

EXPLANATORY STATEMENT

Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)

General outline

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)* (the Amendment Determination) is made under subsection 5D(1) of the *Student Assistance Act 1973* (the Act). Subsection 5D(3) of the Act provides that a determination under subsection 5D(1) is a legislative instrument.

The Amendment Determination amends the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* (the Principal Determination). The Amendment Determination makes technical amendments to the Principal Determination, particularly clarifying course types eligible for student payments, including youth allowance, austudy payment and pensioner education supplement (provided they meet the other qualification criteria for those payments).

Background

Subsection 5D(1) of the Act provides that the Minister may, for the purposes of the Act, determine in writing that:

- (a) a course of study or instruction is a secondary course, or a tertiary course; or
- (b) a part of a course of study or instruction is a part of a secondary course or part of a tertiary course.

The Principal Determination broadly outlines the institutions and courses for the purpose of subsections 3(1) and 5D(1) of the Act, specifying multiple levels of study at higher education institutions and registered training organisations. The determination of these courses for the purposes of the Act allows for students studying these courses to be eligible to receive student payments (youth allowance, austudy payment and pensioner education supplement), subject to other relevant criteria being met.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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.

Commencement

The Amendment Determination commences on the day after it is registered.

Consultation

The Department of Social Services (the Department) invited higher education providers to apply for the inclusion of their Masters courses in the list of Masters courses that are “tertiary

courses” for the purposes of the Act. Guidelines for the approval of Masters courses for inclusion in the Principal Determination are available on the Department’s web site at:

<https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/student-payments/approved-institutions-and-courses-for-student-payments>

The Department undertook consultations with the higher education providers that sought inclusion of their Masters courses in the Amendment Determination.

Regulation Impact Statement

The Amendment Determination does not require a Regulatory Impact Statement. The Amendment Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Explanation of the provisions

Section 1

This section provides that the name of the Determination is the *Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)*.

Section 2

This section provides that the Amendment Determination commences on the day after it is registered.

Section 3

This section repeals Schedule 3 to the Principal Determination and substitutes a new Schedule 3.

Paragraph 10(1)(b) of the Principal Determination provides that for paragraph 5D(1)(a) of the Act, a tertiary course is a full-time course that is:

- (i) accredited at Masters level; and
- (ii) specified in Column 2 of the table in Schedule 3 to the Principal Determination; and
- (iii) provided by the education institution specified for that course in Column 1 of that table.

New Masters courses in Schedule 3 to the Principal Determination

New Schedule 3 to the Principal Determination provides for the following new and renamed Masters courses that were not previously contained in that Schedule:

Education Institution	Course
Australian National University	Master of Forestry (Advanced)

Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No.2)

Edith Cowan University	Master of Finance and Banking Master of Screen Studies
Carnegie Mellon University Australia	Master of Science in Information Technology (MSIT) Master of Science in Public Policy and Management (MSPPM)
Central Queensland University	Master of Clinical Chiropractic
Charles Sturt University	Master of Inclusive Education
Curtin University of Technology	Master of Commerce (Professional Accounting) Master of Dietetics
Deakin University	Juris Doctor
Griffith University	Master of Human Services Master of Teaching Primary Master of Rehabilitation Counselling Master of Special Needs and Intervention Education
Holmesglen Institute of TAFE	Master of Professional Accounting
La Trobe University	Master of Clinical Audiology Master of Financial Analysis and Master of Business Administration Master of Financial Analysis and Master of International Business Master of Financial Analysis and Master of Professional Accounting Master of Teaching (Primary) Master of Teaching (Secondary)
Monash University	Master of Information Technology (3348) Master of Occupational Therapy

	<p>Practice</p> <p>Master of Teaching Specialising in Early Years Education</p> <p>Master of Teaching Specialising in Primary Education</p> <p>Master of Teaching Specialising in Secondary Education</p>
Morling College	Master of Teaching (Secondary)
Murdoch University	<p>Master of Development Studies</p> <p>Master of Protected Area Management</p> <p>Master of Teaching (Primary)</p>
Navitas Professional Institute Pty Ltd	<p>Master of Counselling and Psychotherapy</p> <p>Master of Social Work (Qualifying)</p>
Perth Bible College	Master of Theological Ministry
Queensland University of Technology	<p>Master of Information Science (Information Management)</p> <p>Master of Information Science (Library and Information Practice)</p>
RMIT University	<p>Master of Engineering (International Automotive Engineering)</p> <p>Master of Engineering (Manufacturing)</p> <p>Master of Teaching Practice (Primary Education)</p> <p>Master of Teaching Practice (Secondary Education)</p>
Southern Cross University	Master of Forest Science and Management
Swinburne University of Technology	Master of Information Technology
Tabor Adelaide	<p>Master of Teaching (Primary)</p> <p>Master of Teaching (Secondary)</p>

University of Melbourne	Master of Teaching (Early Childhood) Master of Food and Packaging Innovation
University of New England	Master of Nursing Practice
University of New South Wales	Master of Interpreting Master of Translation Master of Translation and Interpreting
University of Queensland	Doctor of Medicine (MD) Masters of Animal Science Master of Bioinformatics Master of Educational Studies Master of Arts in Chinese Translation and Interpreting (advanced)
University of Sydney	Doctor of Veterinary Medicine Master of Clinical Psychology
University of Technology, Sydney	Master of Clinical Psychology Master of Orthoptics Master of Teaching in Secondary Education
University of the Sunshine Coast	Master of Professional Psychology
University of Western Australia	Master of Clinical Pathology Master of Landscape Architecture
University of Wollongong	Master of Applied Finance Master of Business Master of Business (Financial Management) Master of Information Technology Master of Nutrition and Dietetics

	Master of Work, Health and Safety
Victoria University	Master of Teaching (Primary) Master of Teaching (Secondary)

Where a course has been renamed, the previously named course has been retained in the Schedule. This will ensure that a person who commenced studying the previously named course continues to be undertaking a tertiary course for the purpose of the Act.

Removal of Masters courses in Schedule 3 to the Principal Determination

New Schedule 3 to the Principal Determination omits the Masters courses in the following table that were previously contained in Schedule 3 to the Principal Determination. These courses have been removed as students are no longer enrolled in them.

Education Institution	Course
Australian Catholic University	Master of Accounting Master of Business Administration (Accounting) Master of Counselling
Griffith University	Master of Adult and Vocational Education
La Trobe University	Master of Teaching (Mathematics Education) Master of Tourism
RMIT University	Master of Computing
Swinburne University of Technology	Master of Accounting
University of Notre Dame	Master of Teaching (K-7), Broome Campus
University of New South Wales	Chinese-English Translation and Interpreting

Other amendments to Schedule 3 to the Principal Determination

New Schedule 3 renames the Melbourne College of Divinity as the University of Divinity to accurately reflect the current title of that institution. The reference to the Federation University of Australia being a merged institution between the University of Ballarat and the

Gippsland campus of Monash University has been removed as that reference is no longer necessary.

Statement of Compatibility with Human Rights

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

Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)* 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 *Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2)* (the Amendment Determination) is made under subsection 5D(1) of the *Student Assistance Act 1973* (the Act). Subsection 5D(3) of the Act provides that a determination under subsection 5D(1) is a legislative instrument.

Subsection 5D(1) of the Act provides that the Minister may, for the purposes of the Act, determine in writing that:

- (a) a course of study or instruction is a secondary course, or a tertiary course; or
- (b) a part of a course of study or instruction is a part of a secondary course or part of a tertiary course.

The Amendment Determination amends the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* (Principal Determination). The Principal Determination broadly outlines the institutions and courses for the purpose of subsections 3(1) and 5D(1) of the Act, specifying multiple levels of study at higher education institutions and registered training organisations.

The Amendment Determination amends the list of Masters courses in Schedule 3 to the Principal Determination by adding new courses, replacing the names of existing courses and removing existing courses. Courses have been removed only where there are no longer any students enrolled in those courses.

The Masters courses listed in Schedule 3 are the Masters courses provided by higher education providers that are “tertiary courses” for the purposes of the Act. In turn, the determination of these courses as tertiary courses for the purposes of the Act allows people studying those courses to qualify for certain income support payments under social security law, such as austudy payment and youth allowance (provided they meet the other eligibility criteria for those payments).

Human rights implications

The Amendment Determination engages the following human rights:

Right to Education

The Amendment Determination engages the right to education contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

By determining that certain Masters courses are “tertiary courses”, which in turn assists people studying those courses to qualify for certain income support payments under social security law, the Amendment Determination may enable students to access education and therefore will be compatible with human rights.

Right to Social Security

The Amendment Determination engages the right to social security contained in Article 9 of the ICESCR. A student undertaking courses specified in Schedule 3 may qualify for certain income support payments under social security law, such as austudy payment and youth allowance (provided they meet the other eligibility criteria for those payments).

Conclusion

The Amendment Determination is compatible with human rights as it enables students to access education and social security payments.

Minister for Social Services, the Hon Kevin Andrews MP