**EXPLANATORY STATEMENT**

*List prepared under section 41-50 of the Higher Education Support Act 2003*

Issued by the authority of the Minister for Education

Subject: *Higher Education Support Act 2003*

List of grants under Division 41 for 2015

**Authority**

Subsection 41-50(1) of the *Higher Education Support Act 2003* (the Act)provides that before the start of a year, the Minister must, by legislative instrument, cause a list to be prepared setting out the maximum amounts of all grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10 of the Act.

**Purpose**

The list sets out:

* each purpose of grant specified in the table in section 41-10 of the Act; and
* the maximum amounts of all grants for each purpose of grant for the 2015 calendar year.

**Changes to Amounts Listed**

* The Indigenous Support Programme maximum amount which was previously included in Item 1 ‑ Promote Equality of Opportunity in Higher Education will now be determined in a separate instrument by the Minister for Indigenous Affairs.
* Changes to the maximum amount for Item 11 (a) – Ensure and Enhance the Quality of Australia’s Higher Education Sector are a result of the cessation of the Reward Funding programme as announced in the 2014-15 Budget.

**Consultation**

Consultation was not undertaken due to the instrument being of a machinery nature that does not alter existing arrangements.

**Commencement**

The list is a Legislative Instrument under the *Legislative Instruments Act 2003*. The list takes effect the day after it is registered on the Federal Register of Legislative Instruments.

**Statement of Compatibility with Human Rights**

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

**List of Grants under Division 41**

This Legislative Instrument is compatible with 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**

Subsection 41-50(1) of the *Higher Education Support Act 2003* (the Act) provides that before the start of a year, the Minister must, by legislative instrument, cause a list to be prepared setting out the maximum amounts of all Other Grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10 of the Act.

The list sets out each purpose of grant specified in the table in section 41-10 of the Act as well as the maximum amounts of all grants for each purpose of grant for the 2015 calendar year.

**Human Rights implications**

*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 Minister must cause a list to be prepared to set out the maximum amounts of all Other Grants which may be paid in the following year for each purpose of grant specified in the table in section 41-10. By doing so, the Legislative Instrument will support the payments of the Other Grants for the purposes specified in the table in section 41-10 of the Act. As the purposes of the Other Grants include the promotion of equality of opportunity in higher education, the support of diversity and structural reform and the support of the training of research students (amongst other purposes) the Legislative Instrument enables access to education and therefore will be compatible with human rights. The maximum payment amounts are capped having regard to reasonable, necessary and proportionate constraints on spending.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument aims to improve the integrity of the higher education sector.

**Conclusion**

This Legislative Instrument is compatible with human rights.

**The Hon Christopher Pyne MP, Minister for Education**