

## **EXPLANATORY STATEMENT**

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

Issued by the authority of the Minister for Education and Training

Subject: *Higher Education Support Act 2003*  
List of Maximum Grant Amounts under Division 41 for 2016 (Education)

### **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 of Grants under Division 41 for 2016* sets out:

- each purpose of grant specified in the table in section 41-10 of the Act
- the maximum amounts of all grants for each purpose of grant for the 2016 calendar year.

By comparison to the *List of Maximum Grant Amounts under Division 41 for 2015 (Education)* this instrument:

- increases the maximum total payments to be made under Part 2-3 for Other Grants for the 2016 calendar year due to changes in estimates of superannuation payments to New South Wales universities.
- decreases the maximum total payments for Item 1 – Promote Equality of Opportunity in Higher Education due to 2015-16 budget savings measure to the Higher Education Participation Programme
- defers commencement of proposed savings from the 2016 maximum total payments for one year for Item 8 – To Support the Training of Research Students for the Research Training Scheme due to the deferral of 2013–14 Budget Higher Education Reforms.

### **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 Maximum Grant Amounts under Division 41 for 2016 (Education)***

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 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 of Maximum Grant Amounts under Division 41 for 2016 (Education)* (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 2016 calendar year. Compared to the *List of Maximum Grant Amounts under Division 41 for 2015 (Education)* the List:

- Increases the maximum total payments to be made under Part 2-3 for Other Grants for the 2016 calendar year due to changes in estimates of superannuation payments to New South Wales universities.
- Decreases the maximum total payments for Item 1 – Promote Equality of Opportunity in Higher Education due to 2015-16 budget savings measure to the Higher Education Participation Programme
- Defers commencement of the proposed savings from the 2016 maximum total payments for one year for Item 8 – To Support the Training of Research Students for the Research Training Scheme due to the deferral of 2013-14 Budget Higher Education Reforms.

## **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 Instrument provides for an increase to the maximum amount which is payable by the Commonwealth in relation to item 6 of the table in section 41-10 of the Act which concerns grants to assist with the cost of higher education providers' superannuation liabilities. 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.

The Instrument also continues to support the payment of grants for the purposes specified in the table in section 41-10 of the Act. As the purpose of the grants include the promotion of equality of opportunity in higher education and the support of the training of research students (amongst other purposes) the Instrument engages and promotes the right to education.

The maximum payment amounts are capped having regard to reasonable, necessary and proportionate constraints on spending. The Instrument is compatible with the right to education.

### **Conclusion**

This Legislative Instrument is compatible with human rights.

**The Hon Simon Birmingham MP, Minister for Education**