

## **EXPLANATORY STATEMENT**

### *Student Assistance (Education Institutions and Courses) Amendment Determination 2015 (No. 2)*

#### **General outline**

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2015 (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 1 January 2016.

## **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:

[www.dss.gov.au/our-responsibilities/families-and-children/programs-services/student-payments/approved-institutions-and-courses-for-student-payments](http://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 2015 (No.2)*.

### Section 2

This section provides that the Amendment Determination commences on 1 January 2016.

### 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 Masters courses that were not previously contained in that Schedule:

Education Institution	Course
Australian Catholic University	Master of Professional Psychology Master of Teaching (Primary) / Graduate Certificate in Religious Education Master of Teaching (Secondary) / Graduate Certificate in Religious Education Master of Teaching (Secondary) including Master of Teaching (Secondary) / Professional Practice Master of Theological Studies
Australian College of Theology	Master of Ministry (Extended)
Australian National University	Master of Legal Practice
Bond University	Doctor of Medicine Master of Actuarial Practice Master of Finance
Central Queensland University	Master of Podiatry Practice
Charles Sturt University	Master of Child and Adolescent Welfare Master of Clinical Nursing (Nurse Practitioner) Master of Speech Pathology
Curtin University	Master of Information Management Master of Radiation Therapy Master of Science - Geophysics Major
Deakin University	Master of Child Play Therapy Master of Health Economics
Edith Cowan College	Master of Occupational Hygiene and Toxicology

Excelsia College	Master of Teaching (Secondary)
Griffith University	Master of Accounting Master of Environment Master of Financial Planning (5665) Master of Financial Planning (5686/5687/5685) Master of Professional Accounting (5683)
James Cook University	Master of Rehabilitation (Occupational Therapy) Master of Rehabilitation (Speech Pathology) Master of Teaching and Learning (Primary)
La Trobe University	Juris Doctor Master of Business Analytics Master of Business Information Management and Systems Master of Exercise Physiology Master of Management (Corporate Governance and Risk) Master of Management (Human Resource Management) Master of Management (Project Management) Master of Marketing Management

Macquarie University	<p>Master of Biotechnology</p> <p>Master of Biotechnology and Business</p> <p>Master of Engineering</p> <p>Master of Information Technology</p> <p>Master of Professional Psychology</p> <p>Master of Radiopharmaceutical Science</p>
Monash University	<p>Master of Actuarial Studies</p> <p>Master of Dietetics</p> <p>Master of International Development Practice</p> <p>Master of International Relations</p> <p>Master of Professional Accounting</p>
Queensland University of Technology	<p>Master of Teaching (Early Childhood)</p> <p>Master of Teaching (Primary)</p>
RMIT University	<p>Master of Engineering (Transport Systems Engineering)</p> <p>Master of Laboratory Medicine</p> <p>Master of Property</p>
Swinburne University of Technology	<p>Master of Teaching (Primary)</p> <p>Master of Teaching (Secondary)</p>
Tabor Adelaide	Master of Counselling Practice
University of Adelaide	Master of Applied Finance
University of Melbourne	<p>Master of Business Analytics</p> <p>Master of Urban Analytics</p> <p>Master of Urban and Cultural Heritage</p>
University of New England	Master of Science in Agriculture

University of New South Wales	Master of Architecture Master of Commerce (Human Resource Management)
University of Newcastle	Master of Mental Health Nursing (Nurse Practitioner) Master of Nursing (Nurse Practitioner) Master of Public Health
University of Notre Dame Australia	Master of Arts (Theology)
University of Queensland	Master of Agricultural Science (#32) Master of Conservation Biology Master of Rural Development (#24 or #32)
University of Southern Queensland	Master of Learning and Teaching
University of Sydney	Master of Taxation
University of Tasmania	Master of Professional Psychology
University of Technology Sydney	Master of Finance Master of Marketing Master of Strategic Supply Chain Management
University of the Sunshine Coast	Master of Health Promotion Master of International Development
University of Western Australia	Master of Agricultural Science Master of Biomedical Science Master of Biotechnology Master of Environmental Science Master of Health Science Master of Physics: Medical Physics

The Masters of Architecture at the University of New South Wales has been reinserted after it was incorrectly omitted in a previous amendment.

*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
Bond University	Master of Environmental Management (Sustainable Development) Master of Information Technology Master of Information Technology (Industry) Master of Information Technology (Professional) Master of Urban Planning
Charles Sturt University	Master of Applied Science (Library and Information Management) Master of Applied Science (Teacher Librarianship) Master of Teaching (Primary)
Curtin University of Technology	Master of Environmental Health
Deakin University	Master of Midwifery
Federation University of Australia	Master of Education Master of Psychology
Flinders University	Master of Information Technology (Computing) Master of Remote Health Practice (Nurse Practitioner)
Griffith University	Master of Science with Honours in Genetic Counselling
James Cook University	Master of Psychology (Forensic)
La Trobe University	Bachelor of Health Sciences and Master

	of Orthoptics (Honours) Master of Child, Family and Community Nursing Science Master of Orthoptics (Honours)
Monash University	Master of Business Systems Master of Laws (Legal Practice Skills and Ethics) Master of Organisational Psychology
Murdoch University	Master of Midwifery
Queensland University of Technology	Master of Learning Innovation (Teacher-Librarianship)
University of Canberra	Master of Exercise Science Master of Landscape Architecture
University of Notre Dame Australia	Master of Teaching (Early Childhood Education)
University of Queensland	Master of Applied Science – Clinical Exercise Science
University of the Sunshine Coast	Master of Financial Planning
University of Western Australia	Master of Dental Science
Western Sydney University	Master of Psychology (Educational and Developmental) Master of Teaching (Birth-5 years)

### *Courses that have changed names*

New Schedule 3 renames a number of courses. The old courses that have new course names are shown in the following table:

Higher Education Provider	Old course name	New course name
Charles Sturt University	Master of Arts (Journalism)	Master of Communication (Journalism)



Charles Sturt University	Master of Psychology	Master of Clinical Psychology
Deakin University	Master of Psychology (Industrial and Organisational)	Master of Psychology (Organisational)
Deakin University	Master of Teaching	Separated into 5 new courses of:  Master of Teaching (Primary and Early Childhood)  Master of Teaching (Secondary)  Master of Teaching (Primary and Secondary)  Master of Teaching (Primary)  Master of Teaching (Early Childhood)
Edith Cowan University	Master of Computer and Network Security  Master of Nursing (Nurse Practitioner)	Master of Cyber Security  Master of Nursing (Nursing Practitioner)
Melbourne Institute for Experiential and Creative Arts Therapy	Master of Arts in Experiential and Creative Arts Practice	Master of Therapeutic Arts Practice
Monash University	Master of Medical Radiations	Master of Radiation Therapy
Monash University	Master of Psychology (Educational and Developmental)	Master of Educational and Developmental Psychology
RMIT University	Master of Business (Information Technology)	Master of Business Information Technology
RMIT University	Master of Business (Logistics Management)	Master of Supply Chain and Logistics Management
Queensland University of Technology	Master of Business (Professional Accounting)	Master of Business (Accounting)

University of Melbourne	Master of Agricultural Science	Master of Agricultural Sciences
University of Melbourne	Master of Education (Language Intervention and Hearing Impairment), Master of Education (Special Education, Inclusion & Early Intervention), Master of Education (Specific Learning Difficulties)	Courses now contained in one course of:  Master of Learning Intervention
University of Melbourne	Master of Engineering	Master of Engineering (Spatial)
University of Melbourne	Master of Science	Master of Science (Biosciences)
University of New England	Master of Environmental Science	Master of Environmental Science and Management
University of New South Wales	Master of Planning	Master of City Planning
University of Queensland	Master of Dietetics	Master of Dietetics Studies
University of Technology Sydney	Master of Arts in Teaching English to Speakers of Other Languages (TESOL)	Master of Applied Linguistics and TESOL
Western Sydney University	Master of Psychology (Clinical Psychology)	Master of Clinical Psychology

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.

#### *Institutions that have changed names*

New Schedule 3 renames Wesley College as Excelsia College and the University of Western Sydney as Western Sydney University to accurately reflect the trading names of those institutions. The courses that were previously listed for Wesley College and University of Western Sydney have been moved to the listing for Excelsia College and Western Sydney University respectively.

## **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 2015 (No. 2)*

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2015 (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**

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

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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 Christian Porter MP**