



FEE-HELP Guidelines 2017

Higher Education Support Act 2003

I, Simon Birmingham, Minister for Education and Training, make this instrument under section 238-10 of the *Higher Education Support Act 2003*.

Dated: 24 September 2017

SIMON BIRMINGHAM
Minister for Education and Training

COMMONWEALTH OF AUSTRALIA

Higher Education Support Act 2003

FEE-HELP GUIDELINES 2017

(i) NAME

This instrument is the *FEE-HELP Guidelines 2017*.

(ii) COMMENCEMENT

This instrument commences on the day it is registered on the Federal Register of Legislation.

(iii) AUTHORITY

This instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

(iv) REVOCATION

The instrument registered on the Federal Register of Legislation as the *Higher Education Support Act 2003 – FEE-HELP Guidelines (as amended)* (F2015C00541) is revoked.

COMMONWEALTH OF AUSTRALIA
Higher Education Support Act 2003

FEE-HELP GUIDELINES 2017

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CHAPTER 1 INTRODUCTION

1.1 INTERPRETATION

1.1.1 Unless the contrary intention appears, the terms within these Guidelines have the same meaning as in the *Higher Education Support Act 2003*.

1.1.5 In the FEE-HELP Guidelines 2017, unless the contrary intention appears:

Act means the *Higher Education Support Act 2003*.

Administration Guidelines means the Administration Guidelines made under subsection 238-10(1) of the Act.

ANZSCO means the Australian and New Zealand Standard Classification of Occupations, version 1.2 (ABS catalogue number 1220.0 ANZSCO). ANZSCO is the classification system that provides for the standardised collection, analysis and dissemination of occupation data administered by the Australian Bureau of Statistics.

Department means the department that administers these Guidelines.

Higher Education Provider Guidelines means the Higher Education Provider Guidelines made under section 238-10 of the Act.

OUA means Open Universities Australia Pty Ltd (ACN 053 431 888).

The annual financial reporting period for OUA is the period of 12 months to which OUA's accounts relate.

Published census date(s) has the meaning given in paragraph 3.30.30 of FEE HELP Guidelines, and may be a specific date, or as referenced by OUA.

Published EFTSL value(s) has the meaning given in paragraph 3.30.30 of these Guidelines. Published tuition fee means a fee included in a schedule of tuition fees published on OUA's website pursuant to paragraph 3.25.15(b) of these Guidelines.

Skilled Occupation List means the Skilled Occupation List included in a legislative instrument, as in force from time to time, specifying categories of professional occupations and relevant assessing authorities under regulations 1.15I and 2.26B of the *Migration Regulations 1994*.

CHAPTER 2 BRIDGING COURSES FOR OVERSEAS-TRAINED PROFESSIONALS

2.1 PURPOSE

- 2.1.1 The purpose of this chapter is to:
- (a) specify the listed professional occupations for the purposes of section 104-60 of the Act; and
 - (b) specify the assessing bodies for those listed professional occupations for the purposes of section 104-55 of the Act.

2.5 LISTED PROFESSIONAL OCCUPATIONS AND ASSESSING BODIES

- 2.5.5 For the purposes of section 104-60 of the Act, listed professional occupations are those occupations listed on the Skilled Occupation List and designated with a prefix numeral of “2” under ‘Group 2 Professionals’ of ANZSCO.
- 2.5.10 Under section 104-50 of the Act, assessing bodies may issue assessment statements for the purposes of FEE-HELP for their listed professional occupation. Pursuant to subsection 104-55(3) of the Act, assessing bodies may have assessing authority limited to specific States or Territories. Assessing bodies for listed professional occupations are those bodies listed as assessing authorities in the Skilled Occupation List. Where an assessing body is not limited to a particular State or Territory, it may issue assessment statements in all States and Territories.

CHAPTER 3 REQUIREMENTS FOR OPEN UNIVERSITIES AUSTRALIA (OUA)

3.1 PURPOSE

- 3.1.1 The purpose of this chapter is to set out requirements for OUA for the purposes of section 104-3 of the Act.

3.5 FINANCIAL VIABILITY REQUIREMENTS

- 3.5.1 OUA:

- a) must be financially viable; and
- b) must be likely to remain financially viable.

- 3.5.5 If a student accesses a unit of study through OUA for which the student has received assistance under Chapter 3, OUA must give to the Minister a financial statement for that annual financial reporting period.

- 3.5.10 The statement must be provided:

- a) in the form approved by the Minister under paragraph 19-10(2)(a) of the Act for financial statements given by higher education providers pursuant to section 19-10 of the Act; and
- b) together with a report on the statement by an independent qualified auditor; and
- c) within 6 months after the end of the annual financial reporting period for which the statement was given.

3.10 QUALITY REQUIREMENTS

- 3.10.1 For the purposes of paragraph 104-3(2)(b) of the Act, OUA must have an Academic Programs Board, or its equivalent, to make recommendations to OUA's Chief Executive Officer on:

- a) the academic program offered by OUA;
- b) the units to be offered, their content and their mode of delivery;
- c) assessment and other academic procedures;
- d) the accreditation of the units to be offered; and
- e) quality assurance arrangements for OUA;

for the on-going assurance of the quality of tuition accessed through OUA.

- 3.10.5 OUA shall have on its Academic Programs Board, or its equivalent, representatives from universities that:

- a) make available to OUA, units of study for which a student may be entitled to receive FEE-HELP;
- b) recognise units of study and sequences of units of study within a discipline that are successfully completed with OUA as contributing to the requirements of their higher education awards; and
- c) agree to conform to the educational and other principles determined by OUA's Board of Directors.

3.10.10 OUA must advise the Minister before there is any change to the role and functioning of its Academic Programs Board, or its equivalent. OUA must provide this advice in writing at least 30 days before the change takes effect. The advice must contain details on the nature of the change that is to occur and the date on which the change is to occur.

3.10.15 OUA must ensure that students who access a unit of study through OUA receive all the learning materials, services and experiences necessary to complete all the requirements of each unit of study for the tuition fee.

OUA must ensure that each unit of study accessed through OUA and for which a student may be entitled to receive FEE-HELP is of a standard that enables it to be recognised as contributing to the requirements of a higher education award issued by a higher education provider.

3.10.20 OUA must ensure that the content and sequencing of the units of study to which it provides access enables a student:

- a) to progress their studies within a discipline in a coherent manner, consistent with sound curriculum principles; and
- b) to have a sequence of successfully completed units of study within a discipline recognised as contributing to the requirements of a higher education award issued by a higher education provider.

3.10.25 OUA must offer appropriate information and advice to its students on:

- a) the requirements and demands of units of study and sequences of units of study within a discipline, including progression requirements to year 2 and 3 level units; and
- b) the requirements for having units of study, and sequences of units of study within a discipline, recognised as contributing to the requirements of a higher education award of a higher education provider.

3.10.30 OUA will provide to all students and higher education providers the information necessary for a provider to consider granting credit for units successfully completed through OUA.

3.15 FAIRNESS REQUIREMENTS

3.15.1 For the purposes of paragraph 104-3(2)(c) of the Act, OUA must treat fairly:

- a) all of the students who access unit/s of study through OUA; and
- b) all of the persons seeking to access unit/s of study through OUA in accordance with this section 3.15.

3.15.5 OUA must allow any person who is an Australian citizen, a citizen of New Zealand who will be resident in Australia for the duration of the unit, or a permanent visa holder who will be resident in Australia for the duration of the unit, to undertake any unit of study that may be accessed through OUA, provided the person:

- a) has successfully completed any unit/s of study that may be accessed through OUA and which is identified by OUA as a pre-requisite to undertaking the unit; and

- b) pays to OUA the tuition fee for the unit; and
 - c) does not have any outstanding debt to OUA; and
 - d) is not in breach of the regulations of OUA or the relevant higher education provider.
- 3.15.10 OUA must have:
- a) a grievance procedure relating to non-academic matters for dealing with complaints by students who access unit/s of study through OUA, and persons who seek to access unit/s of study through OUA; and
 - b) a review procedure for dealing with review of decisions made by OUA relating to assistance under Part 3-3 of the Act.
- 3.15.15 OUA must ensure that its:
- a) grievance procedure relating to non-academic matters complies with the requirements that are specified in the Higher Education Provider Guidelines for the non-academic grievance procedures of higher education providers; and
 - b) review procedure for dealing with review of decisions made by OUA relating to assistance under Part 3-3 of the Act complies with the requirements that are specified in the Higher Education Provider Guidelines for the review procedures of higher education providers for decisions in relation to assistance under Chapter 3 of the Act
- 3.15.20 OUA must ensure that all of the students who access a unit of study through OUA have their complaints about academic matters dealt with through the academic grievance procedure of the higher education provider that has made the unit available through OUA.
- 3.15.25 OUA must publish, and make publicly available, up to date information setting out:
- a) its non-academic grievance and review procedures and any other complaint mechanisms available to complain about OUA's decisions; and
 - b) how students are to submit a complaint about an academic matter to a higher education provider that has made a unit of study available through OUA.
- 3.15.30 OUA must appoint a review officer to undertake reviews of decisions made by OUA relating to a person's application for re-crediting of the person's FEE-HELP balance.
- 3.15.35 OUA must ensure that a review officer of OUA:
- a) does not review a decision that the review officer was involved in making; and
 - b) in reviewing a decision of OUA, occupies a position that is senior to that occupied by any person involved in making the original decision.
- 3.15.40 In respect of Personal Information obtained for the purposes of Chapters 2, 3 and 4 of the Act, OUA must comply with:

- a) the Australian Privacy Principles set out in Schedule 1 to the *Privacy Act 1988*; and
 - b) the requirements for the protection of Personal Information as set out in Part 5-4 of the Act.
- 3.15.45 OUA must have a procedure under which a student accessing unit/s of study through OUA may apply to OUA for, and receive, a copy of Personal Information that OUA holds in relation to that student. OUA must comply with this procedure.
- 3.15.50 OUA must ensure that a student accessing a unit of study through OUA may apply to the higher education provider that has made the unit available for, and receive, a copy of Personal Information that the higher education provider holds in relation to that student.
- 3.15.51 Complaints about breaches of privacy should be referred to the Department's Privacy Contact Officer. Privacy complaints may be emailed to privacy@education.gov.au or can be sent to :

Privacy Contact Officer
 People, Communication and Legal Group
 Department of Education and Training
 GPO Box 9880
 Canberra ACT 2601.

Privacy complaints can be made directly to the Australian Privacy Commissioner; however the Australian Privacy Commissioner prefers that the Department first be given an opportunity to deal with the complaint.

3.20 COMPLIANCE REQUIREMENTS

- 3.20.1 OUA's administrative arrangements must support the provision of FEE-HELP assistance under the Act.
- 3.20.5 Subject to paragraph 3.20.10, OUA must give to the Minister such statistical and other information that the Minister by notice in writing requires from OUA in respect of:
- a) the provision of higher education by OUA; and
 - b) compliance with the requirements of the Act by OUA.
- 3.20.10 Paragraph 3.20.5 applies only to the extent possible given the nature of OUA's provision of higher education.
- 3.20.15 The information required under paragraph 3.20.5 must be provided in the form approved by the Minister under section 19-70(2)(a) of the Act and in accordance with such other requirements as the Minister makes for higher education providers under section 19-70(2)(b) of the Act.
- 3.20.20 OUA must by writing inform the Minister of any event affecting:
- a) OUA; or
 - b) a related body corporate of OUA;

that may significantly affect OUA's capacity to comply with the requirements for OUA specified in the Act and these Guidelines.

3.25 TUITION FEE REQUIREMENTS

- 3.25.1 For the purposes of subsection 104-4(2AA) of the Act, when determining more than one fee under subsection 104-4(2) of the Act, OUA must not have regard to any matter relating to the manner or timing of:
- a) any student's payment of the tuition fee to OUA; or
 - b) the Commonwealth's payment to OUA of any amount lent to a student in discharge of the student's liability to pay the tuition fee; or
 - c) any other matters stipulated in the Higher Education Provider Guidelines as matters to which a higher education provider should not have regard to in determining more than one student contribution amount or tuition fee.
- 3.25.3 For the purposes of paragraph 104-3(2)(e) of the Act, OUA:
- a) must require any student who is accessing a unit of study through OUA, to pay to OUA the tuition fee for the unit; and
 - b) must not charge any domestic student any other fee for the unit unless it is:
 - i) a charge for a good or service that is not essential to the unit of study; or
 - ii) a charge for an alternative form, or alternative forms, of access to a good or service that is an essential component of the unit of study but is otherwise made readily available at no additional fee by OUA; or
 - iii) a charge for an essential good or service that the student has the choice of acquiring from a supplier other than OUA and is for:
 - A) equipment or items which become the physical property of the student and are not consumed during the unit of study; or
 - B) food, transport and accommodation costs associated with the provision of field trips that form part of the unit of study.
 - iv) a fine or a penalty provided it is imposed principally as a disincentive and not in order to raise revenue or cover administrative costs.
- 3.25.5 Despite paragraph 3.25.3 of these Guidelines OUA must repay to a person any payment of his or her tuition fee for a unit of study that the person made on or before the census date for the unit if the person is no longer enrolled in the unit at the end of the census date.
- 3.25.6 For the purposes of paragraph 3.25.10 and 3.25.15 of these Guidelines, the period commences on the earliest enrolment date for the unit as determined by OUA and ends on the completion date for the unit as determined by OUA.

However, if it is the case that the dates defined as the period for the

purposes of subsections 19-90(1) and 19-95(1) of the Act by the Higher Education Provider Guidelines differ from the dates stated above, then the dates stipulated by the Higher Education Provider Guidelines shall be the definition of period for the purposes of paragraphs 3.25.10 and 3.25.15 of these Guidelines.

3.25.10 For the purposes of paragraph 104-3(2)(e) of the Act, OUA must give to the Minister a schedule of tuition fees determined under subsection 104-4(2) of the Act for all the units of study to which it provides access, or proposes to provide access, during a period.

3.25.15 For the purposes of paragraph 104-3(2)(e) of the Act:

- a) OUA must ensure the schedule provided under paragraph 3.25.10 provides sufficient information to enable a person to work out his or her tuition fee for each unit of study to which OUA provides access or proposes to provide access; and
- b) the form in which OUA gives the Minister the schedule under paragraph 3.25.10 is by publishing the schedule on OUA's website; and
- c) the date by which OUA gives the Minister the schedule under paragraph 3.25.10 is on or before the earliest enrolment date for the unit of study as determined by OUA; and
- d) OUA must publish the schedule of tuition fees for a particular period on OUA's website by the date set out for delivery to the Minister in paragraph 3.25.15(c) above.

However, if it is the case that the Higher Education Provider Guidelines stipulate dates for higher education providers to deliver equivalent schedules, and where the dates stipulated by the Higher Education Provider Guidelines differ from the dates stated in paragraph 3.25.15(c) above, then the dates stipulated by the Higher Education Guidelines shall be the dates by which OUA should deliver schedules for the purposes of paragraph 3.25.15 of these Guidelines.

3.25.20

- a) For the purpose of paragraph 104-4(2A)(a) of the Act, OUA may only vary a published tuition fee if the variation occurs prior to the published census date for the unit of study, and:
 - i) the variation does not disadvantage a student enrolled, or a person seeking to enrol; and
 - ii) the variation is necessary to correct the published tuition fee due to administrative error or circumstances that did not apply at the time the student contribution amount or tuition fee was determined.
- b) Without limiting the generality of paragraph 3.25.20(a)(i) of these Guidelines, a student will be disadvantaged by a variation that increases the tuition fee.

However, if it is the case that the dates and circumstances stipulated by the Higher Education Provider Guidelines for the variation of tuition fees by higher education providers differ from the dates and circumstances stipulated by (a) and (b) above in any manner, then the dates and circumstances stipulated by the Higher Education Provider Guidelines shall apply for the purposes of paragraph 3.25.20 of these Guidelines.

3.25.25 If OUA varies a tuition fee in accordance with subsection 104-4(2A) of the Act, OUA must:

- a) withdraw any previous schedule given under paragraph 3.25.10 or this paragraph of these Guidelines which contains the tuition fee subject to variation; and
- b) inform the Minister of the variation; and
- c) give the Minister a replacement schedule incorporating the variation by publishing the replacement schedule on OUA's website as soon as practicable after making that decision.

3.30 ADMINISTRATIVE REQUIREMENTS

3.30.1 OUA must give a notice to a person who is seeking FEE-HELP assistance for a unit of study access to which is provided by OUA. This notice will be called the Commonwealth Assistance Notice.

3.30.5 The Commonwealth Assistance Notice given under paragraph 3.30.1 must:

- a) contain the information set out in the Administration Guidelines as information that must be provided in a *notice* (as defined under the Administration Guidelines) provided to students; and
- b) be given within the period set out in the Administration Guidelines by which a *notice* (as defined under the Administration Guidelines) provided to students must be given.

3.30.10 If, after giving a person a notice under paragraph 3.30.1, OUA is satisfied that a material particular in the notice was not, or has ceased to be, correct, OUA must give a further written notice to the person setting out the correct particular.

3.30.15 OUA must accept a written request from a person who has received a notice under paragraph 3.30.1 for the notice to be corrected in respect of a material particular, if the request:

- a) specifies the particular in the notice that the person considers is incorrect; and
- b) specifies the reasons the person has for considering that the particular is incorrect; and
- c) is given to the appropriate officer of OUA within 14 days after the day the notice was given or within such further period as OUA allows for the giving of the request.

3.30.20 If OUA receives a request under paragraph 3.30.15 OUA must, as soon as practicable:

- a) determine the matter to which the request relates; and
- b) notify the person in writing of OUA's determination; and
- c) if OUA determines that a material particular in the notice was not, or has ceased to be, correct—give a further notice under paragraph 3.30.10 which effects the correction.

3.30.25 OUA must ensure that a date determined under subsection 104-4(5) of the Act to be the census date for a unit of study must not occur less than 20 per cent of the way through the period between the unit commencement and completion dates.

3.30.26 For the purposes of subsection 104-4(1) of the Act and paragraph 3.30.30 of these Guidelines, the period commences on the earliest enrolment date for the unit as determined by OUA and ends on the completion date for the unit as determined by OUA.

However if it is the case that the dates defined as periods for the purposes of subsection 169-25(1) of the Act by the Administration Guidelines differ from the dates stated above, then the dates stipulated by the Administration Guidelines shall be the definition of period for the purposes of paragraph 3.30.30 of these Guidelines.

3.30.30 OUA must publish the census date(s) and EFTSL value(s) for each unit of study to which access is provided by OUA during a period by posting it on OUA's website on or before the earliest enrolment date for the units of study as determined by OUA.

However if it is the case that the dates stipulated by the Administration Guidelines for the publishing of census dates and EFTSL values by higher education providers differ from the dates stated above, then the dates stipulated by the Administration Guidelines shall be the governing dates for paragraph 3.30.30 of these Guidelines.

3.30.35 Once OUA has published the census date and EFTSL value for a unit of study under paragraph 3.30.30 of these Guidelines, OUA may only vary that census date or EFTSL value if the variation occurs before the day of the published census date; and

- a) the variation does not disadvantage a student enrolled, or a person seeking to enrol; and
- b) the variation is necessary to correct the published census date or EFTSL value due to administrative error or circumstances that did not apply at the time the census date or EFTSL value was determined.

However, if it is the case that the dates and circumstances stipulated by the Administration Guidelines for the variation of census dates and EFTSL values by higher education providers without written ministerial approval differ from the dates and circumstances stipulated above in any manner, then the dates and circumstances stipulated by the Administration Guidelines shall apply for the purposes of paragraph 3.30.35 of these Guidelines.

3.30.36 Without limiting the generality of paragraph 3.30.35(a) of these Guidelines, a student or person will be disadvantaged by a variation that:

- a) reduces the published EFTSL value for a unit of study; or
- b) brings the published census date for a unit of study forward in time.

3.30.37 a) If OUA varies a published census date or published EFTSL value under paragraph 104-4(5A)(a) of the Act, OUA must publish the varied census date or EFTSL value on OUA's website as soon as practicable after making that decision.

b) If OUA varies a published census date under paragraph 104-4(5A)(b) of the Act, OUA must publish the variation by the date, and in the manner, specified by the Minister in the approval.

However, if it is the case that the date and circumstances stipulated by the Administration Guidelines for the publication of the varied census dates or EFTSL values differ from the date and circumstance stipulated above in any manner, then the conditions and dates stipulated by the Administration Guidelines shall apply for the purposes of paragraph 3.30.37 of these Guidelines.

3.30.40 In communications under, or for the purposes of, the Act between the Commonwealth and OUA concerning a person who:

- a) is accessing, or seeking to access, a unit of study through OUA; and
- b) has indicated that they are seeking Commonwealth assistance under the Act for the unit;

OUA must use any identifier for that person that the Secretary has indicated must be used in such communications.