

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Families and Social Services

Student Assistance Act 1973

Student Assistance (Education Institutions and Courses) Amendment Determination 2019

Purpose

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2019* (the Amendment Instrument) is made under subsection 5D(1) of the *Student Assistance Act 1973* (the Act). Subsection 5D(1) of the Act provides that the Minister may determine secondary and tertiary courses for the purposes of certain student payments under the Act. Subsection 5D(3) provides that a determination under subsection 5D(1) is a legislative instrument.

The Amendment Instrument will amend the *Student Assistance (Education Institutions and Courses) Determination 2019* (the Instrument) to add new Masters courses, update the names of existing Masters courses, and remove obsolete Masters courses listed in the table to Schedule 3 of the Instrument. The determination of these courses for the purposes of the Act allows students studying these courses to qualify for student payments under the social security law, subject to the relevant criteria being met.

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 Instrument 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 Instrument will amend the table in Schedule 3 to the Instrument to update the list of approved Masters courses. This list of approved Masters courses is updated in response to new submissions from higher education providers in the most recent Masters courses assessment round. Further information on the assessment process can be found on the Department of Social Services (the Department) website at <https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/student-payments/approved-institutions-and-courses-for-student-payments>.

The Amendment Instrument is beneficial, as it will enable students studying the new Masters courses to be eligible for student payments. Amendments to certain course names will ensure that students, who are currently studying these courses, will continue to be eligible for their student payment in respect of that course. Courses have only been removed where a higher education provider has informed the Department that the course is no longer open to new enrolments and students are no longer enrolled in the course.

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 Instrument commences on the day after it is registered on the Federal Register of Legislation.

Consultation

The Department notified higher education providers that it was accepting applications to include 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 Instrument are available on the Department’s website at: <https://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/student-payments/guidelines-for-the-approval-of-masters-courses-for-student-payments>.

The Department undertook consultations with the higher education providers that sought inclusion of their Masters courses in the Instrument.

Regulation Impact Statement (RIS)

The Amendment Instrument does not require a Regulatory Impact Statement (RIS). It is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact (OBPR ID: 25882).

Explanation of the provisions

Section 1 provides that the name of the Amendment Instrument is the *Student Assistance (Education Institutions and Courses) Amendment Determination 2019*.

Section 2 provides that the Amendment Instrument commences on the day after this instrument is registered on the Federal Register of Legislation.

Section 3 provides that the Amendment Instrument is made under subsection 5D(1) of the Act.

Section 4 provides that the *Student Assistance (Education Institutions and Courses) Determination 2019* is amended as set out in the applicable items in Schedule 1, and any other item in Schedule 1 to this instrument has effect according to its terms.

Schedule 1 to the Amendment Instrument sets out the amendments to the Instrument.

Item 1 repeals the table to Schedule 3 to the Instrument and substitutes a new table.

The table to Schedule 3 to the Instrument prescribes Masters courses for the purposes of paragraph 11(1)(b) of the Instrument.

Paragraph 11(1)(b) of the Instrument provides that for paragraph 5D(1)(a) of the Act, a tertiary course is a full-time course that is:

- accredited at Masters level; and
- specified in Column 2 of the table in Schedule 3 to this instrument; and
- provided by the education institution specified for that course in Column 1 of that table.

New Masters courses in Schedule 3 to the Instrument

The new table to Schedule 3 to the Instrument provides for the following new Masters courses that were not previously contained in the table:

Higher Education Provider	Course Name
Australian College of Theology Limited	Master of Missional Leadership
Australian College of Theology Limited	Master of Theological Studies
Central Queensland University	Master of Professional Psychology
Charles Darwin University	Master of Nursing (Nurse Practitioner)
Charles Darwin University	Master of Social Work
Charles Darwin University	Master of Teaching
Charles Sturt University	Master of Pastoral Counselling
Charles Sturt University	Master of Pastoral Counselling (Clinical)
Curtin University	Doctor of Physiotherapy
Curtin University	Master of Social Work (Qualifying)
Federation University Australia	Master of Primary Teaching
Federation University Australia	Master of Professional Psychology
Federation University Australia	Master of Teaching (Early Childhood)
Griffith University	Juris Doctor
Griffith University	Master of Teaching English to Speakers of Other Languages
Macquarie University	Master of Professional Accounting
Macquarie University	Master of Professional Accounting and Leadership
Monash University	Doctor of Physiotherapy
Monash University	Master of Medical Ultrasound

Murdoch University	Master of Creative Arts Therapies
Murdoch University	Master of Theological Studies
Swinburne University of Technology	Master of Physiotherapy
University of Adelaide	Master of Arts (Interpreting, Translation and Transcultural Communication)
University of Canberra	Master of Primary Teaching
University of Canberra	Master of Secondary Teaching
University of Melbourne	Master of Creative Arts Therapies
University of Melbourne	Master of Teaching (Primary)
University of Newcastle	Master of Nurse Practitioner
University of Notre Dame	Master of Secondary Teaching
University of Tasmania	Master of Planning
University of Tasmania	Master of Social Work (Qualifying) R7O
University of Technology, Sydney	Master of Genetic Counselling
University of Technology, Sydney	Master of Speech Pathology

Removal of Masters courses in Schedule 3 to the Instrument

The new table to Schedule 3 to the Instrument omits the Masters courses in the following table that were previously contained in the table to Schedule 3 to the Instrument. These courses have been removed as the higher education providers have advised the department that these courses have been discontinued and students are no longer enrolled in these courses.

Higher Education Provider	Course Name
Australian Catholic University	Master of Clinical Counselling
Bond University	Master of Psychology (Forensic)
Charles Darwin University	Master of Professional Accounting (Professional Practice)
Deakin University	Master of Nursing Practice (Nurse Practitioner)
Macquarie University	Master of Accounting
Swinburne University of Technology	Master of Practicing Accounting
Swinburne University of Technology	Master of Professional Accounting Global Leadership Program
University of Newcastle	Master of Mental Health Nursing (Nurse Practitioner)

University of Newcastle	Master of Nursing (Nurse Practitioner)
University of Technology, Sydney	Master of Applied Linguistics and TESOL

Courses that have changed names

The new table to Schedule 3 to the Instrument renames a number of courses. The previous courses that have new names are shown in the following table:

Higher Education Provider	Previous Course Name	New Course Name
Australian College of Theology Limited	Master of Ministry (Extended)	Master of Ministry
Charles Darwin University	Master of Professional Accounting (MPA1, MPACC or MPAE)	Master of Professional Accounting
Deakin University	Master of Applied Learning and Teaching	Master of Applied Learning and Teaching (Secondary)
Deakin University	Master of International Accounting	Master of International Accounting – ACCA
RMIT University	Master of International Urban and Environmental Development	Master of International Urban and Environmental Management
University of Melbourne	Master of Teaching	Master of Teaching (Secondary)
University of Southern Queensland	Master of Psychology (Clinical)	Master of Clinical Psychology
University of Wollongong	Master of Work Health and Safety	Master of Occupational Health and Safety

Senator the Hon Anne Ruston, Minister for Families and Social Services

Statement of Compatibility with Human Rights

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

Student Assistance (Educational Institutions and Courses) Amendment Determination 2019

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2019* 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

The *Student Assistance (Education Institutions and Courses) Amendment Determination 2019* (the Amendment Instrument) is made under 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.

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 Amendment Instrument amends the *Student Assistance (Education Institutions and Courses) Determination 2019* (the Instrument). The Instrument 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 Instrument amends the list of Masters courses in Schedule 3 of the *Student Assistance (Education Institutions and Courses) Determination 2019* by adding new courses, replacing the names of existing courses and removing courses that are no longer offered.

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 student payments under social security law, such as youth allowance, austudy payment and the pensioner education supplement (provided they meet the other eligibility criteria for those payments).

Human rights implications

The Amendment Instrument engages the following human rights:

Right to Education

The Amendment Instrument 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 student payments, the Amendment Instrument may enable students to access education and therefore will be compatible with human rights.

Right to Social Security

The Amendment Instrument engages the right to social security contained in Article 9 of the ICESCR. A student undertaking courses specified in Schedule 3 may be able to qualify for certain student payments under social security law, such as youth allowance, austudy payment and the pensioner education supplement (provided they meet the other eligibility criteria for those payments).

By determining that certain Masters courses are “tertiary courses”, which in turn assists people studying those courses to qualify for certain student payments, the Amendment Instrument may enable more students to access social security payments and therefore is compatible with human rights.

Conclusion

The Amendment Instrument is compatible with human rights as it enables students to access education and social security payments.

Senator the Hon Anne Ruston, Minister for Families and Social Services