

EXPLANATORY STATEMENT

Determination made under subsection 41-45(1D) of the Higher Education Support Act 2003

Issued by the authority of the Minister for Education

Subject: *Higher Education Support Act 2003 (the Act)*
Higher Education Support (Maximum Payments for Other Grants)
Amendment (No. 1) 2020 (Amendment Determination)

Authority

Subsection 41-45(1B) of the Act provides that the Minister must determine, by legislative instrument, the total payments made under Part 2-3 of the *Higher Education Support Act 2003 (Act)* in respect of a year starting on or after 1 January 2017. Subsection 41-45(1D) of the Act provides that the Minister may, in writing, vary a determination under subsection 41-45(1B) for a year at any time before the end of that year.

Purpose

The Amendment Determination amends the *Higher Education Support (Maximum Payments for Other Grants) Determination 2019 (Principal Determination)* and the *List of Maximum Grant Amounts under Division 41 for 2020 to 2023 (Principal List)* to, respectively:

- Increase the maximum amount of grants that may be made under Division 41 of the Act for 2020 by \$4,171,000 (to \$1,784,061,000) and for 2021 by \$2,000,000 (to \$1,896,127,000); and
- Increase the maximum amount of grants that may be made under Division 41 of the Act for 2020 for the purposes of:
 - fostering collaboration and reform in higher education by \$2,000,000 (to \$7,655,640)
 - supporting the training of research students in higher education by \$2,171,000 (to \$7,500,000)

A determination made under subsection 41-45(1B) of the Act must be made before the start of the relevant year.

The amounts determined for 2020 to 2023 are expressed with the 2020 indexation factor applied. The indexation factors for 2021 to 2023 are yet to be determined.

Consultation

Consultation was not undertaken in relation to the Amendment Determination as it is setting the maximum amount of funding available under Part 2-3 of the Act, and does not in itself create new commitments of that funding.

Commencement

The Amendment Determination takes effect the day after it is registered on the Federal Register of Legislation.

Regulatory Impact Statement

The Office of Best Practice Regulation have determined that the Amendment Determination will result in no more than a minor economic impact and as such a regulatory impact statement is not required (OBPR ID 42566).

Explanation of the provisions

Section 1 provides that the name of the Amendment Determination is the *Higher Education Support (Maximum Payments for Other Grants) Amendment (No. 1) 2020*.

Section 2 provides that the Amendment Determination commences on the day after it is registered on the Federal Register of Legislation.

Section 3 states that the Amendment Determination is made under subsection 41-45(1D) of the Act.

Section 4 provides that each instrument that is specified in a Schedule to the Amendment Determination is amended or repealed as set out in the Schedule.

Schedule 1 – Amendments

Item 1 replaces the amounts listed in section 5 of the Principal Determination for years 2020 to 2023. In particular, the Amendment Determination increases the maximum amount payable under Division 41 for years 2020 and 2021, as follows:

- At the 2019-20, Mid-Year Economic and Fiscal Outlook for 2019-20, the Government decided to provide \$1 million in funding for the Hycel Establishment Phase project and the Nowra Agribusiness Industry 4.0 Hub project respectively, for 2020 and 2021. This funding will be provided through a grant under Division 41 of the Act, via subsection 41-10(2) Item 9 ‘Grants to foster collaboration and reform in higher education’.
- In June 2020, the Government agreed to rollover \$2.171 million in existing funding allocated to the Australian Mathematical Sciences Institute (AMSI) *Supporting More Women in STEM* program between the 2019 and 2020 calendar years.
- This funding was unspent in the 2019 calendar year due to slower than anticipated progress against program milestones and is needed in 2020 to support delivery against program aims.
- The Australian Government is providing \$19.1 million over four years to the University of Melbourne (as lead agency for AMSI), to administer the program. The purpose of NRIP is to support up to 700 new PhD internships with industry, with a focus on getting more women into STEM careers.

As a result of these decisions, it is necessary to increase the maximum grant amount that can be paid under Division 41 in 2020 and 2021:

- for the purpose of fostering collaboration and reform in higher education by \$2,000,000 in 2020 and 2021 respectively;
- for the purpose supporting the training of research students in higher education by \$2,171,000 for 2020; and
- as a consequence – in total by \$4,171,000 for 2020 and \$2,000,00 for 2021.

The Amendment Determination amends the Principal Determination to give effect to the above items.

Statement of Compatibility with Human Rights

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

Higher Education Support (Maximum Payments for Other Grants) Amendment (No. 1) 2020

The *Higher Education Support (Maximum Payments for Other Grants) Amendment (No. 1) 2020* (Amendment Determination) 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 Amendment

Subsection 41-45(1B) of the *Higher Education Support Act 2003* (the Act) provides that the Minister must, by legislative instrument, determine the total payments made under Part 2-3 in respect of a year starting on or after 1 January 2017. Subsection 41-45(1D) of the Act provides that the Minister may, in writing, vary a determination under subsection 41-45(1B) for a year at any time before the end of that year. The Amendment Determination specifies, for the purpose of subsection 41-45(1B) of the Act, an amount in respect of the years 2020 - 2023.

The Amendment Determination:

- revokes the *Higher Education Support (Maximum Payments for Other Grants) Determination 2019* and
- sets out the maximum total payments to be made under Part 2-3 for Other Grants for the 2020 to 2023 calendar years.

Human rights implications

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*.

The Minister is empowered to determine maximum amounts payable for Other Grants for the 2020 to 2023 calendar years. By facilitating the grant of funding and providing a framework for its allocation, the Amendment Determination supports the payments of the Other Grants for the purposes specified in the table in section 41-10 of the Act. As the purposes of the Other Grants include the promotion of equality of opportunity in higher education, the support of diversity and structural reform and the support of the training of research students (amongst other purposes) the Amendment Determination supports and promotes access to education and therefore is compatible with, and in furtherance of, the right to education.

Conclusion

The Amendment Determination is compatible with human rights because it provides clarity of funding for programs that support access and equality in higher education.

The Hon Dan Tehan MP, Minister for Education