

EXPLANATORY STATEMENT

Issued by authority of the Minister for Education and Training

Higher Education Support Act 2003

Commonwealth Grant Scheme Guidelines Amendment (No. 1) 2020

Authority

Section 238-10 of the *Higher Education Support Act 2003* ('Act') provides that the Minister may make guidelines for the purposes of the Act. In particular, item 2 of the table at section 238-10 specifies that the Minister may make the Commonwealth Grant Scheme Guidelines in order to carry out or give effect to the matters set out in Part 2-2 and section 93-10 of the Act.

Purpose

The Commonwealth Grant Scheme Guidelines Amendment (No. 1) 2020 ('Amendment Instrument') amends the *Commonwealth Grant Scheme Guidelines (Education) 2012* ('Principal Instrument') to allow grants to be paid to a number of Non-University Higher Education Providers (NUHEPs) to provide retraining and upskilling opportunities in 2020 in national priority fields of education.

The purpose of the Amendment Instrument is to address the situation where employment for many Australians has been disrupted by the COVID-19 pandemic. The Minister for Education has allocated Commonwealth supported places for selected NUHEPs to deliver short online courses of study (each half an equivalent full-time study load) in 2020 to around 1000 students. These courses will support retraining and upskilling to assist workers displaced by COVID-19 to regain employment when current economic constraints improve.

Implementing this measure requires an amendment to the Principal Instrument to allow selected additional NUHEPs to be funded under Part 2-2 of the Act and to specify the national priority fields of education that will apply for 2020.

The national priority fields of education have been identified as areas of community and industry need in Australia's labour market, where training opportunities will improve the employability of displaced workers in 2020 to help ensure they will be job ready as the economy recovers from the COVID-19 pandemic.

This amendment also proposes to update the legal entity titles for providers already listed at paragraphs 2.5.1 (a-i) in the Principal Instrument. Of these, two providers have changed their legal entity names: at paragraph 2.5.1 (f), Eastern College was formerly known as Tabor College Victoria, and at paragraph 2.5.1 (i), Melbourne Polytechnic was formerly known as Northern Melbourne Institute of TAFE.

The Schedule to the Amendment Instrument incorporates by reference the Principal Instrument. The Principal Instrument specifies the conditions under which grants for particular purposes, specified in Part 2-2, Division 30 of the Act, are to be paid. The manner of incorporation is as a disallowable Commonwealth legislative instrument as in force from time to time. The incorporated document is readily and freely accessible on the Federal Register of Legislation at <https://www.legislation.gov.au/Series/F2012L00281>.

Commencement and Application

The Amendment Instrument takes effect on the day after it is registered on the Federal Register of Legislation. This amendment applies from its commencement on the day after registration 2020 and in subsequent years.

Consultation

The Department of Education, Skills and Employment (‘department’) recently sought expressions of interest from NUHEPs for the allocation of the Commonwealth supported places to support 1000 students to undertake online short courses. On 13 May 2020, the Minister for Education advised successful NUHEPs of their allocation of places and the department advised unsuccessful applicants.

Regulatory impact statement

The Office of Best Practice Regulation has determined that a regulation impact statement is not required (OPBR ID 26451).

Explanation of the provisions

Item 1 of the Amendment Instrument replaces the existing subsection 2.5.1 to include providers who will be funded to provide retraining and upskilling courses of study in 2020 in national priority fields of education, and to update legal entity names for providers whose names have changed since their original listing in the Principal Instrument.

Existing providers with legal entity name changes

- a) Avondale University College Ltd trading as Avondale University College
- b) The University of Notre Dame Australia trading as University of Notre Dame Australia
- c) Bond University Ltd
- d) University of Divinity trading as MCD University of Divinity
- e) Tabor College Inc trading as Tabor Adelaide
- f) Eastern College Australia Inc
- g) Christian Heritage College
- h) Holmesglen Institute trading as Holmesglen Institute of TAFE
- i) Melbourne Polytechnic

New providers to be funded to provide retraining and upskilling courses of study in 2020 in national priority fields of education

- a) Alphacrucis College Ltd
- b) Australian College of Nursing Ltd
- c) ACPE Ltd trading as The Australian College of Physical Education
- d) Box Hill Institute
- e) Australian College of Natural Medicine Pty Ltd trading as Endeavour College of Natural Health

Explanatory Statement to the

Commonwealth Grants Scheme Guidelines Amendment (No. 1) 2020

- f) Engineering Institute of Technology Pty Ltd
- g) Excelsia College
- h) Queensland Institute of Business & Technology Pty Ltd trading as Griffith College
- i) Health Education and Training Institute
- j) Navitas Bundoora Pty Ltd trading as La Trobe College Australia
- k) Marcus Oldham College
- l) Melbourne Institute of Business and Technology Pty Ltd trading as Melbourne Institute of Business and Technology
- m) SAE Institute Pty Ltd
- n) Technical and Further Education Commission trading as TAFE NSW
- o) TAFE Queensland
- p) UOWC Ltd trading as UOW College Australia

Item 2 of the Amendment Instrument inserts a new paragraph in subsection 3.5.1 to specify, for 2020 only, additional outcomes in the provision of higher education that are national priorities for the purposes of paragraph 30-20(b) of the Act.

New paragraph (d) specifies that for 2020, national priorities include providing retraining and upskilling opportunities in the following areas of study: Education, Nursing, Psychology, English, Mathematical Sciences, Languages, Agriculture, Allied Health, Other Health, Counselling, Information Technology, Architecture and Building, Science, Engineering and Related Technologies, Medical Science, Environmental Studies.

Statement of Compatibility with Human Rights

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

Commonwealth Grants Guidelines Amendment (No. 1) 2020

The *Commonwealth Grant Scheme Guidelines Amendment (No. 1) 2020* ('Amendment 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 Amendment Instrument

The *Commonwealth Grant Scheme Guidelines 2012* ('Principal Instrument') sets out a number of programs under which grants may be provided in accordance with Part 2-2 of the *Higher Education Support Act 2003* ('Act'). The Principal Instrument also sets out some conditions on the grants made under the programs specified in the instrument.

The Amendment Instrument identifies new providers to be funded under Part 2-2 of the Act to deliver short online courses of study (each consisting of half an equivalent full-time study load) in 2020. These courses will support retraining and upskilling to assist workers displaced by COVID-19 to regain employment when current economic constraints improve.

The Amendment Instrument also updates the legal entity names for providers whose names have changed since their original listing in the Principal Instrument and outlines the fields of education that have been identified as areas of national priority for 2020.

Human rights implications

Right to education

The measures set out in the Amendment Instrument engage, and promote, the right to education, contained in Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). Article 13 of the ICESCR incorporates an obligation to both provide and to facilitate the right to education by requiring States Parties to take positive measures to enable and assist individuals and communities to enjoy the right to education, including being adaptable to the needs of changing societies and responding to the needs of students within diverse social and transformative settings.

The provision of funding under Part 2-2 of the Act to providers to deliver short courses of study to retrain and upskill workers impacted by COVID-19 is in furtherance of the objective of Article 13(2), which is to ensure educational institutions and programs are accessible to everyone, without discrimination, within the jurisdiction of the States Party.

In particular, the Amendment Instrument facilitates the delivery of short courses which will promote higher education retraining and upskilling while economic activity has been

Explanatory Statement to the

Commonwealth Grants Scheme Guidelines Amendment (No. 1) 2020

constrained in 2020 by the COVID-19 pandemic. This measure will broaden access to education during this period in fields of national priority.

Right to self-determination

The Amendment Instrument engages the right to self-determination contained in Article 1 of the *International Covenant on Civil and Political Rights*, and Article 1 of the ICESCR.

The Amendment Instrument engages this right as it will provide groups of people whose employment may have been compromised by the COVID-19 pandemic with access to education to retrain or upskill, which is compatible with, and promotes the right to self-determination. The right to self-determination, as it intersects with the right to education, is promoted through this measure by redressing barriers to education caused by unemployment and supporting a greater number of people to participate in a wider range of educational courses in fields of national priority. These courses will improve their employment prospects and financial independence which is fundamental to self-determination.

Conclusion

This Amendment Instrument is compatible with, and promotes, human rights because it provides Commonwealth funding for purposes that are compatible with the right to education and the right to self-determination.

The Hon Dan Tehan, Minister for Education