

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

Other Grants Guidelines (Research) Amendment (No. 2) 2020

Authority

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make guidelines providing for matters required or permitted by the Act, or necessary or convenient to be provided in order to carry out or give effect to the Act. Item 8 of the table in subsection 238-10(1) of the Act specifies that the Minister may make Other Grants Guidelines to give effect to matters under Part 2-3 of the Act.

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. This instrument relies on that power to make amendments to the *Other Grants Guidelines (Research) 2017*.

Purpose

The *Other Grants Guidelines (Research) Amendment (No. 2) 2020* (Amendment Instrument) amends the *Other Grants Guidelines (Research) 2017* (the Principal Guidelines) to provide for the injection of additional Research Support Program (RSP) funding to safeguard the Australian university sector against the impacts of the COVID-19 pandemic and to specify the body corporate, the Australian Academy of Health and Medical Sciences (AAHMS), as a body eligible to receive grants under the Higher Education Research Promotion (HERP) scheme.

RSP

As announced in the 2020–21 Budget, the Australian Government will provide over \$1.2 billion in additional funding to the university research sector to maintain capability and excellence of Australian research. This includes an additional \$1 billion in 2021 to alleviate the immediate financial pressures on universities caused by the revenue lost from international students who are unable to enter the country as a result of the COVID-19 pandemic

The additional \$1 billion will be allocated through the RSP to eligible providers based on the fully implemented formula specified in the 2015 *Review of Research Policy and Funding Arrangements* (Watt Review). The Watt Review formula takes into consideration two kinds of external research funding: competitive government grant funding (Category 1) and other external funding, known as engagement funding (Category 2, 3, and 4). This formula incentivises universities to engage with industry, community and external funding bodies.

The RSP funding formula has been amended to implement the additional funding separately to base RSP funding and to retain a simple allocation method with transparent funding incentives.

AAHMS

AAHMS will be listed as a body eligible to receive grants under Part 2-3 of HESA for activities that foster an understanding of the importance of, or promote research and scholarship in, science, social science or the humanities in Australia under item 11(b) of the table in subsection 41-10(1) of the Act.

The Amendment Instrument specifies the AAHMS as a Learned Academy which is eligible to receive grants under the HERP scheme. The objective of grants to the AAHMS is to: provide secretariat and other administrative support to enable the AAHMS and their fellows to contribute advice and assistance on issues of national importance; conduct workshops, forums, symposia and similar events so that the AAHMS and their fellows can engage on issues of national importance; manage the development and conduct of policy, education and other programs and support relationships with international communities including exchange programs and joint research programs.

Commencement

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

Consultation

RSP

The provision of additional RSP funding has been informed by consultation with the Research Sustainability Working Group, a group of university Vice-Chancellors that has provided advice to the Minister for Education about sustainable approaches to research funding during COVID-19 and beyond.

AAHMS

On 13 June 2019, the Professor Ian Frazer AC FRS FAA FTSE FAHMS, then President of the AAHMS wrote to the Hon Greg Hunt MP, Minister for Health raising the issue of the shortfall in the Academy's annual budget due to the gap between the Academy's costs and dues received from its fellows. Following advice received from the Department of Health regarding Professor Frazer's request that this shortfall in funding be addressed via funding from the HERP scheme, the then Department of Education sought confirmation from the peak body for Learned Academies, the Australian Council of Learned Academies (ACOLA) that there was broad support among the Learned Academies for the inclusion of the AAHMS in the HERP scheme.

On 24 September 2019, ACOLA provided written support to the department for the AAHMS to be recognised as a Learned Academy for the purposes of the HERP scheme. The other Learned Academies (Australian Academy of the Humanities, Australian Academy of Science, Australian Academy of Technological Sciences and Engineering and Academy of the Social Sciences in Australia) have also expressed their support for the inclusion of the AAHMS in the HERP scheme.

In anticipation of the AAHMS' entry into the HERP scheme, the department invited the Chief Executive Officer of the AAHMS to participate in the department's annual strategic forum with the Learned Academies last held on 11 March 2020. Throughout the remainder of 2020 ACOLA, on behalf of the AAHMS, has sought regular updates from the department on its progress in formalising the participation of the AAHMS in the HERP scheme.

The department has consistently consulted with the higher education research sector on this matter through ACOLA and the Learned Academies given the diverse cross-section of the sector represented by their respective fellows.

Regulatory Impact Statement

The Office of Best Practice Regulation (OBPR) considers that the changes to the RSP are unlikely to have more than a minor regulatory impact (OBPR ID 43011). The AAHMS proposal has been assessed as a minor regulatory impact and as such a regulatory impact statement is not required (OBPR ID 43108).

EXPLANATION OF PROVISIONS

Section 1: Name

This is a formal provision specifying that the name of the legislative instrument is the *Other Grants Guidelines (Research) Amendment (No. 2) 2020* (Amendment Instrument).

Section 2: Commencement

This provision provides that the Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3: Authority

This provision states that the Amendment Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act), and operates for the purposes of Part 2-3 of the Act (which allows for Guidelines to outline matters relevant to grants payable to higher education providers and other eligible bodies under that Part).

Section 4: Schedules

This provision gives effect to the items in the Schedule to this Amendment Instrument. It provides that each instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the Schedule.

Section 5: Saving provision

This provision specifies that, despite the repeal of section 1.4 of the *Other Grants Guidelines (Research) 2017* (the Principal Guidelines) made by Part 1 of this instrument, that section, as in force immediately before the commencement of this Part, continues to apply on and after that commencement in relation to a RSP grant to be determined for a HEP for the 2020 Grant Year. This means that any grants made for the 2020 Grant Year will be made in accordance with the *Other Grants Guidelines (Research) 2017* as in force prior to this instrument being made.

Schedule 1 – Amendments

Other Grant Guidelines (Research) 2017 (Principal Guidelines)

Part 1 - Amendments

Item 1: Paragraph i.v.ii Interpretation

Item 1 inserts, in alphabetical order, definitions for “AAHMS”, “COVID-19 Supplementary Funding Pool”, “COVID-19 Supplementary Grant Amount”, “RSP Base Grant Amount” and “RSP Funding Pool”, so that the resulting list remains in alphabetical order.

Item 2: Paragraph i.v.ii Interpretation

Item 2 omits definitions for “Funding Pool”, “Funding Pool A” and “Funding Pool B”.

Item 3: Section 1.4 Grant Amounts

Item 3 repeals section 1.4 and substitutes a new section titled Grant Amounts.

1.4 Grant Amounts

1.4.1 Determination of Grants and Indexation

Paragraph 1.4.1 specifies that, for the purposes of paragraph 41-30(a) of the Act, the RSP Grant Amounts are determined in accordance with the method set out in paragraph 1.4.5 of the Principal Guidelines. A note explains that the RSP Funding Pool is indexed in the same way as amounts are indexed under Part 5-6 of the Act.

1.4.5 How Grant amounts are Determined

Paragraph 1.4.5 sets out how grant amounts are determined. The RSP Grant Amount for a HEP is comprised of the RSP Base Grant Amount, with any adjustment required by the application of the safety net process only applicable for the 2021 grant year, plus a COVID-19 Supplementary Grant Amount that is also only applicable for the 2021 grant year. This amount is rounded in accordance with new paragraph 1.4.35.

Method statement 1 - Calculating a HEP's RSP Grant Amount under paragraph 1.4.5:

Step 1 – Calculate the sum of the Base Grant Amount after applying the transitional safety net (if applicable) calculated in Paragraphs 1.4.15 and 1.4.20 and the COVID-19 Supplementary Grant Amount calculated in paragraph 1.4.30 (if applicable).

Example for calculating a HEP's 2021 Grant Amount under paragraph 1.4.5:

Where the HEP's Base Grant Amount after applying the transitional safety net is \$10,000,000 and the HEP's COVID-19 Supplementary Grant Amount is \$15,000,000:

Step 1 – Calculate the HEP's RSP Grant Amount

RSP Grant Amount = Base Grant Amount (after applying the safety net) + COVID-19 Supplementary Grant Amount.

$$= \$10,000,000 + \$15,000,000$$

$$= \$25,000,000$$

RSP Grant Amounts from 2022 will comprise of a Base Grant Amount only with no transitional safety net and no COVID-19 Supplementary Grant Amount.

1.4.10 Percentage share of competitive and engagement income

Paragraph 1.4.10 sets out the formula for calculating each HEP's relative percentage share of competitive and engagement income. Competitive income is research income earned through Australian competitive grants and reported as Category 1 through the Higher Education Research Data Collection (HERDC). Engagement income is research income earned from private, non-profit, non-competitive government grants and other

sources reported as Category 2, 3 and 4 through HERDC. This formula determines a HEP's relative research performance measured by success in gaining Category 1, Category 2, Category 3 and Category 4 research income against other HEPs. These shares are then used in the calculation of RSP grant amounts.

Method statement 2 - Calculating a HEP's percentage share of competitive and engagement income under paragraph 1.4.10

Step 1 - For each Grant Year a HEP's share of COMPETITIVE income is calculated by the sum of that HEP's Category 1 income for the two most recent years divided by the sum of Category 1 income for all eligible HEPs for the two most recent years.

Step 2 - For each Grant Year a HEP's share of ENGAGEMENT income is calculated by the sum of that HEP's Category 2, 3 and 4 income for the two most recent years divided by the sum of Category 2, 3 and 4 income for all eligible HEPs for the two most recent years.

Example for calculating a HEP's percentage share of competitive and engagement income under paragraph 1.4.10:

Where the HEP has research income in the two most recent years comprising:

- Category 1: \$800,000 and \$1,200,000
- Category 2, Category 3 and Category 4: \$400,000 and \$600,000

And the total research income for all eligible HEPs in the two most recent years is:

- Category 1: \$35,000,000 and \$65,000,000
- Category 2, Category 3 and Category 4 income: \$45,000,000 and \$55,000,000

Step 1 – calculate the HEP's share of COMPETITIVE income

$$\begin{aligned} \text{COMPETITIVE share for a HEP} &= (\$800,000 + \$1,200,000) \div (\$35,000,000 + \$65,000,000) \\ &= \$2,000,000 \div \$100,000,000 \\ &= 2.0 \% \text{ share} \end{aligned}$$

Step 2 – calculate the HEP's share of ENGAGEMENT income

$$\begin{aligned} \text{ENGAGEMENT share for a HEP} &= (\$400,000 + \$600,000) \div (\$45,000,000 + \$55,000,000) \\ &= \$1,000,000 \div \$100,000,000 \\ &= 1.0 \% \text{ share} \end{aligned}$$

1.4.15 RSP Base Grant Amounts

Paragraph 1.4.15 sets out the formula for calculating each HEP's RSP Base Grant Amount for a Grant Year. The formula ensures that the HEPs receiving the greatest share of research income receive the greatest share of the RSP Funding Pool.

Method statement 3 - Calculating a HEP's Base Grant Amount (before applying the safety net) under paragraph 1.4.15

Step 1 - A HEP's competitive component is calculated by multiplying 47 per cent of the RSP Funding Pool by the HEP's share of COMPETITIVE income.

Step 2 - A HEP's engagement component is calculated by multiplying 53 per cent of the RSP Funding Pool by the HEP's share of ENGAGEMENT income.

Step 3 - These two amounts are added together to determine a HEP's Base Grant Amount.

Example for calculating a HEP's Base Grant Amount (before applying the safety net) under paragraph 1.4.15:

Step 1 – calculate the HEP's competitive component where the total RSP funding pool is \$500,000,000

$$\begin{aligned}\text{HEP competitive component} &= (0.47 \times \$500,000,000 \times \text{COMPETITIVE share}) \\ &= (0.47 \times \$500,000,000 \times 2.0 \%) \\ &= (\$235,000,000 \times 2.0\%) \\ &= \$4,700,000\end{aligned}$$

Step 2 – calculate the HEP's engagement component where the total pool is \$500,000,000

$$\begin{aligned}\text{HEP engagement component} &= (0.53 \times \$500,000,000 \times \text{ENGAGEMENT share}) \\ &= (0.53 \times \$500,000,000 \times 1.0 \%) \\ &= (\$265,000,000 \times 1.0 \%) \\ &= \$2,650,000\end{aligned}$$

Step 3 – calculate the HEP's Base Grant Amount (before applying the safety net)

$$\begin{aligned}\text{HEP Base Grant Amount} &= \$4,700,000 + \$2,650,000 \\ &= \$7,350,000\end{aligned}$$

1.4.20 Transitional safety net

Paragraph 1.4.20 specifies that for the 2021 grant year, a transitional safety net is applied to ensure that no HEP's RSP Base Grant Amount for the Grant Year will fall below 95

per cent of that HEP's indexed RSP Grant Amount for the previous Grant Year. Section 1.4.20 then explains how the transitional safety net is to be applied.

Method statement 4 - Applying the Transitional Safety Net to Base Grant Amounts under paragraph 1.4.20:

Step 1 – calculate the indexation component by dividing the RSP Funding Pool for the Grant Year by the RSP Funding Pool for the previous Grant Year.

Step 2 – index each HEP's RSP Grant Amount for the previous Grant Year by multiplying it by the indexation component calculated in Step 1.

Step 3 – For each HEP calculate the difference between its RSP Base Grant Amount for the Grant Year and its indexed RSP Grant Amount for the previous Grant Year.

Step 4 – For each HEP having a positive value calculated in Step 3, this value is contributed by that HEP to a notional safety net pool.

Step 5 – For each HEP having a negative value calculated in Step 3 and whose RSP Base Grant Amount is less than 95 per cent of its indexed RSP Grant Amount for the previous year, the amount required to bring its RSP Base Grant Amount up to 95 per cent of the indexed RSP Grant Amount for the previous Grant Year is taken from the notional safety net pool.

For each HEP whose Base Grant Amount is more than 95 per cent and less than 100 per cent of its indexed RSP Grant Amount for the previous year there is no adjustment.

Step 6 – Once all applicable HEPs in Step 5 have been topped up to 95 per cent of their indexed RSP Grant Amount for the previous Grant Year, the residual remaining in the notional safety net pool is redistributed. Any residual funds in the notional safety net pool are returned to those HEPs that contributed to the notional safety net pool in the same proportion in which they contributed. For example, if a HEP contributed 10% of the notional safety net pool, that HEP will receive 10% of the residual notional safety net pool funds.

Step 7 – Each HEP's RSP Base Grant Amount (including the transitional safety net) is equal to its RSP Base Grant Amount, minus any contributions to the notional safety net pool, plus any top ups to 95 per cent of the previous year's RSP Grant Amount from the notional safety net pool, plus any distributions from residual funds remaining in the notional safety net pool.

Example for calculating the impact of the transitional safety net under paragraph 1.4.20:

Step 1 – calculate the indexation component

Where the RSP Funding Pool for the Grant Year is \$500,000,000 and the RSP Funding Pool for the previous Grant Year is \$490,196,078:

$$\begin{aligned}\text{Indexation component} &= \$500,000,000 \div \$490,196,078 \\ &= 1.02 \text{ (Equivalent to 2\%)}\end{aligned}$$

Step 2 – index each HEP’s RSP Grant Amount for the previous Grant Year

Where HEP A received \$10,000,000 and HEP B received \$5,500,000 for the previous year:

HEP A indexed previous year amount = \$10,000,000 x 1.02 = \$10,200,000

HEP B indexed previous year amount = \$5,500,000 x 1.02 = \$5,610,000

Step 3 – calculate the difference between each HEP’s RSP Base Grant Amount for the current Grant Year and the indexed RSP Grant Amount for the previous Grant Year

Where HEP A has an RSP Base Grant Amount of \$10,500,000 and HEP B has an RSP Base Grant Amount of \$5,000,000 for the Grant Year:

HEP A difference = \$10,500,000 - \$10,200,000 = + \$300,000

HEP B difference = \$5,000,000 - \$5,610,000 = - \$610,000

Step 4 – make contributions to the notional safety net pool

HEP A’s difference is positive, so contributes all its gain of \$300,000 to the notional safety net pool. HEP B does not contribute to the notional safety net pool as its difference is less than zero.

Where the total of all contributions of all HEPs to the notional safety net pool is \$3,000,000:

HEP A’s share to notional safety net pool = \$300,000 ÷ \$3,000,000
= 10.0 %

Step 5 – top up HEPs to 95 per cent of previous year funding

As HEP A is a contributor to the safety net, there is no adjustment for this step.

As HEP B’s difference is below 95% of the previous year’s indexed Grant Amount, an amount is taken from the notional safety net pool to boost HEP B up to the equivalent 95% amount for the grant year:

Amount for HEP B to reach 95% = (\$5,610,000 x 95%) - \$5,000,000
= \$5,329,500 - \$5,000,000
= \$329,500

This amount is transferred from the notional safety net pool to HEP B.

Step 6 – distribute the funds remaining in the notional safety net pool

Where the total amount remaining in the notional safety net pool is \$2,000,000 after all HEPs have been topped up to 95% of previous Grant Year funding in Step 5:

HEP A’s notional safety net pool redistribution = 10.0 % x \$2,000,000

= \$200,000

HEP B does not receive funding from the notional safety net pool redistribution as it did not contribute to the notional safety net pool in Step 4.

Step 7 – calculate post-transition RSP Base Grant Amounts for the Grant Year

Post-transition RSP Base Grant Amount = RSP Base Grant Amount - contributions to notional safety net pool (Step 4) + top ups to 95% of previous year funding (Step 5) + distribution from funds remaining in notional safety net pool (Step 6).

HEP A post-transition RSP Base Grant Amount = \$10,500,000 - \$300,000 + \$0 + \$200,000

= \$10,400,000

HEP B post-transition RSP Base Grant Amount = \$5,000,000 - \$0 + \$329,500 + \$0

= \$5,329,500

1.4.25 Base grant amounts for 2022 and future grant years

Paragraph 1.4.25 provides that for 2022 and future Grant Years, the transitional safety net as specified in paragraph 1.4.20 is not applied to RSP Base Grant Amounts. This is in line with the Watt Review's original recommendation that transitional arrangements conclude at the end of 2020, but which has subsequently been extended by 12 months to the end of 2021 to provide stability in RSP allocations during the COVID-19 pandemic.

1.4.30 COVID-19 Supplementary Grant Amounts

Paragraph 1.4.30 explains that for the 2021 Grant Year, the COVID-19 Supplementary Grant Amount for a HEP will be calculated using the same method for calculating an RSP Base Grant Amount specified in paragraph 1.4.15 with the *RSP Funding Pool* substituted with the *COVID-19 Supplementary Funding Pool*. The Transitional Safety Net outlined in paragraph 1.4.20 will not be applied to COVID-19 Supplementary Grant Amounts.

Method statement 5 - Calculating a HEP's COVID-19 Supplementary Grant Amount under paragraph 1.4.30

Step 1 - A HEP's competitive component is calculated by multiplying 47 per cent of the COVID-19 Supplementary Funding Pool by the HEP's share of COMPETITIVE income.

Step 2 - A HEP's engagement component is calculated by multiplying 53 per cent of the COVID-19 Supplementary Funding Pool by the HEP's share of ENGAGEMENT income.

Step 3 - These two amounts are summed to determine a HEP's COVID-19 Supplementary Grant Amount.

Example for calculating a HEP's COVID-19 Supplementary Grant Amount under paragraph 1.4.30:

Step 1 – calculate the HEP’s competitive component where the COVID-19 Supplementary Funding pool is \$200,000,000

$$\begin{aligned}\text{HEP competitive component} &= (0.47 \times \$200,000,000 \times \text{COMPETITIVE}) \\ &= (0.47 \times \$200,000,000 \times 2.0 \%) \\ &= (\$94,000,000 \times 2.0\%) \\ &= \$1,880,000\end{aligned}$$

Step 2 – calculate the HEP’s engagement component where the COVID-19 Supplementary Funding pool is \$200,000,000

$$\begin{aligned}\text{HEP engagement component} &= (0.53 \times \$200,000,000 \times \text{ENGAGEMENT}) \\ &= (0.53 \times \$200,000,000 \times 1.0 \%) \\ &= (\$106,000,000 \times 1.0 \%) \\ &= \$1,060,000\end{aligned}$$

Step 3 – calculate the HEP’s COVID-19 Supplementary Grant Amount

$$\begin{aligned}\text{HEP COVID-19} &= \$1,880,000 + \$1,060,000 \\ \text{Supplementary} & \\ \text{Grant Amount} &= \$2,940,000\end{aligned}$$

1.4.35 Rounding process

Paragraph 1.4.35 outlines the rounding process for grant amounts.

1.4.40 Adjustments

Paragraph 1.4.40 sets out the process for adjusting a HEP’s grant amount in the event that incorrect information is provided.

Subparagraph 1.4.40 (1) sets out that a HEP must provide the Commonwealth Department of Education (department) with corrected HERDC data if it is determined that incorrect data has previously been provided.

Subparagraph 1.4.40(2) sets out that if corrected data is provided by 1 October in the year the data was first provided then the corrected data will be used in the annual process of calculating RSP grant amounts and replaces the incorrect data. For example, if a HEP provided incorrect 2017 HERDC data on 30 June 2018 and corrected 2017 HERDC data on 30 September 2018 then the corrected data would be included in the annual process of calculating RSP grant amounts.

Subparagraph 1.4.40(3) sets out that if corrected data is provided after 1 October in the year the data was first provided then the corrected data will not be used in the annual process of calculating RSP grant amounts. For example, if a HEP provided incorrect 2017 HERDC data on 30 June 2018 and corrected 2017 HERDC data on 30 October 2018 then the corrected data would not be included in the annual process of calculating RSP grant amounts.

Subparagraph 1.4.40(4) sets out that if the provision of incorrect data has resulted in an overpayment to the HEP then the HEP must repay the overpayment to the department. For example, if a HEP provided incorrect 2017 HERDC data on 30 June 2018 and corrected 2017 HERDC data on 30 October 2018 and the corrected data resulted in an overpayment in the HEPs RSP grant amount, then the HEP would have to repay the overpayment to the department.

1.4.45 Rollover of grant amounts

Paragraph 1.4.45 provides that an RSP grant is made in respect of the relevant Grant Year for the purpose of section 41-40 of the Act. This allows an unspent grant amount to be rolled over, if the Secretary determines in writing that section 41-40 of the Act applies.

Item 4: Before sub-subparagraph 2.5(3)(a)

Item 4 inserts new sub-subparagraph (aa) before sub-subparagraph 2.5(3)(a) of the Principal Guidelines to provide that the Australian Academy of Health and Medical Sciences (AAHMS) is a Learned Academy that is eligible to receive grants under the Higher Education Research Promotion (HERP) scheme. Grants for activities under the HERP scheme are for the purposes of fostering an understanding of the importance of, or promoting research and scholarship in, science, social science or the humanities in Australia.

Item 5: Subparagraph 2.15(2)

Item 5 amends subparagraph 2.15(2) of the Principal Guidelines to replace references to 'four Learned Academies' to 'five Learned Academies' in order for the Australian Council of Learned Academies (peak body for the Learned Academies) to support the cooperation between the five Learned Academies listed at subparagraph 2.5(3) of the Guidelines (as amended by item 4).

Item 6: Sub-subparagraph 2.15(3)(a)

Item 6 amends sub-subparagraph 2.15(3)(a) of the Principal Guidelines to include reference to the AAHMS. This provides that the objective of the grant to the AAHMS is to provide secretariat and other administrative support to enable the AAHMS and their fellows to contribute advice and assistance on issues of national importance, to conduct workshops, forums, symposia and similar events so that the AAHMS and their fellows can engage on issues of national importance, to manage the development and conduct of policy, education and other programs, and to support relationships with international communities including exchange programs and joint research programs.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Other Grants Guidelines (Research) Amendment (No. 2) 2020

The *Other Grant Guidelines (Research) Amendment (No. 2) 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 Amendment Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

The Amendment Instrument amends the *Other Grants Guidelines (Research) 2017* (Principal Guidelines) that was made for the purposes of section 41-15 of the Act. The Principal Guidelines identify programs under which grants for purposes specified in the Act are to be paid to higher education providers and other eligible bodies.

The Principal Guidelines also set out the purpose and programs under which grants may be made for research. This includes grants to support research by, and the research capability of, higher education providers, and grants for activities that foster an understanding of the importance of, or promote research and scholarship in, science, social science or the humanities in Australia under the Higher Education Research Promotion (HERP) scheme.

The purpose of the Amendment Instrument is to amend the Principal Guidelines to provide for the injection of additional Research Support Program (RSP) funding to safeguard the Australian university sector against the impacts of the COVID-19 pandemic and to specify the body corporate, the Australian Academy of Health and Medical Sciences (AAHMS) as a body eligible to receive grants for activities under the HERP scheme under item 11(b) of the table in subsection 41-10(1) of the Act.

Human Rights implications

The Amendment Instrument engages the following human rights:

- the right to education – Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR);
- the right to enjoy the benefits of scientific progress and its applications – Article 15 of the ICESCR.

Right to education

The Amendment Instrument engages the right to education contained in Article 13 of the ICESCR. The right to education recognises the important personal, societal, economic and intellectual benefits of education. Recognition of this right includes that there be educational programs available in sufficient quantity to promote full participation in educational settings and research initiatives within the jurisdiction of states parties.

The Amendment Instrument engages and promotes the right to education by encouraging and supporting a high-quality research environment, which provides academics in higher education institutions with the necessary systems and resources required to deliver high quality research training to students. It also provides the AAHMS research fellows with support and resources required to promote research and scholarship in the medical and health sciences.

The Amendment Instrument is compatible with the right to education.

Right to enjoy the benefits of scientific progress and its applications

The Amendment Instrument engages the right to enjoy the benefits of scientific progress and its applications contained in Article 15 of the ICESCR. In the progressive realisation of this right, states parties must engage in positive measures to ensure access to the benefits of science and its application, including the development and promotion of scientific and research knowledge, enhance opportunities to contribute to, and participate in, the scientific enterprise and scientific research and support an enabling research environment which fosters the development and diffusion of science and its applications.

The Amendment Instrument promotes improved quality of, and access to, scientific research facilities and its applications to the scientific and broader community as an important step towards ensuring this right can be enjoyed by all Australians. It achieves this by providing a flexible funding stream to Australian HEPs to support the delivery of world class research and by providing a grant to AAHMS to promote the conduct of the world-class medical and health-related research, and its translation into benefits for all, by over 350 AAHMS research fellows located in all of Australia's States and Territories. The grant will also support the AAHMS to continue to foster leadership in the medical and health research sector, provide expert advice to decision-makers, and engage patients and the public.

The Amendment Instrument is compatible with the right to enjoy the benefits of scientific progress and its applications.

Conclusion

This Amendment Instrument is compatible with human rights because it advances the protection of human rights.

**Dan Tehan
Minister for Education**