealth Grant Scheme Guidelines (the Guidelines) registered on 13 December 2012 (F2012L02442).

The new Guidelines ensure that the efficiency dividend to university funding included in the 2013-14 Budget can be implemented. The amendments make minor technical amendments.

#### **Consultation**

The efficiency dividend measure was announced by the previous Government on 13 April 2013 and subsequently included in the 2013-14 Budget. Changes other than those to give effect to the efficiency dividend are minor in nature.

#### **Commencement**

This legislative instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

## **Details of the amendments**

### **Item 1**

Amends various definitions to correct typographical errors and ensure that definitions are presented in alphabetical order.

Amends the definition of Department to refer to the department with responsibility for the Commonwealth Grant Scheme under the Act. This provides greater clarity and flexibility in case of Machinery of Government changes.

Adds a definition of Minister, to refer to the Minister responsible for the Commonwealth Grant Scheme under the Act. This also provides greater clarity and flexibility in case of Machinery of Government changes.

### **Items 2, 4 and 5**

Clarifies amounts for regional, medical and enabling loading. The amounts have been updated to allow for implementation of the efficiency dividend to university funding included in the 2013-14 Budget.

### **Item 3**

Amends the reference to the Act to include the section listing Table B providers.

## **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 are made by the Minister under section 238-10 of the *Higher Education Support Act 2003* (the Act), in order to carry out or give effect to the matters set out in Part 2-2 and section 93-10 of the Act.

The Commonwealth Grant Scheme Guidelines set out which non-Table A higher education providers can be paid grants under Part 2-2 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 funding amounts specified in the instrument take account of the 2013-14 Budget measure to apply an efficiency dividend to university funding.

#### **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. Loadings are paid to higher education providers to assist them to meet the various costs associated with maintaining regional campuses and delivering medicine courses and/or enabling courses. The Guidelines set out how these loadings are calculated.

The changes are not expected to have any impact on individuals' access to education.

#### **Conclusion**

This Legislative Instrument is compatible with human rights.

**Christopher Pyne, Minister for Education**