

EXPLANATORY STATEMENT

List prepared under subsection 41-50(1) of the Higher Education Support Act 2003

Issued by the authority of the Minister for Education and Training

Subject: *Higher Education Support Act 2003 (Act)*
List of Maximum Grant Amounts under Division 41 for 2017 (the Instrument)

Authority

Subsection 41-50(1) of 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 Instrument 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 2017 calendar year.

By comparison to the *List of Maximum Grant Amounts under Division 41 for 2016 (Education)* this Instrument:

- decreases the maximum total payments for Item 1 – Promote Equality of Opportunity in Higher Education to reflect the Government’s decision to reprioritise funding from the Higher Education Participation and Partnerships Programme primarily to provide additional funding to support the Australian Institute of Aboriginal and Torres Strait Islander Studies.
- increases the maximum total payments for Item 2 – Promote Productivity of Higher Education Providers due to the establishment of the Jobs and Growth in Tasmania program.
- increases the maximum total payments for Item 4 - Support National Institutes Specified in the Other Grants Guidelines due to the Budget 2016–17 redirection of funding from the Department of the Prime Minister and Cabinet to the National Institutes Program to consolidate funding arrangements for the Batchelor Institute of Indigenous Tertiary Education.
- increases the maximum total payment for Item 6 - Assistance with the Cost of Higher Education Providers’ Superannuation Liabilities due to changes in estimates of superannuation payments to New South Wales universities.
- increases the maximum total payments for item 7 – To Support Research by, and the Research Capability of, Higher Education Providers is primarily due to additional funding provided through the Government’s National Innovation and Science Agenda (NISA) to increase incentives for end-user engagement, implemented as part of the consolidation of various programs (Research Infrastructure Block Grants, Joint Research Engagement Program and the Sustainable Research Excellence Program) into the new Research Support Program from 1 January 2017.
- decreases the maximum total payments for Item 8 - To Support the Training of Research Students due to the establishment of the Research Training Program (Commonwealth Scholarships) replacing the Research Training Scheme (Other Grants).
- increases the maximum total payments for Item 9A – Support Diversity and Structural Reform due to the provision of funding support to Deakin University to better respond to

local labour markets and assure the ongoing provision of higher education in Warrnambool.

- decreases the maximum total payment for Item 11A - Assure and Enhance the Quality of Australia's Higher Education Sector due to 2015–16 Budget savings for the Promotion of Excellence in Learning and Teaching in Higher Education, offset by the establishment of the Academic Centres of Cyber Security Excellence.
- decreases the maximum total payments for Item 11B - Foster an Understanding of the Importance of, or Promote Research and Scholarship in, Science, Social Science or the Humanities in Australia due to the cessation of the Australian Maths and Science Partnership Program.

Consultation

Consultation was not undertaken on the Determination as it does not create new commitments, but implements Government decisions already announced.

Commencement

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

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 2017

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* (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 Instrument 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 2017 calendar year. Compared to the *List of Maximum Grant Amounts under Division 41 for 2016 (Education)* the Instrument:

- decreases the maximum total payments for Item 1 – Promote Equality of Opportunity in Higher Education to reflect the Government’s decision to reprioritise funding from the Higher Education Participation and Partnerships Programme primarily to provide additional funding to support the Australian Institute of Aboriginal and Torres Strait Islander Studies.
- increases the maximum total payments for Item 2 – Promote Productivity of Higher Education Providers due to the establishment of the Jobs and Growth in Tasmania program.
- increases the maximum total payments for Item 4 - Support National Institutes Specified in the Other Grants Guidelines due to the Budget 2016–17 redirection of funding from the Department of the Prime Minister and Cabinet to the National Institutes Program to consolidate funding arrangements for the Batchelor Institute of Indigenous Tertiary Education.
- increases the maximum total payment for Item 6 - Assistance with the Cost of Higher Education Providers’ Superannuation Liabilities due to changes in estimates of superannuation payments to New South Wales universities.
- increases the maximum total payments for item 7 – To Support Research by, and the Research Capability of, Higher Education Providers primarily due to additional funding provided through the Government’s National Innovation and Science Agenda (NISA) to increase incentives for end-user engagement, implemented as part establishing the new Research Support Program from 1 January 2017.
- decreases the maximum total payments for Item 8 - To Support the Training of Research Students due to the establishment of the Research Training Program (Commonwealth Scholarship) replacing the Research Training Scheme (Other Grants).
- increases the maximum total payments for Item 9A – Support Diversity and Structural Reform due to the provision of funding support to Deakin University to better respond to

local labour markets and assure the ongoing provision of higher education in Warrnambool.

- decreases the maximum total payment for Item 11A - Assure and Enhance the Quality of Australia's Higher Education Sector due to 2015–16 Budget savings for the Promotion of Excellence in Learning and Teaching in Higher Education, offset by the establishment of the Academic Centres of Cyber Security Excellence.
- decreases the maximum total payments for Item 11B - Foster an Understanding of the Importance of, or Promote Research and Scholarship in, Science, Social Science or the Humanities in Australia due to the cessation of the Australian Maths and Science Partnership Programme.

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. The Instrument also provides for increases to the maximum grant amounts for national institutes and programs to support higher education institutions' research capabilities. To the extent that the right to education is engaged, this right is promoted as the Instrument provides clarity of funding for programs that support access and equality in higher education and research.

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 Determination is compatible with human rights because it provides clarity of funding for programs that support the financially viable provision of higher education, including research, or enhance access to higher education.

Senator the Hon Simon Birmingham, Minister for Education and Training